



U.S. Department of Transportation Dockets  
400 Seventh Street, SW, Room Plaza 401  
Washington, DC 20590

Subject: Comments to Docket No. FAA-2002-13458

This correspondence provides comments regarding Docket No. FAA-2002-13458 which proposes new regulations for Title 14 CFR concerning the corrosion prevention and control programs for airplanes operated under Parts 121, 129, and 135. This action is intended to provide a single set of rules to control the detrimental effects of corrosion that could affect the structural integrity of the airframe, and create an unsafe condition for the airplane.

Continental Airlines concurs with the proposed rules for the corrosion prevention and control programs. However, Continental Airlines believes the proposed rules should include clarifications and enhancements in order to develop the regulations to its full intent. Continental Airlines proposes for the discussion of the following issues:

**a. Cancellation of Existing CPCP Airworthiness Directives**

Continental Airlines believes there is a redundancy in retaining the existing CPCP ADs in parallel with the proposed rules to mandate the CPCP requirements. The CPCP ADs were initially released to validate a baseline for the programs using the data compiled. Since then, the programs have been validated. Thus, there is no value in maintaining the CPCP ADs for the primary purpose of data collection and reporting. With respect to this, the FAA has recognized that the reporting requirements under the current CPCP ADs are no longer necessary, and that the requirements of Title 14 CFR, Part 121.703, are acceptable as an alternative method. Alternate Method of Compliance, 120S-02-1170, was issued by the Seattle ACO for this approval.

If two sets of rules exist in parallel, Continental Airlines is also concern with the potential problems with inadvertently failing to comply with both rules. For example, if the same reporting is required under both the existing CPCP ADs and the proposed rules, and the reporting was inadvertently made referencing only one of the rules, would this be in violation of the other? Would this potentially be in conflict with the 5<sup>th</sup> Amendment rights? A potential exists for "double jeopardy" prosecution (U.S. v. Halper, 490 U.S. 435, 1989).

If it is decided that the CPCP ADs cannot be cancelled, then the FAA must either:

- 1) Revise the CPCP ADs to show that compliance to the proposed rules is terminating action for the CPCP ADs

or

- 2) Incorporate additional language in the proposed rules to show compliance to the regulation is accepted as an alternate method of compliance to the CPCP ADs

Continental Airlines believes, in one simple term, the current CPCP ADs and the proposed rules have one common objective to control corrosion to Level 1 or better. Therefore, it makes perfect economical and legal sense to have just one set of rules to serve one common purpose. The objectives of the proposed rules are reasonable to provide a reliable means to maintain a high level of safety for the airplane against corrosion damage.

**b. Clarification for Level 1 Corrosion**

In the definition of Level 1 corrosion (proposed Section 121.276a, paragraph 'c'), the word "demonstrated" is used for the finding of light corrosion between successive inspections. This seems to suggest that the tracking of Level 1 corrosion is necessary in order to show that cumulative blend-outs have exceeded approved allowable limits. Is this a valid assumption?

Under the current guidelines, if a part is replaced due to corrosion, it is automatically classified as a Level 2 corrosion. In many cases, an operator may elect to replace a part with known Level 1 corrosion because it may cost more in labor to perform a blendout repair versus the replacement of the part itself. In this instance, can the corrosion still be reported as a Level 1?

**c. Clarification for MSG-3 Airplanes**

The proposed rules do not address airplanes with CPCP certified under MSG-3 criteria. Airplanes such as the 737-NG are certified with the CPCP imbedded in the maintenance programs of the airplanes. However, these airplanes are still affected by the 737 CPCP AD. The proposed regulations should be clarified to minimize the effects on MSG-3 airplanes.

**d. Definitions for Corrosion Levels**

In order to stay consistent with Title 14 CFR, Continental Airlines believes the definition of Level 1 corrosion should be in the general definitions section of Chapter I, Part 1. In addition, definitions of Level 2 and Level 3 should also be included. This would help in meeting the objective of implementing a single set of rules for the CPCP.

**e. Compliance with Executive Order 12866**

Overall, Continental Airlines believes the proposed CPCP rulemaking, if mandated in parallel with existing CPCP ADs, may not comply with Executive Order 12866, Section 1.b.10. This section of the Executive Order states "Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies". To reinforce the issue, in order to avoid duplication and redundancy, Continental Airlines believes the existing CPCP ADs should be cancelled once the proposed regulations are effective.

In addition, Continental Airlines suggests for the simplification of the language in the rules in order to achieve the CPCP objectives without uncertainties. Executive Order 12866, Section 1.b.12, states "Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty". As pointed out above, the proposed regulation is not written in a comprehensive fashion, which may lead to interpretations and uncertainties. Continental Airlines believes the issues discussed are legitimate to constitute this requirement of the Executive Order in the proposed rules.

For further questions regarding this matter, please feel free to contact the name and numbers listed below.

Sincerely,

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