

# Rules and Regulations

Federal Register

Vol. 75, No. 242

Friday, December 17, 2010

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## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1604, 1650, 1651, and 1690

### Employee Contribution Elections and Contribution Allocations; Uniformed Services Accounts; Methods of Withdrawing Funds From the Thrift Savings Plan; Death Benefits; Thrift Savings Plan

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Retirement Thrift Investment Board (Agency) is amending its regulations to establish procedures to maintain beneficiary participant accounts for spouse beneficiaries in accordance with the Thrift Savings Plan Enhancement Act of 2009.

**DATES:** This final rule is effective December 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Laurissa Stokes at 202-942-1645.

**SUPPLEMENTARY INFORMATION:** The Agency administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

This regulation was published in proposed form on November 10, 2010 (75 FR 69026). The Agency received two comments. Both commenters recommended changes to the Agency's regulations. However, each of the recommendations offered by the

commenters are either outside the scope of this proposed rule or would result in a change that is beyond the authority granted by the Thrift Savings Plan Enhancement Act of 2009 ("the Act"), Public Law 111-31 (Division B, Title I), 123 Stat. 1776, 1853. Therefore, the Agency is publishing the proposed rule as final without substantive modification.

### Congressional Authorization for Beneficiary Participant Accounts

Currently, a spouse beneficiary of a TSP participant must either transfer his or her TSP death benefit payment to another eligible employer plan or individual retirement account (IRA), or receive the payment immediately. Subject to certain restrictions on contributions, loans, and withdrawal elections, the Act authorizes the Agency to allow a spouse of a deceased participant to retain a lump sum death benefit payment in the TSP. This final rule conforms the Agency's regulations to the Act and sets forth the rules and limitations applicable to beneficiary participant accounts.

### Establishing a Beneficiary Participant Account

The Agency will automatically establish a beneficiary participant account upon identifying a deceased participant's spouse as a sole or partial beneficiary eligible for a lump sum death benefit payment. Consistent with its treatment of accounts of participants who have separated from Federal service, the Agency will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than \$200 on the date the account is established. The Agency also will not transfer this de minimus amount to another eligible plan or pay it by electronic funds transfer. Instead the TSP will make an immediate distribution to the spouse in the form of a U.S. Treasury check.

A civilian beneficiary participant account is a beneficiary participant account that is established with a death benefit payment from a civilian TSP participant account to which contributions were made by or on behalf of a civilian employee (*i.e.*, a civilian TSP participant account). A uniformed services beneficiary participant account is a beneficiary participant account that is established with a death benefit payment from a TSP participant account

to which contributions were made by or on behalf of a member of the uniformed services (*i.e.*, a uniformed services TSP participant account).

Consistent with its treatment of accounts of participants who have both civilian accounts and uniformed services accounts, the TSP will maintain civilian beneficiary participant accounts separate from uniformed services beneficiary participant accounts. Beneficiary participants who acquire both a uniformed services participant account and a civilian beneficiary participant account will receive two separate TSP account numbers; one for the civilian beneficiary participant account and one for the uniformed services beneficiary participant account.

### Initial Account Balance Allocation

Upon notice of a participant's death, the Agency currently transfers all funds in a deceased participant's account to the Government Securities Investment (G) Fund. This practice protects the account balance from risk of incurring market-driven losses between the time the Agency receives notice of the participant's death and the time the Agency makes a distribution to a beneficiary. The Agency will continue this practice for beneficiaries who are spouses. Therefore, regardless of the allocation of the participant's account balance at the time of his or her death, funds in a beneficiary participant account will initially be allocated entirely to the G Fund. Once a beneficiary participant account is established, the spouse beneficiary may redistribute the beneficiary participant account balance among the TSP investment funds by making an interfund transfer.

