

Certification Procedures Issues Group (Part 21), Parts & Production Working Group is currently developing a draft notice of proposed rulemaking (NPRM), for submittal to the FAA, addressing the approval of replacement and modification parts. This issue is under consideration; changes could be incorporated into the forthcoming NPRM.

Comment: Several commenters expressed the desire to allow various other categories of parts such as lamps electrical connectors, and bearings.

FAA Response: The FAA's Notice solicited information as to the merits of including categories of parts other than discrete electrical or electronic components under the interpretation. The commenters did not state how the conformity of the parts could be established solely on the basis of meeting a performance specification. Thus, the FAA still regards the standard parts exclusion as applicable to a narrow segment of the entire population of part designs.

Comment: One commenter expressed the desire to allow programmable devices to be considered standard parts when there are approved pin-for-pin alternatives. Such components only become notionally non-standard after programming for a specific application.

FAA Response: Programmable devices were specifically excluded in the proposed expanded interpretation because their performance characteristics may vary with the instruction programmed within or provided to such devices, or due to different applied voltages and signals affecting logical switching conditions. Even though such devices may be pin-to-pin compatible, the performance characteristics cannot be assured, thus making such devices ineligible for consideration of the "performance" based interpretation of the definition.

The interpretation for standard parts is effective on January 31, 1997. The FAA is compiling a list of standard setting bodies and U.S. government entities that establish specifications for standard parts. That list will be published on the Aircraft Certification Home Page on the World Wide Web by June 30, 1997.

Issued in Washington, DC on January 31, 1997.

Elizabeth Yoest,

Deputy Director, Aircraft Certification Service.

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BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 96-NM-146-AD; Amendment 39-9953; AD 97-05-09]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that requires replacement of the flow restrictors of the aileron and elevator power control units (PCU's) with new flow restrictors. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent reduced roll and/or pitch rate control of the airplane and consequent increased pilot workload as a result of fragments from a deteriorated flow restrictor filter screen becoming lodged in the PCU.

DATES: Effective April 9, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 9, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Don Kurlle, Senior Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2798; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes was published in the Federal Register on August 28, 1996 (61 FR 44232). That action proposed to require replacement of the flow restrictors of the aileron and elevator power control units (PCU's) with new flow restrictors.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request To Revise Statement of Findings of Critical Design Review Team

One commenter requests the second paragraph of the Discussion section that appeared in the preamble to the proposed rule be revised to accurately reflect the findings of the Critical Design Review (CDR) team. The commenter asks that the FAA delete the one sentence in that paragraph, which read: "The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as correction of certain design deficiencies." The commenter suggests that the following sentences should be added: "The team did not find any design issues that could lead to a definite cause of the accidents that gave rise to this effort. The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as incorporation of certain design improvements in order to enhance its already acceptable level of safety."

The FAA does not find that a revision to this final rule in the manner suggested by the commenter is necessary, since the Discussion section of a proposed rule does not reappear in a final rule. The FAA acknowledges that the CDR team did not find any design issue that could lead to a definite cause of the accidents that gave rise to this effort. However, as a result of having conducted the CDR of the flight control systems on Boeing Model 737 series airplanes, the team indicated that there are a number of recommendations that should be addressed by the FAA for each of the various models of the Model 737. In reviewing these recommendations, the FAA has concluded that they address unsafe conditions that must be corrected through the issuance of AD's. Therefore, the FAA does not concur that these design changes merely "enhance [the Model 737's] already acceptable level of safety."

Request To Extend Compliance Time for Replacing Flow Restrictors

Several commenters request that the proposed compliance time for

replacement of the flow restrictors be extended.

The Air Transport Association (ATA) of America, on behalf of several of its members, requests that the proposed compliance time for accomplishment of paragraph (a) of the proposal be extended from within 18 months to within five years after the effective date of the AD to align with regularly scheduled maintenance ("D" checks).

One commenter requests that the compliance time for paragraph (a) of the proposal be extended to 24 months to avoid grounding aircraft by scheduling maintenance outside of regularly scheduled visits. One ATA member requests a 4-year compliance time based on considerations including scheduling, airplane downtime, unit turn-around time, and availability of spare parts.

One commenter states that the retrofit requires a 30-day turn-around time. Another commenter indicates that although the replacement takes 3 work hours, it takes 42 total work hours to return the airplane to service since the affected units are CAT II sensitive line replaceable units. The commenters also point out that there has never been an in-service failure of the filter screen. The failure referenced in the proposal occurred during a shop functional test at 5,400 pounds per square inch (psi) and, in service, the unit would not be subjected to operational pressures greater than 3,000 psi. The commenters add that there is some uncertainty at this time as to whether the shop test should be accomplished at such a high pressure; such a test may cause more safety concerns than it addresses.

