DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0682; Directorate Identifier 2001–NM–237–AD; Amendment 39–16025; AD 2009–20–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–200 and –300 series airplanes, that requires replacing certain door-mounted escape slides and slide-raft assemblies with new slide-raft assemblies. This AD also requires the following actions, as applicable: replacing certain escape system latches with new latches; modifying or replacing certain counterbalance assemblies with new counterbalance assemblies; and adjusting the door counterbalance system. The actions specified by this AD are intended to prevent the escape slides and slide-rafts of the forward and mid-cabin entry and service doors from being too steep for evacuation in the event that the airplane rotates onto the aft fuselage into the extreme tip-back condition. In the extreme tip-back condition, the forward and mid-cabin exits could result in steeper sliding angles, which could cause injury to passengers and crewmembers during an emergency evacuation. This action is intended to address the identified unsafe condition.

DATES: Effective November 3, 2009.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of November 3, 2009.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.* This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility 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 address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrew Guion, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6428; fax (425) 917–6590.

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 767–200 and –300 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 17, 2008 (73 FR 34233). That action proposed to require replacing certain door-mounted escape slides and slide-raft assemblies with new slide-raft assemblies; replacing certain escape system latches with new latches; and modifying or replacing certain counterbalance assemblies with new counterbalance assemblies; as applicable. The supplemental NPRM also proposed to extend the compliance time, add requirements to install a longer firing cable and test the valve of the inflation trigger system of the slide-raft and, for certain airplanes, add procedures to adjust the door counterbalance systems.

Explanation of Revised Service Information

Since we issued the supplemental NPRM, we have reviewed Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008. We referred to Boeing Service Bulletin 767–25A0266, Revision 2, dated September 27, 2007, in the supplemental NPRM as the appropriate source of service information for replacing the slide-rafts. The procedures in Revision 2 and Revision 3 are essentially the same; however, Revision 3 corrects certain typographical errors, including certain part numbers for the slide-rafts.

We have revised paragraph (a) of this AD to refer to Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008, as the appropriate source of service information. We have also included Boeing Service Bulletin 767–25A0266, Revision 2, dated September 27, 2007, in Table 1 of this AD to state that actions done before the effective date of this AD in accordance with Revision 2 are acceptable for compliance with the requirements of paragraph (a) of this AD.

Comments

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

Requests To Withdraw Supplemental NPRM or Extend Compliance Time

Air Transport Association (ATA), American Airlines, and Delta Airlines request that we either withdraw the supplemental NPRM or extend the compliance time for replacing the slide-rafts. All Nippon Airways requests a compliance time of 8 years (96 months), and ATA requests a compliance time of 10 years (120 months) rather than the 72 months proposed in the supplemental NPRM.

ATA also cites information to show the improbability of the unsafe condition, and maintains that we should withdraw the NPRM due to its lack of potential to add safety benefit, its significantly disproportional costs, its unjustified compliance period, and the fact that the intent of the proposal is already being accomplished on an attrition basis. ATA also states that if the FAA disagrees with its justifications and proceeds with the final rule, it recommends a 10-year compliance period for better correlation with risk-management methods.

American Airlines and ATA further object to the requirement to replace the slide-rafts. They agree with the manufacturer that the unsafe condition specified in the supplemental NPRM is not a safety issue. American Airlines and ATA state that the likelihood that the scenario described in the supplemental NPRM would result in a time-limited evacuation is extremely improbable.

We partially agree with the commenters. We do not agree with the requests to withdraw the supplemental NPRM. We have determined that an unsafe condition exists. Although the specific conditions addressed in the supplemental NPRM have not been

encountered in service, we have received reports of partial tip-back during accidents/incidents that could have resulted in extreme tip-back given slightly different conditions, making this type of event foreseeable. During at least one of these partial tip-back events, the slides were deployed to facilitate evacuation. We do not agree that the low probability of encountering such a foreseeable event is justification to withdraw the supplemental NPRM. We have also determined that an interval based on the ''useful service life'' of the slides, which is 15 years, would not address the unsafe condition in a timely manner.

