Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24691; Directorate Identifier 2006–NM–051–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD would require testing the electrical resistance of the bond between the bulkhead fitting for the fuel feed line and the front spar of the left and right wings, inspecting an adjacent bonding jumper to make sure it is installed correctly, and performing corrective and other specified actions as applicable. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent arcing or sparking in the fuel tank in the event of a lightning strike, which could result in an uncontrolled fire or explosion.

DATES: We must receive comments on this proposed AD by June 19, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6504; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24691; Directorate Identifier 2006–NM–051–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address

the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

We have received a report indicating that, during production of certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, the electrical bond between the bulkhead fitting for the fuel feed line and the wing front spar was not adequately tested to verify that the bond meets the required resistance. Testing of the electrical bond, and the application of sealant, is intended to prevent ignition sources from entering the fuel tank in the event of a lightning strike. Arcing or sparking in the fuel tank could result in an uncontrolled fire or explosion.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–28–1225, dated January 12, 2006. The service bulletin describes procedures for testing the electrical resistance of the bond between the bulkhead fitting for the fuel feed line and the front spar on the left and right wings, performing a general visual inspection of adjacent bonding jumpers to make sure they are installed correctly, and performing corrective actions as applicable. Regardless of the findings of the resistance test, the service bulletin details other specified actions that entail applying sealant to the aft side of the bulkhead fitting to encapsulate the fitting and the fuel feed tube coupling.

If the electrical resistance test results in a value that is outside the limits identified in the service bulletin, the service bulletin specifies corrective actions including repairing the bond and retesting to verify adequate electrical resistance.

If the bonding jumper is not installed correctly, the corrective action is reinstalling the jumper correctly.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,541 airplanes of the affected design in the worldwide fleet.

This proposed AD would affect about 591 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $189,120, or $320 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–24691; Directorate Identifier 2006–NM–051–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 19, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–28–1225, dated January 12, 2006.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent arcing or sparking in the fuel tank in the event of a lightning strike, which could result in an uncontrolled fire or explosion.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Test, Inspection, and Corrective and Other Specified Actions

(f) Within 60 months after the effective date of this AD, test the electrical resistance of the bond between the bulkhead fitting for the fuel feed line and the wing front spar on the left and right wings, do a general visual inspection of adjacent bonding jumpers to make sure they are installed correctly, and do all applicable corrective and other specified actions by doing all of the actions specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin

737–28–1225, dated January 12, 2006. All applicable corrective actions and other specified actions must be done before further flight after the electrical resistance test.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on April 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–6795 Filed 5–4–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 204 and 399

[Docket No. OST–2003–15759]

RIN 2105–AD25

Actual Control of U.S. Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Department is seeking additional comments on our proposal to clarify policies that it may use to evaluate air carriers' citizenship during initial and continuing fitness reviews. Our proposal would affect how we determine ''actual control'' of the carrier in situations where the foreign investor's home country has an open skies air services agreement with the United States, and permits reciprocal investment opportunities in its own national air carriers for U.S. investors. We continue to believe that our proposed policy would remove unnecessary restrictions on U.S. air carriers' access to the global capital market without compromising the statutory requirement that U.S. citizens remain in actual control of such carriers.

We are issuing a supplemental notice of proposed rulemaking (SNPRM) because, after reviewing comments submitted on the NPRM and in consultation with other Executive Branch agencies, we have decided to strengthen the proposal in several areas. We have revised the proposed rule further to ensure that U.S. citizens will have actual control of the air carrier. We are also mindful of the strong interest in this proposal expressed by members of Congress. This SNPRM will furnish Congress the opportunity to review the proposal in its refined form, and to undertake a more informed assessment of its likely consequences.

Our NPRM proposal would allow for delegation to foreign investors of decision-making authority regarding commercial issues, but in the areas of organizational documents, safety, security, and the Civil Reserve Air Fleet (CRAF) program the NPRM would not permit these delegations. In a key refinement of our original proposal, we now propose in this SNPRM to require that any such delegation of authority to foreign interests by the U.S. citizen majority owners be revocable. We are proposing this change to ensure that, notwithstanding their ability to delegate decision-making authority over certain commercial matters (as described in the NPRM) to foreign investor interests, the U.S. voting shareholders of a U.S. airline will retain actual control of the airline.

We originally proposed to reserve exclusively to U.S. citizens decisions relating to organizational documents, safety, security, and CRAF. In another refinement, in keeping with suggestions received from the Departments of Homeland Security and Defense as well as the Federal Aviation Administration, we are now proposing to broaden the scope of the decision-making that must remain under the actual control of U.S. citizens. The aspects of control of safety and security decisions would no longer be limited to those implementing FAA and TSA safety and security regulations, but would cover safety and security decisions generally. Similarly, the proposed control of CRAF decisions would be expanded to cover all national defense airlift commitments. Our proposed expansion of the coverage of these three areas will ensure that all critical elements of a carrier's decision-making that could impact safety, security, and national defense airlift are fully covered, and that our review of a carrier's compliance with these requirements will not be unduly narrow.

We tentatively conclude that, as modified, this proposal will eliminate unnecessary and anachronistic limitations on the ability of eligible foreign minority investors to participate in the commercial decision-making at a U.S. airline in which they have made an otherwise statutorily-permitted investment. At the same time, it should eliminate any doubt that the voting stockholders (75 percent of whom are U.S. citizens) and the board of directors (two-thirds of whom are U.S. citizens) will retain full control over decisions regarding safety, security, and contributions to our national defense airlift capability, and that those U.S. citizens also retain ''actual control'' of the carrier as a whole as required by statute.

DATES: Comments must be submitted on or before July 5, 2006.

ADDRESSES: You may submit comments identified by DMS Docket Number OST–2003–15759 using any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Operations; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Regulatory Notices. We will consider late filed comments to the extent possible.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William M. Bertram, Chief, Air Carrier Fitness Division (X–56), Office of Aviation Analysis, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–9721.