### Withdrawal Options

A spouse beneficiary will be afforded the same withdrawal options with respect to his or her beneficiary participant account that the participant would have had with respect to his or her TSP account if the participant was living and separated from service. Accordingly, a spouse beneficiary may elect to withdraw all or a portion of his or her beneficiary participant account as a partial payment or as a full withdrawal, that is in a single payment, a series of monthly payments, a life annuity, or any combination of these options. The spouse beneficiary cannot

request loans, age-based withdrawals, or financial hardship withdrawals.

### Required Minimum Distributions

The Internal Revenue Code requires spouse beneficiaries to receive a portion of their beneficiary participant account on or before the later of—(1) The end of the calendar year immediately following the calendar year in which the participant died; or (2) The end of the calendar year in which the employee would have attained age 70½. The Agency will ensure that the annual total payments satisfy any applicable minimum distribution requirement of the Internal Revenue Code by making a supplemental payment, if necessary. The Agency will calculate minimum distributions based on the beneficiary participant account balance and the beneficiary participant's age, using the IRS Single Life Table, Treas. Reg. § 1.401(a)(9)–9, Q&A 1.

### Spousal Rights After Remarriage

Sections 8351 and 8435, Title 5 of the United States Code give certain rights to the spouses of participants. These spousal rights are not applicable to the spouse of a beneficiary participant. Thus, if a beneficiary participant remarries, his or her new spouse will not have the right to consent, notice, or any particular form of distribution (*e.g.* joint and survivor annuity) with respect to withdrawals from the beneficiary participant account.

### Contributions, Transfers, and Rollovers to Beneficiary Participant Accounts

The Thrift Savings Plan Enhancement Act of 2009 prohibits a spouse beneficiary from making contributions or “transfers” (trustee-to-trustee transfers or rollovers) to a beneficiary participant account. Accordingly, the Agency cannot accept a contribution allocation request from a spouse beneficiary and a spouse beneficiary cannot transfer or roll over any distributions from an IRA or an eligible employer plan into a beneficiary participant account.

A beneficiary participant may acquire multiple civilian beneficiary participant accounts and/or multiple uniformed services beneficiary participants if he or she remarries a Federal employee who then dies having designated him or her as a beneficiary. Beneficiary participant accounts cannot be combined since combining accounts requires a transfer from one beneficiary participant account to another.

### Transfers and Rollovers From Beneficiary Participant Accounts

A spouse beneficiary may transfer or roll over all or a portion of an eligible

rollover distribution (within the meaning of Internal Revenue Code section 402(c)(4)) to a traditional IRA, Roth IRA, or eligible employer plan. A spouse beneficiary who is a current or former Federal employee may also transfer or roll over all or a portion of an eligible rollover distribution from a civilian beneficiary participant account into his or her own civilian or uniformed services TSP participant account.

A spouse beneficiary who is a current or former Federal employee may, likewise, transfer or roll over all or a portion of an eligible rollover distribution from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, a transfer of a uniformed services beneficiary participant account to a civilian TSP participant account cannot include tax-exempt money attributable to the combat zone exclusion. Any tax-exempt money must remain in the uniformed services beneficiary account unless it is transferred or rolled over to an IRA or it is transferred directly to a uniformed services TSP participant account or other eligible employer plan that accepts tax-exempt money.

As currently written, the Agency's regulations prohibit participants from requesting incoming transfers or rollovers if they are receiving monthly payments from their TSP accounts. For this reason, a spouse beneficiary who is a current or former Federal employee would not be permitted to transfer an eligible rollover distribution from a beneficiary participant account to his or her own TSP participant account if he or she is receiving monthly payments from that account.

This final rule removes the above described limitation on incoming transfers and rollovers. Thus, a spouse beneficiary will be permitted to transfer or roll over all or a portion of an eligible rollover distribution from his or her beneficiary participant account to his or her own TSP participant account even if he or she is receiving monthly payments.