However, we do agree that it is appropriate to extend the compliance time. We have determined that a compliance time of 96 months represents an appropriate interval of time in which the required actions can be performed, while still maintaining an adequate level of safety. In developing an appropriate compliance time, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modifications. We also considered the costs to comply with the actions (see updated cost information in the Costs of Compliance section). The revised compliance time will allow operators to offset the costs of complying with this AD with the costs associated with normal slide replacement. Therefore, we have revised paragraph (a) of this AD to extend the compliance time for replacing the slide-rafts from 72 months to 96 months.

Requests To Remove Firing Cable Requirement From the Supplemental NPRM

Continental Airlines, Goodrich, and Boeing ask that we remove paragraph (b), ''Modification of the Firing Cable,'' from the supplemental NPRM. Delta points out that the requirement to modify the firing cable is proposed in Docket FAA–2008–0302 (and is now required by AD 2008–21–05, amendment 39–15689 (73 FR 59486, October 9, 2008)) at a compliance time of 36 months rather than the 72 months proposed in the supplemental NPRM. Boeing states that we should also remove the reference to Boeing Alert Service Bulletin 767–25A0395, dated August 31, 2006, from Table 1 ''Previous Revisions of Service Bulletins,'' because that service bulletin relates to the modification specified in paragraph (b) of the supplemental NPRM.

We agree with the commenters' requests to remove paragraph (b) of the supplemental NPRM and the reference to Boeing Alert Service Bulletin 767–25A0395, dated August 31, 2006. The requirement to modify the firing cable is already included in AD 2008–21–05. Therefore, we have revised this AD as requested. The requirement to modify the firing cable will remain part of AD 2008–21–05, which also includes other tasks related to the firing cable.

Requests To Revise Cost Impact

Goodrich, and ATA, on behalf of its member American Airlines, request that we revise the ''Cost Impact'' paragraph. American Airlines states that we did not include the cost of the slide-rafts in the original NPRM; as the slide-rafts are the dominant cost of the modification, ATA and American Airlines state that the cost estimate is both incomplete and inaccurate. Goodrich points out that the costs in the supplemental NPRM reflect prices for 2004 and requests that we revise the cost of the slide-rafts to 2008 prices.

We agree with Goodrich to revise the cost of the slide-rafts to reflect 2008 prices. The ''Cost Impact'' paragraph below includes the current price of the slide-rafts. We acknowledge American Airlines' request, but point out that although the original NPRM did not include the cost of the slide-rafts, the supplemental NPRM did include those costs.

Request To Change Applicability

Boeing requests that we change the applicability of the supplemental NPRM to refer to airplanes identified in Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008, rather than referring only to those Model 767–200 and –300 series airplanes that have line numbers 1 through 793 inclusive, equipped with door-mounted escape slide systems. Boeing states that the applicability, as written in the supplemental NPRM, might make an alternative method of compliance (AMOC) request necessary for Model 767 door-mounted escape system part numbers that are not addressed by the proposed AD.

We agree with Boeing for the reasons stated, and have revised the applicability statement of this AD to include a reference to Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008, which includes specific details about which airplanes are affected by this AD.

Requests To Extend Comment Period

Delta Airlines and ATA request additional time to review the supplemental NPRM. Delta requests that we extend the comment period for an additional 60 days because of the complex nature of the supplemental NPRM, the inclusion of multiple service bulletins, the extensive background and significant number of comments in response to the original NPRM, the hugely significant costs, and the fact that the original NPRM was thought to have been withdrawn. ATA also requests an extension of 60 days to the comment period, citing costs and the need to assess the complex requirements.

We disagree with the requests to provide additional time to comment on the supplemental NPRM. As Delta points out in their comment, there was a period of 4.5 years between the release of the original NPRM and the supplemental NPRM, which gave operators sufficient time to consider the requirements. We have not changed the AD in this regard.