One ATA member states that there is no service history or other evidence to indicate that the filter screens may fail when subjected to 3,000 psi, nor is there any history of discrepant PCU operation attributed to failure of the filter screens. The commenter indicates that the affected PCU's have accumulated an average of 17,400 flight hours each (for a total of approximately 17 million flight hours) without an in-service failure due to disintegration of the flow restrictor filter screens. The commenter believes that an acceptable level of safety can be achieved by mandating the replacement of suspect flow restrictors at the next PCU overhaul, not to exceed 5 years after the effective date of the AD.

Boeing agrees that, in order to preclude any failures from occurring during a functional test following maintenance action, the suspect PCU filter screens should be replaced. However, Boeing indicates that any maintenance action involving removing, disassembling, modifying, and reinstalling the PCU provides

opportunity for a maintenance error. In addition, Boeing states that any suspect filter screens already installed in airplanes are very unlikely to fail. Boeing adds that there is added risk if a filter screen failed during functional testing, but was not discovered. In view of these considerations, Boeing recommends a compliance time of five years or 15,000 hours.

One commenter, an operator of affected airplanes of foreign registry, requests that the proposed compliance time be extended to 60 months to allow sufficient time to accomplish the replacement without grounding airplanes.

The FAA concurs with the commenters' request to extend the compliance time. The FAA has determined that, in light of the information presented by the commenters, the compliance time can be extended to five years or 15,000 flight hours (whichever occurs first) to allow the replacement to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available, if necessary. The FAA does not consider that this extension will adversely affect safety. Paragraph (a) of the final rule has been revised to specify the extended compliance time.

Request To Extend Compliance Time for Disallowing Installation of Flow Restrictors

The ATA also requests that the proposed compliance time for disallowing installation of flow restrictors, as specified in paragraph (b) of the proposal, be extended from "as of the effective date of this AD" to within two years after the effective date of the AD. The commenter does not provide specific justification for this request.

The FAA does not concur. Since the service information referenced in this final rule was issued in June 1992, the FAA finds that ample opportunity has been provided for removal of the affected flow restrictors from operators' inventories and replacement with acceptable parts.

Requests To Withdraw the Proposal

Several commenters request that the proposed rule be withdrawn.

One commenter believes the proposal is not justified since it cannot be supported by data. The commenter indicates the proposal does not contribute to improving the safety aspects of Model 737 aircraft. The commenter states that the Critical Design Review (CDR) team's report does not indicate that there is any evidence to tie the referenced service documents

to any in-service problems or accidents. The commenter adds that the FAA has not indicated that it has reviewed any routine component tear-down reports that would support the proposed actions. The commenter concludes that the FAA does not understand the enormity of the proposed action.

A second commenter concludes that the proposal does not address an unsafe condition, even in a worst case situation; that an unsafe condition is extremely unlikely to occur in service; and that an unsafe condition would most likely be detected during a preflight check.

Another commenter, Boeing, states that the proposal does not correct an unsafe condition; rather, it eliminates the potential for a failure condition that could degrade controllability (but not prevent continued safe flight and landing). Boeing indicates that there have been no reported in-service failures of the suspect filter screens. Based on "the limited safety concern," Boeing states that it is appropriate for removal and rework of the suspect units as part of routine maintenance. Boeing suggests that, if the FAA does not withdraw the proposal, the PCU overhaul manual could be revised to provide a procedure for inspection and replacement of suspect flow restrictors.

One commenter states that both Boeing and FAA analyses indicate a worst case scenario (with an accompanying independent hydraulic failure) to be reversion to manual control—a situation checked many times each year during maintenance test flights by carriers. The commenter also states that the instance in which the filter collapsed occurred at proof test pressures that would never be encountered in service (according to Boeing and the component manufacturer).

The FAA does not concur with these requests to withdraw the proposed rule. The FAA has not received any data to demonstrate the reliability or strength of the faulty filters. However, the FAA is aware that these filters were not strong enough to pass proof testing at the PCU manufacturer's facility. Neither the filter or PCU manufacturer attempted to quantify the actual strength of the filter screen. In addition, while it is true that there have been no reported in-service failures, a screen failure would not necessarily be reported since the FAA does not require reports of screen failures.

As discussed in the preamble to the proposal, the FAA has determined that sufficient data exist to demonstrate that contamination of the PCU at the main control valve due to deterioration of a

filter screen from a flow restrictor can result in fragments of the screen migrating to the main control valve, the damping orifice, or the bypass valve. Fragments from a deteriorated flow restrictor filter screen could become lodged in the PCU. As suggested by one of the commenters, even if manual reversion is checked during maintenance test flights several times each year, this condition is considered unsafe since it would result in reduced roll and/or pitch rate control of the airplane and consequent increased pilot workload. The FAA has determined that replacement of the flow restrictors of the aileron and elevator PCU's with new flow restrictors, as required by this AD action, will adequately address that unsafe condition.

The FAA has no objection to Boeing revising the PCU overhaul manual to provide a procedure for inspection and replacement of suspect flow restrictors; such revision will not affect the requirements of this AD.

Request To Allow Records Search

One commenter requests that a note be added to the proposal to specify that compliance with the AD can be demonstrated by accomplishing a records search to determine whether any of the suspect units are installed on the airplane.

