(ii) In the evaluation of all for-cause test results;

(iii) Before making return-to-duty recommendations subsequent to a worker's removal from duty in accordance with § 26.27(b) or the licensee's fitness-for-duty policy;

(iv) Before an individual being granted unescorted access when a statement from an individual obtained pursuant to § 26.27(a) shows a history of substance abuse or record of prior fitness-for-duty violations; and

(v) If a history of substance abuse is otherwise identified.

(2)(i) If the licensed physician or MRO determines that there is neither conclusive evidence of a policy violation nor a significant basis for concern that the individual may be impaired while on duty, then he or she shall report the result as negative.

(ii) If the licensed physician or MRO determines that there is not conclusive evidence of a policy violation but that there is a significant basis for concern that the individual may be impaired while on duty, then he or she shall report the result as not representing an FFD violation but as a condition under which the individual may not be able to safely and competently perform duties. Because these results should not constitute a violation of the licensee's policy or the NRC rule, punitive actions under the rule should not be taken based upon the results. However, the licensed physician, MRO, or the licensee management personnel who are empowered to take appropriate actions shall initiate actions to ensure that any possible limiting condition does not represent a threat to workplace or public health and safety. When deemed appropriate, the matter may also be referred to the EAP.

(h) Breath alcohol content indicating a blood alcohol concentration between 0.02 percent and 0.04 percent must be reported to the MRO for review and evaluation. The MRO shall determine whether it is appropriate to extrapolate back in time to estimate the highest BAC that the worker had while on duty with the assumption that no alcohol was consumed while on duty. In these cases, the MRO will calculate a range of possible peak BACs that could have existed while the worker was on duty and make a determination whether the result is a confirmed positive test for alcohol. A similar extrapolation process must be conducted for the results of an analysis of a blood specimen for alcohol, as provided by § 26.24(h).

(i) ''Result scientifically insufficient.'' Additionally, the Medical Review Officer, based on review of inspection reports, quality control data, multiple specimens, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation, the Medical Review Officer may request reanalysis of the original specimen before making this decision. The Medical Review Officer may request that reanalysis be performed by the same laboratory, or that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the HHS Guidelines. The licensee's testing facility and the HHS-certified laboratory shall assist in this review process as requested by the Medical Review Officer by making available the individual(s) responsible for day-to-day management of the licensee's test facility, of the HHS-certified laboratory or other individuals who are forensic toxicologists or who have equivalent forensic experience in urine drug testing, to provide specific consultation as required by the licensee. The licensee shall maintain for a minimum of three years, records that summarize any negative findings based on scientific insufficiency and shall make them available to the NRC on request, but shall not include any personal identifying information in such reports.

Appendix A [Amended]

30. Section 3.2 of Appendix A is removed.

31. In section 4.1 of Appendix A to part 26 is revised to read as follows:

4.1 Use of HHS-Certified Laboratories

(a) Licensees subject to this part and their contractors shall use only laboratories certified under the HHS ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'', Subpart C—''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' (53 FR 11970, 11986–11989) dated April 11, 1988, and subsequent amendments thereto for screening and confirmatory testing except for screening tests at a licensee's testing facility conducted in accordance with § 26.24(d). Information concerning the current certification status of laboratories is available from: The Division of Workplace Programs, Substance Abuse and Mental Health Services Administration, Room 13–A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(b) Licensees or their contractors may use only HHS-certified laboratories that agree to follow the same rigorous chemical testing, quality control, and chain-of-custody procedures when testing for more stringent cut-off levels as may be specified by licensees for the classes of drugs identified in this part, for analysis of blood specimens for alcohol, and for any other substances included in licensees' drug panels. Because the HHS-certification process does not apply to these matters, the defensibility of such tests depends on appropriate measures by licensees to assure the reported test results are valid.

(c) All contracts related to this part between licensees and their contractors and HHS-certified laboratories must require implementation of all obligations of this appendix applicable to HHS-certified laboratories.

Dated at Rockville, Maryland, this 29th day of April, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–11046 Filed 5–8–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (formerly Britten-Norman) BN–2A and BN2A MK. 111 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 75–26–15, which currently requires repetitively inspecting the aileron mass balance clamp unit attachment for looseness on Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A and BN2A MK. 111 series airplanes, and modifying the aileron and mass balance clamp unit if any looseness is found. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would retain the repetitive inspections required by AD 75–26–15, and would require modifying the aileron and mass balance unit (at a certain time) as terminating action for the repetitive inspections. The actions specified in the proposed AD are intended to prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane.

DATES: Comments must be received on or before July 19, 1996.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer,

Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA- public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–CE–16–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA conducted a review of existing AD's that apply to Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes. Assisting the FAA in this review were (1) Pilatus Britten-Norman; (2) the Regional Airlines Association (RAA); and (3) several operators of the affected airplanes.

