

requests the opportunity to review the government's evidence, the alien will be served with a copy of the evidence in the record of proceeding relied on by the government to support the allegations and/or charge. The alien may, within ten days following service of the government's evidence (thirteen days if service is by mail), furnish a final response in accordance with paragraph (c)(1) of this section. Either the alien's initial written response or the alien's final response must be accompanied by an affidavit and a completed and signed application designed for any relief sought.

(d) *Determination by deciding Service officer.* (1) *No response; acceptance of Final Administrative Deportation Order.* If

(i) A timely response is not received by the deciding Service officer, or

(ii) The alien accepts immediate issuance of the Final Administrative Deportation Order, then the deciding Service officer shall issue and cause to be served upon the alien a Final Administrative Deportation Order. The determination of deportability must be supported by clear, convincing, and unequivocal evidence contained in the record of proceeding.

(2) *Response submitted.* (i) *Insufficient rebuttal; no prima facie claim or genuine issue of material fact.* If the deciding Service officer finds that the response fails to rebut the allegations and charge in the Notice of Intent, fails to present a prima facie claim of relief from deportation under the Act, and fails to raise a genuine issue of material fact, he or she shall issue and cause to be served upon the alien a Final Administrative Deportation Order. The determination of deportability must be supported by clear, convincing, and unequivocal evidence contained in the record of proceeding.

(ii) *Additional evidence required.* If the deciding Service officer finds that the alien's response raises a genuine issue of material fact regarding the preliminary findings, he or she

(A) May request additional information from any source, including the alien, as he or she may deem appropriate, or

(B) Issue an order to show cause to initiate deportation proceedings under section 242(b) of the Act. If the deciding Service officer considers additional information from a source other than the alien, that evidence shall be provided to the alien, and the alien may, within ten days of service thereof (thirteen days if service is by mail) furnish a response to the deciding Service officer. If, after considering all additional information,

the deciding Service officer finds that deportation is supported by the requisite proof, he or she shall issue and cause to be served upon the alien a Final Administrative Deportation Order.

(iii) *Secretary eligibility for relief; conversion to proceedings under section 242(b) of the Act.* If the deciding Service officer finds that the alien has presented a prima facie claim of present statutory eligibility for a specific form of relief from deportation, the deciding Service officer shall terminate the expedited proceedings under section 242A(b) of the Act, and shall, where appropriate, issue an order to show cause for the purpose of initiating an immigration judge proceeding under section 242(b) of the Act.

(3) *Termination of proceedings by deciding Service officer.* Only the deciding Service officer may terminate proceedings under section 242A(b) of the Act, in the exercise of his or her discretion.

(e) *Proceedings commenced under section 242(b) of the Act.* In any proceeding commenced under section 242(b) of the Act, if it appears that the respondent's case falls under the provisions of section 242A(b) of the Act, the immigration judge may, upon the Service's request, terminate the case and, upon such termination, the Service may commence administrative proceedings under section 242A(b) of the Act. However, in the absence of any such request, the immigration judge shall complete the pending proceeding commenced under section 242(b) of the Act.

(f) *Executing final order of deciding Service officer—*

(1) *Thirty (30) calendar days.* Upon the issuance of a Final Administrative Deportation Order, the Service shall issue a warrant of deportation issued in accordance with 8 CFR part 243.2; such warrant shall be executed no sooner than 30 calendar days after the date the Final Administrative Deportation Order is issued, unless the 30-day period is waived in writing by the alien. The 72-hour provisions of § 243.3(b) of this chapter shall not apply.

(2) *Place to which deported.* The deciding Service officer shall designate the country of deportation, in the manner prescribed by section 243(a) of the Act.

(g) *Arrest and detention.* At the time of issuance of a Notice of Intent or at any time thereafter and up to the time the alien becomes the subject of a warrant of deportation, the alien may be arrested and taken into custody under the authority of a warrant of arrest issued by an officer listed in § 242.2(c)(1) of this chapter. Pursuant to

section 242(a)(2)(A) of the Act, pending proceedings under section 242A(b) of the Act, the deciding Service officer shall not release an alien who has not been lawfully admitted. Pursuant to section 242(a)(2)(B) of the Act, the deciding Service officer may release an alien who has been lawfully admitted based upon factors considered under § 242.2(h) of this chapter. The decision of the deciding Service officer concerning custody or bond is not administratively appealable during proceedings initiated under section 242A(b) of the Act and this section.