The FAA finds that no change to the final rule is necessary. The applicability of this final rule specifies that the AD applies only to certain Model 737 series airplanes that are equipped with an aileron or elevator PCU having a particular part number. This AD does not preclude an operator from performing a records search to determine if an airplane in its fleet is subject to the requirements of this AD.

Request To Revise Cost Impact Information

One commenter states that imposition of the proposal would overburden competent repair facilities and expose the airlines and the flying public to unnecessary risk as a result. In support of its position, the commenter states that the cost impact information in the proposal indicates the screens referenced in the service letter cited in the AD are line replaceable when they are not. The commenter also asserts that the costs specified in the proposal are unrealistically low; however, the commenter does not provide any suggested cost estimates or data to substantiate this remark.

The FAA infers from these remarks that the commenter requests that the

cost impact information be revised. In this case, the FAA does not concur.

First, the FAA points out that comments are more likely to be persuasive to the extent that they provide specific and detailed information regarding actual costs. However, when commenters submit simple generalizations about the costs, there is little that the FAA can consider. Second, the cost impact information, below, describes only the "direct" costs of the specific actions required by this AD. The number of work hours necessary to accomplish the required actions and the cost for required parts were provided to the FAA by the manufacturer based on the best data available to date. This number represents the time necessary to perform only the actions actually required by this AD.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. The FAA realizes that such is the case for this AD, since the filter screen is not a line replaceable unit. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up; planning time; or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

Third, the FAA finds that the revised compliance time specified in paragraph (a) of this AD should allow ample time for the required actions to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing any burden on repair facilities and any additional costs.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 244 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 146 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the

required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$2,960 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$537,280, or \$3,680 per airplane.

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

Regulatory Impact

The regulations adopted herein will 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 final rule does 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 adding the following new airworthiness directive:

97-05-09 Boeing: Amendment 39-9953.
Docket 96-NM-146-AD.

Applicability: Model 737 series airplanes equipped with an aileron or elevator power control unit (PCU) having part number (P/N) 65-45180-29, serial numbers 182 through 1297 inclusive; certificated in any category.

Note 1: Originally, aileron or elevator PCU's having P/N's and serial numbers identified in the applicability of this AD may have been installed on Model 737 series airplanes having line numbers 1793 through 2036 inclusive. In addition, some of these PCU's may have been used as spares; therefore, specific airplane line numbers equipped with such PCU's cannot be provided in this AD.

Note 2: PCU's having P/N 65-45180-29 consist of a PCU assembly having P/N 65-44761-21 plus associated hydraulic fittings. Both PCU P/N's 65-45180-29 and 65-44761-21 are serialized. PCU's subject to the requirements of this AD may be more easily identified using serial numbers for P/N 65-44761-21. The following serial numbers correspond to P/N 65-44761-21:

8550A,
8552A,
8556A,
8557A,
8561A,
8563A through 8718A inclusive,
8720A through 8726A inclusive,
8728A through 8745A inclusive,
8749A,
8750A through 8758A inclusive,
8760A through 8873A inclusive,
8876A through 9004A inclusive,
9007A through 9012A inclusive,
9014A through 9040A inclusive,
9042A through 9066A inclusive,
9068A through 9340A inclusive,
9342A through 9388A inclusive,
9390A through 9529A inclusive,
9531A through 9676A inclusive, and
9678A through 9688A inclusive.

Note 3: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (c) 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, unless accomplished previously.

To prevent reduced roll and/or pitch rate control of the aileron and consequent increased pilot workload, accomplish the following:

(a) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever

occurs first: Replace the four flow restrictors, part number (P/N) JETA1875500D, on the aileron and elevator power control units (PCU's), P/N 65-45180-29, serial numbers 182 through 1297 inclusive, with flow restrictors having P/N JETX0527100B, in accordance with Boeing Service Letter 737-SL-27-71-A, dated June 19, 1992, including Attachment 1.

(b) As of the effective date of this AD, no person shall install a flow restrictor having P/N JETA1875500D on an aileron or elevator PCU having P/N 65-45180-29, serial numbers 182 through 1297 inclusive, of any airplane.

(c) 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) 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.

(e) The replacement shall be done in accordance with Boeing Service Letter 737-SL-27-71-A, dated June 19, 1992, including Attachment 1. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 9, 1997.

Issued in Renton, Washington, on February 25, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-5158 Filed 3-4-97; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 71

[Airspace Docket No. 93-AEA-02]

Amendment to Class E Airspace; Dunkirk, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Dunkirk, NY, to

accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 19 and a VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME) SIAP to at Angola Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Operations Branch, AEA-530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553-4521.

SUPPLEMENTARY INFORMATION:**History**

On January 6, 1995, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Dunkirk, NY, (60 FR 2047). This action would provide adequate Class E airspace for IFR operations at Angola Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace area at Dunkirk, NY, to accommodate a GPS RWY 19 SIAP, a VOR/DME or GPS A SIAP and for IFR operations at Angola Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(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 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a