From this review, the FAA has identified AD 75–26–15, Amendment 39–2464, as one that should be superseded with a new AD that would require incorporating a modification that would eliminate the need for short-interval and critical repetitive inspections. AD 75–26–15 currently requires repetitively inspecting the attachment of the aileron mass balance clamp unit for looseness on Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes, and modifying any aileron and mass balance clamp unit where looseness is found. Accomplishment of the inspections and modification required by AD 75–26–15 is in accordance with Britten-Norman Service Bulletin No. BN–2/SB.67, Issue 1, dated October 24, 1973.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 75–26–15, and to prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes of the same type design, the proposed AD would supersede AD75–26–15 with a new AD that would (1) retain the requirements of repetitively inspecting the aileron mass balance clamp unit attachment for looseness and modifying any aileron and mass balance unit immediately where looseness is found; and (2) require modifying the aileron and mass balance unit (at a certain time) if not previously required. The modification would terminate the need for the repetitive inspections of the aileron and mass balance unit attachment. Accomplishment of the proposed actions would continue to be in accordance with Britten-Norman Service Bulletin No. BN–2/SB.67, Issue 1, dated October 24, 1973.

The FAA estimates that 109 airplanes in the U.S. registry would be affected by the proposed AD, that would take approximately 10 workhours (inspection: 1 workhour; modification: 9 workhours) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $160 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $82,840. This figure only takes into account the cost of the proposed initial inspection and proposed inspection-terminating modification and does not take into account the cost of the proposed repetitive inspections. The FAA has no way of determining the number of repetitive inspections each of the owners/operators would incur over the life of the affected airplanes.

This figure is also based on the assumption that none of the affected airplane owners/operators have accomplished the proposed modification. This action would eliminate the repetitive inspections required by AD 75–26–15. The FAA has no way of determining the operational levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspection costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long term.

Pilatus Britten-Norman does not know the number of parts distributed to the affected airplane owners/operators. Numerous sets of parts were sent out to the owners/operators of the affected airplanes, but over the years Pilatus Britten-Norman has not retained these records. The company believes that most of the affected airplanes already have the proposed inspection-terminating modification incorporated.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 109 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 25 percent are operated in scheduled passenger service by 11 different operators. A significant number of the remaining 75percent are operated in

other forms of air transportation such as air cargo and air taxi.

The proposed action would allow 1,000 hours TIS after the effective date of the AD before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 5 to 10 calendar months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 5 to 10 years before the proposed modification would be mandatory. The time it would take those in air cargo/air taxi operations before the proposed action would be mandatory is unknown because of the wide variation between each airplane used in this service. The exact numbers would fall somewhere between the average for commuter operators and private operators.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 75–26–15, Amendment 39–2464, and by adding a new AD to read as follows:

Pilatus Britten-Norman Ltd.: Docket No. 96–CE–16–AD. Supersedes AD 75–26–15, Amendment 39–2464.

Applicability: Models BN–2, BN–2A, BN–2A–6, BN–2A–8, BN–2A–2, BN–2A–9, BN–2A–3, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN2A MK. 111, BN2A MK. 111–2, and BN2A MK. 111–3 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane, accomplish the following:

(a) Prior to the first flight of each day after the effective date of this AD (see NOTE 2 of this AD), inspect the attachment of the aileron mass balance clamp unit for looseness in accordance with the ''Inspection'' section of Britten-Norman Service Bulletin (SB) No. BN–2/SB.67, Issue 1, dated October 24, 1973.

Note 2: The ''prior to first flight of each day after the effective date of this AD'' compliance time required by paragraph (a) of this AD is exactly the same as required by AD 75–26–15 (superseded by this AD).

(b) If a loose attachment of the aileron mass balance clamp unit is found during any of the inspections required by this AD, prior to further flight, modify the aileron and mass balance clamp unit in accordance with the ''b. Sequence of Operations'' section of Britten-Norman SB No. BN–2/SB.67, Issue 1, dated October 24, 1973.

(c) Within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished as specified and required by paragraph (b) of this AD, modify the aileron and mass balance clamp unit in accordance with the ''b. Sequence of Operations'' section of Britten-Norman SB No. BN–2/SB.67, Issue 1, dated October 24, 1973.

(d) Accomplishing the modification required by paragraph (b) or (c) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

Note 4: Alternative methods of compliance approved in accordance with AD 75–26–15 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment supersedes AD 75–26–15, Amendment 39–2464.

Issued in Kansas City, Missouri, on May 2, 1996.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11533 Filed 5–8–96; 8:45 am]

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