### Combining a Uniformed Services Beneficiary Participant Account and a Civilian Beneficiary Participant Account Not Permitted

The Agency's regulations currently provide that a participant may combine his or her uniformed services account with a civilian account through a “transfer.” See 5 CFR 1604.5(b). Even in the absence of this regulatory language, combining accounts would, as a practical matter, require that one account be transferred to the other.

Because the Thrift Savings Plan Enhancement Act prohibits contributions or transfers to a beneficiary participant account, a spouse beneficiary cannot combine his or her uniformed services beneficiary participant account with his or her civilian beneficiary participant account.

### Death of a Beneficiary Participant

The balance of a beneficiary participant account must be disbursed upon the death of the beneficiary participant. A beneficiary participant may designate a beneficiary for his or her beneficiary participant account. If the beneficiary participant does not designate a beneficiary for his or her beneficiary participant account, the account will be disbursed in accordance with the order of precedence set forth at 5 CFR 1651(a)(2)–(6). No individual who is entitled to a death benefit from a beneficiary participant account shall be eligible to keep his or her benefit in the TSP.

A recipient of a death benefit payment from a beneficiary participant account cannot transfer the payment to an IRA or eligible retirement plan (including the TSP). The Internal Revenue Code permits death benefit distributions to be rolled over only when the distribution is “paid to the spouse of the employee” or the “designated beneficiary (as defined by section 401(a)(9)(E)) of the employee.” 26 U.S.C. 402(c)(9) (emphasis added); 26 U.S.C. 402(c)(11) (emphasis added). Because a beneficiary participant is not the employee, the TSP must pay the recipient of the death benefit payment directly and the payment will be fully taxable to that individual in the year of distribution. 26 U.S.C. 402(a).

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency. It will also affect their spouse beneficiaries.

### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

### Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

### List of Subjects

5 *CFR* Part 1600

Government employees, Pensions, Retirement.

5 *CFR* Part 1604

Military personnel, Pensions, Retirement.

5 *CFR* Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 *CFR* Part 1651

Claims, Government employees, Pensions, Retirement.

5 *CFR* Part 1690

Government employees, Pensions, Retirement.

### Gregory T. Long,

*Executive Director, Federal Retirement Thrift Investment Board.*

■ For the reasons stated in the preamble, the Agency amends 5 *CFR* chapter VI as follows:

### PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS AND CONTRIBUTION ALLOCATIONS

■ 1. The authority citation for part 1600 continues to read as follows:

**Authority:** 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8474(b)(5) and (c)(1), Thrift Savings Plan Enhancement Act of 2009, section 102.

■ 2. Amend § 1600.31, by revising paragraph (a) to read as follows:

### § 1600.31 Accounts eligible for transfer.

(a) A participant who has an open TSP account and is entitled to receive (or receives) an eligible rollover distribution, within the meaning of I.R.C. section 402(c)(4) (26 U.S.C. 402(c)(4)), from an eligible employer plan or a rollover contribution, within the meaning of I.R.C. section 408(d)(3) (26 U.S.C. 408(d)(3)), from a traditional IRA may cause to be transferred (or transfer) that distribution into his or her TSP account.

\* \* \* \* \*

### PART 1604—UNIFORMED SERVICES ACCOUNTS

■ 3. The authority citation for part 1604 continues to read as follows:

**Authority:** 5 U.S.C. 8440e, 8474(b)(5) and (c)(1).

■ 4. Revise § 1604.8 to read as follows:

### § 1604.8 Death benefits.

The account balance of a deceased service member will be paid as described at 5 *CFR* part 1651. If a service member account contains combat zone contributions, the death benefit payment will be made pro rata from all sources.

### PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 5. The authority citation for part 1650 continues to read as follows:

**Authority:** 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

■ 6. Amend § 1650.13, by removing paragraph (f).

### PART 1651—DEATH BENEFITS

■ 7. Revise the authority citation for part 1651 to read as follows:

**Authority:** 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5), 8474(c)(1), and Sec. 109, Pub. L. 111–31, 123 Stat. 1176 (5 U.S.C. 8433(e)).