(h) *Record of proceeding.* A record of proceeding shall be maintained by the Service for judicial review of the Final Administrative Deportation Order sought by any petition for review. The record of proceeding shall include, but not necessarily be limited to, the charging document (Notice of Intent); the Final Administrative Deportation Order; the alien's response, if any; all evidence in support of the charges; and any admissible evidence, briefs, or documents submitted by either party respecting deportability or relief from deportation.

Dated: March 16, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95-7754 Filed 3-29-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-177-AD]

Airworthiness Directives; Boeing Model 727 and Model 737 Series Airplanes Equipped With J.C. Carter Company Fuel Valve Actuators

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 727 and Model 737 series airplanes, that would have required replacement of the actuator of the engine fuel shutoff valve and the fuel system crossfeed valve with an improved actuator. That proposal was prompted by reports indicating that, during ground acceptance tests on Model 737 series airplanes, the actuator clutch on the engine shutoff and

crossfeed valves slipped at cold temperatures due to improper functioning. This action revises the proposed rule by expanding the applicability to include an additional actuator. The actions specified by this proposed AD are intended to prevent improper functioning of these actuators, which could result in a fuel imbalance due to the inability of the flight crew to crossfeed fuel; improperly functioning actuators could also prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

DATES: Comments must be received by May 1, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-177-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen S. Bray, Aerospace Engineer, Propulsion Branch, ANM-141S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2681; fax (206) 227-1181.

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 shall 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

summarizing 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 Number 94-NM-177-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-177-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 727 and Model 737 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 15, 1994 (59 FR 64628). That NPRM would have required replacement of the actuator of the engine fuel shutoff valve and the fuel system crossfeed valve with a new actuator. That NPRM was prompted by reports indicating that, during ground acceptance tests on Model 737 series airplanes, the actuator clutch on the engine shutoff and crossfeed valves slipped at cold temperatures when the engine shutoff valve was commanded to either the "close" or "open" position. Improper functioning of these actuators, if not corrected, could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel, or could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

Since the issuance of that NPRM, the FAA has received a report indicating that additional fuel valve actuators (Model EM487-2, serial numbers 0001 through 1443 inclusive) installed on certain Model 727 and Model 737 series airplanes are also subject to the same failure. The FAA has determined that these additional actuators are subject to the addressed unsafe condition.

The FAA has reviewed and approved a later version of J. C. Carter Company Service Bulletin 61163-28-08, dated December 2, 1994. J. C. Carter Company Service Bulletin 61163-28-08, dated September 1, 1994, was cited in the NPRM as the appropriate source of service information. The replacement procedures described in the later

version of the service bulletin are identical to those described in the earlier version of the service bulletin. However, the later version expands the effectivity listing to include additional actuators. The applicability and paragraph (e) of the supplemental NPRM have been revised to reference the later version of the service bulletin.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

There are approximately 4,137 Model 727 and Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 2,190 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would be supplied by J.C. Carter Company at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$394,200, or \$180 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the 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 is contained 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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 94-NM-177-AD.

Applicability: Model 727 and Model 737 series airplanes; equipped with J.C. Carter Company fuel valve actuators, as listed in J.C. Carter Company Service Bulletin 61163-28-08, dated December 2, 1994, 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 use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the

unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent improper functioning of certain actuators, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel, or which could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire, accomplish the following:

(a) Within 24 months after the effective date of this AD, replace the actuator having part number (P/N) 40574-2 (Model EM487-2, serial numbers 0001 through 1443 inclusive; and Model EM487-3, serial numbers 0001 through 2711 inclusive), on the fuel system crossfeed valve and the engine shutoff valves with a new actuator having P/N 40574-4, in accordance with the Accomplishment Instructions of J.C. Carter Company Service Bulletin 61163-28-08, dated December 2, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) 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.

Issued in Renton, Washington, on March 24, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 95-7779 Filed 3-29-95; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 94-NM-116-AD]

Airworthiness Directives; Fokker Model F28 Mk 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mk 0100 series airplanes. This proposal would require the installation of modified Passenger Service Unit (PSU) panel lenses. This proposal would also require

a one-time post-installation inspection to detect corrosion or deterioration of the PSU connectors, and correction of discrepancies, and application of sealant. This proposal is prompted by reports that "No Smoking" and "Fasten Seat Belt" signs installed in certain overhead PSU's are not readable from passengers' and flight attendants' seats. This proposal is also prompted by reports of smoke in the passenger cabin caused by overheating of the PSU connectors. The actions specified by the proposed AD are intended to ensure that warning signs are readable to passengers and flight attendants, and to eliminate a potential fire hazard.

DATES: Comments must be received by May 8, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-116-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

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 shall 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,