■ 8. Amend § 1651.5, by revising paragraph (a) to read as follows:

### § 1651.5 Spouse of participant.

(a) For purposes of payment under § 1651.2(a)(2) and establishment of beneficiary participant accounts under § 1651.19, the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The state law of the participant's domicile will be used to

determine whether the participant was married at the time of death.

\* \* \* \* \*

■ 9. Amend § 1651.14, by revising paragraph (c) to read as follows:

### § 1651.14 How payment is made.

\* \* \* \* \*

(c) *Payment to the participant's spouse.* The Agency will automatically establish a beneficiary participant account (described in § 1651.19) for any spouse beneficiary. The Agency will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than \$200 on the date the account is established. The Agency also will not transfer this amount to another eligible plan or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

\* \* \* \* \*

■ 10. Add § 1651.19 to read as follows:

### § 1651.19 Beneficiary participant accounts.

A beneficiary participant account may be established only for a spouse of a deceased participant who is a sole or partial beneficiary of the deceased participant's TSP account. Beneficiary participant accounts are subject to the following rules and procedures:

(a) *Initial investment allocation.* Regardless of the allocation of the deceased participant's account balance at the time of his or her death, each beneficiary participant account will be initially allocated 100 percent to the Government Securities Investment (G) Fund. A beneficiary participant may redistribute his or her beneficiary participant account balance among the TSP investment funds by making an interfund transfer request described in part 1601, subpart C of this chapter.

(b) *Contributions.* A beneficiary participant may not make contributions or transfers to his or her beneficiary participant account. The TSP will not accept a contribution allocation request described in part 1601, subpart B of this chapter for a beneficiary participant account.

(c) *Required minimum distributions.*  
(1) A beneficiary participant must begin receiving annual distributions from his or her beneficiary participant account balance on or before the later of –  
(i) The end of the calendar year immediately following the calendar year in which the participant died; or  
(ii) The end of the calendar year in which the participant would have attained age 70½.

(2) The TSP will ensure that the amount of the beneficiary participant's

annual distributions that occur after the required minimum distribution date satisfy the applicable minimum distribution requirements of the Internal Revenue Code. The TSP will calculate minimum distributions based on the beneficiary participant account balance and the beneficiary participant's age, using the IRS Single Life Table, 26 CFR 1.401(a)(9)-9, Q&A-1.

(d) *Withdrawal elections.* A beneficiary participant may elect any withdrawal option is available to separated participants. The provisions of § 1650.12, § 1650.13, and § 1650.14 shall apply as if all references to a participant are references to a beneficiary participant and all references to an account balance are references to a beneficiary participant account balance.

(e) *Ineligibility for certain withdrawals.* A beneficiary participant is ineligible to request the following types of withdrawals from his or her beneficiary participant account: Age-based withdrawals described in § 1650.31 of this chapter, financial hardship withdrawals described in § 1650.32 of this chapter, or loans described in part 1655 of this chapter. A beneficiary participant will not be ineligible for a partial withdrawal because the deceased participant previously elected an age-based withdrawal.

(f) *Spousal rights.* The spousal rights described in 5 U.S.C. 8351, 5 U.S.C. 8435, and § 1650.61 of this chapter do not apply to beneficiary participant accounts.

(g) *Transfers.* A beneficiary participant may request that the TSP transfer all or a portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from his or her beneficiary participant account to traditional IRA, Roth IRA or eligible employer plan (including a civilian or uniformed services TSP account other than a beneficiary participant account). In order to request such a transfer, the beneficiary participant must use the transfer form provided by the TSP.

(h) *Periodic statements.* The TSP will furnish beneficiary participants with periodic statements in a manner consistent with part 1640 of this chapter.

(i) *Privacy Act.* Part 1630 of this chapter shall apply with respect to a beneficiary participant as if the beneficiary participant is a TSP participant.

(j) *Error correction.* If, because of an error committed by the Board or the TSP record keeper, a beneficiary participant's account is not credited or

charged with the investment gains or losses the account would have received had the error not occurred, the account will be credited subject to and in accordance with the rules and procedures set forth in § 1605.21. A beneficiary participant may submit a claim for correction of Board or TSP record keeper error pursuant to the procedures described in § 1605.22.

(k) *Court orders.* Court orders relating to a civilian beneficiary participant account or uniformed services beneficiary participant account shall be processed pursuant to the procedures set forth in part 1653 of this chapter as if all references to a TSP participant are references to a beneficiary participant and all references to a TSP account or account balance are references to a beneficiary participant account or beneficiary participant account balance. Notwithstanding any provision of part 1653, a payee of a court-ordered distribution from a beneficiary participant account cannot request a transfer of the court-ordered distribution to an eligible employer plan or IRA.

(l) *Death of beneficiary participant.* To the extent it is not inconsistent with this § 1651.19, a beneficiary participant account shall be disbursed upon the death of the beneficiary participant in accordance with part 1651 as if any reference to a participant is a reference to a beneficiary participant. For example, a beneficiary participant may designate a beneficiary for his or her beneficiary participant account in accordance with § 1651.3 and § 1651.4 of this chapter. No individual who is entitled to a death benefit from a beneficiary participant account shall be eligible to keep the death benefit in the TSP or request that the TSP transfer all or a portion of the death benefit to an IRA or eligible employer plan.

(m) *Uniformed services beneficiary participant accounts.* Uniformed services beneficiary participant accounts are subject to the following additional rules and procedures:

(1) Uniformed services beneficiary participant accounts are established and maintained separately from civilian beneficiary participant accounts. Beneficiary participants who have a uniformed services beneficiary participant account and a civilian beneficiary participant account will be issued two separate TSP account numbers. A beneficiary participant must file separate interfund transfers and/or withdrawal requests for each account and submit separate beneficiary designation forms for each account;

(2) A uniformed services beneficiary participant account and a civilian

beneficiary participant account cannot be combined;

(3) If a uniformed services beneficiary participant account contains combat zone contributions, any payments or withdrawals from the account will be distributed *pro rata* from all sources;

(4) A beneficiary participant may transfer or roll over all or any portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, tax-exempt money attributable to combat zone contributions cannot be transferred from a uniformed services beneficiary participant account to a civilian TSP participant account.

(n) *Multiple beneficiary accounts.* Each beneficiary participant account is maintained separately from all other beneficiary participant accounts. If an individual has multiple beneficiary participant accounts, each of the individual's beneficiary participant accounts will have a unique account number. A beneficiary participant must file separate interfund transfers and/or withdrawal requests and submit separate beneficiary designation forms for each beneficiary participant account that the TSP maintains for him or her. A beneficiary participant account cannot be combined with another beneficiary participant account.

## PART 1690—THRIFT SAVINGS PLAN

■ 11. The authority citation for part 1690 continues to read as follows:

**Authority:** 5 U.S.C. 8474.

■ 12. Amend § 1690.1, to add the definitions of "Beneficiary participant", "Beneficiary participant account", "Civilian beneficiary participant account", and "Uniformed services beneficiary participant account", and by revising the definitions of "Plan participant" and "Spouse" in alphabetical order to read as follows:

### § 1690.1 Definitions.

\* \* \* \* \*

*Beneficiary participant* means a spouse beneficiary for whom the TSP maintains a beneficiary participant account pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19.

*Beneficiary participant account* means an account maintained pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19. The term includes both civilian beneficiary participant accounts and uniformed services beneficiary participant accounts.

\* \* \* \* \*

*Civilian beneficiary participant account* means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a civilian employee.

\* \* \* \* \*

*Plan participant* or participant means any person with an account (other than a beneficiary participant account) in the Thrift Savings Plan or who would have an account (other than a beneficiary account) but for an employing agency error.

\* \* \* \* \*

*Spouse* means the person to whom a TSP participant is married on the date he or she signs a form on which the TSP requests spousal information, including a spouse from whom the participant is legally separated, and a person with whom the participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live. Where a participant is seeking to reclaim an account that has been forfeited pursuant to 5 CFR 1650.16, spouse also means the person to whom the participant was married on the withdrawal deadline. For purposes of 5 CFR 1651.5 and 5 CFR 1651.19, spouse also means the person to whom the participant was married on the date of the participant's death.

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*Uniformed services beneficiary participant account* means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a member of the uniformed services.

\* \* \* \* \*

[FR Doc. 2010-31656 Filed 12-16-10; 8:45 am]

BILLING CODE 6760-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0596; Directorate Identifier 2010-NE-22-AD; Amendment 39-16533; AD 2010-24-14]

RIN 2120-AA64

#### Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney PW4000 series turbofan

engines. This AD requires initial and repetitive borescope inspections (BSI) or fluorescent penetrant inspections (FPI) for cracks in the anti-vortex tube (AVT) shelf slots on the 10th stage disk of the high-pressure compressor (HPC) drum rotor disk assembly. This AD results from 47 reports received since 2007 of HPC 10th stage disks found cracked in the AVT shelf slots during shop visit inspections. We are issuing this AD to prevent failure of the HPC 10th stage disk, uncontained engine failure, and damage to the airplane.

**DATES:** This AD becomes effective January 21, 2011. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 21, 2011.

**ADDRESSES:** You can get the service information identified in this AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-8770; fax (860) 565-4503.

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

**FOR FURTHER INFORMATION CONTACT:** James Gray, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [james.e.gray@faa.gov](mailto:james.e.gray@faa.gov); telephone (781) 238-7742; fax (781) 238-7199.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to certain Pratt & Whitney PW4000 series turbofan engines. We published the proposed AD in the **Federal Register** on July 14, 2010 (75 FR 40757). That action proposed to require initial and repetitive BSI or FPI for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

#### Request for Airplane Model Changes in the Applicability

One commenter, The Boeing Company, requests that we change the list of airplane models in the applicability paragraph. The commenter requests that we add the 747-400 and -400F airplane models, and remove the 747-200 airplane model. These changes will make the list accurate.

We agree. We changed the AD applicability to reflect these changes.

#### Request To Include Engine Removal Disassembly Labor Costs

One commenter, Japan Airlines, requests that we change the costs of compliance estimate to include engine removal and disassembly labor costs. The commenter states that their domestic routes can go 7,000 cycles-in-service or more between engine overhauls. Since the inspection compliance interval in the proposed AD is within every 7,200 cycles-in-service, some of their engines could be removed and disassembled before they would normally be scheduled.

We do not agree. The inspection compliance interval of within every 7,200 cycles-in-service captures when most of the fleet will remove the low-pressure turbine shaft, or overhaul the HPC. Most operators will incur no additional costs. We did not change the AD.

#### Request To Add Service Bulletins as Terminating Action

Two commenters, Martinair Holland and Delta Airlines, Inc., request that we add Pratt & Whitney Service Bulletin (SB) No. PW4ENG 72-801 to the AD as terminating action for the repeat inspection. The commenters state that Pratt & Whitney issued that SB, as well as SB No. PW4G-100-72-225, to introduce a redesigned HPC 9th stage stator that will correct the cracking problem.

We agree. We modified the AD to include optional terminating action for the repetitive inspections.

#### Reference the Latest Service Bulletin

Since we issued the proposed AD, Pratt & Whitney has issued Revision 1 of Pratt & Whitney SB No. PW4ENG 72-799. We updated the AD to reference Revision 1 of this SB.