Request for Industry-Wide Response

Delta Airlines requests that ATA coordinate an industry-wide response to the supplemental NPRM with the goal of gathering enough technical information to support its cancellation. Delta states that, given previous discussions with Boeing regarding risk and probability, the supplemental NPRM does not appear to have adequate merit. Also, given the significant cost impact, the industry would be well-served by opening the time to conduct a coordinated effort to ensure that the action proposed in the supplemental NPRM is not mandated.

We neither agree nor disagree with the request for ATA to coordinate an industry-wide response. This comment is directed to ATA and is beyond the scope of the AD action. We disagree that the supplemental NPRM does not have adequate merit. We consider the proposed actions to be an adequate response to an unsafe condition. As stated previously, although the specific conditions addressed in the supplemental NPRM have not been encountered, there have been accidents/incidents that make this type of event foreseeable. We do not agree that the low probability of encountering such a foreseeable event is justification for withdrawing the supplemental NPRM. Therefore, we have not changed the AD in this regard.

As explained previously, we also considered the costs to comply with the actions proposed in the supplemental NPRM. While we determined that a compliance time based on the ''useful service life'' of the slides would not address the unsafe condition in a timely manner, we did agree to extend the compliance time for replacing the slide-rafts from 72 months to 96 months. The revised compliance time will allow

operators to offset the costs of complying with this AD with the costs associated with normal slide replacement. We have revised paragraph (a) of this AD to extend the compliance time for replacing the slide-rafts from 72 months to 96 months.

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 changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 745 airplanes of the affected design in the worldwide fleet. The FAA estimates that 261 airplanes of U.S. registry are affected by this AD. The work hours and required parts per airplane vary according to the configuration group to which the affected airplane belongs. The average labor rate is $80 per work hour. The ''Cost Impact per Airplane Configuration Group'' table shows the estimated costs.

COST IMPACT PER AIRPLANE CONFIGURATION GROUP

Airplane configuration group	U.S.-registered airplanes	Work hours	Kit cost	Slide cost	Cost per airplane	Fleet cost, by configuration group
1	208	6	$1,236	$222,002	$223,718	$46,533,334
2	12	12	2,472	448,502	451,934	5,423,208
3	41	11	98,858	222,002	321,740	13,191,340
4	0	11	34,012	222,002	256,894	0
5	0	17	35,248	448,502	485,110	0

Based on the figures in the ''Cost Impact per Airplane Configuration Group'' table, the cost impact of this AD on U.S. operators is estimated to be $65,147,882.

The cost impact figures discussed above are 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 cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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 Impact

The regulations adopted herein will 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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:

2009–20–02 Boeing: Amendment 39–16025. Docket No. FAA–2008–0682; Directorate Identifier 2001–NM–237–AD.

Applicability: Model 767–200 and –300 series airplanes, line numbers 1 through 793 inclusive; certificated in any category; equipped with door-mounted escape slide systems; as identified in Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008.

Compliance: Required as indicated, unless accomplished previously.

To prevent the escape slides and slide-rafts of the forward and mid-cabin entry and service doors from being too steep for evacuation in the event that the airplane rotates onto the aft fuselage into the extreme tip-back condition, accomplish the following:

Replacement of Slide-Rafts

(a) Within 96 months after the effective date of this AD, replace the applicable slide-rafts at the applicable door or doors, and do all other applicable actions including, but not limited to, changing the latches, and replacing or modifying the counterbalance assemblies, by accomplishing all applicable actions specified in the Accomplishment Instructions in Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008.

Credit for Actions Accomplished Previously

(b) Actions done before the effective date of this AD in accordance with the service bulletins listed in Table 1 of this AD are

acceptable for compliance with the corresponding requirements of this AD.

Boeing Service Bulletin	Revision level	Date
Alert Service Bulletin 767–25A0266	1	December 4, 2006.
Alert Service Bulletin 767–25A0266	2	September 27, 2007.

Alternative Methods of Compliance

(c)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Andrew Guion, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6428; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Incorporation by Reference

(d) You must use Boeing Service Bulletin 767–25A0266, Revision 3, dated July 3, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(e) This amendment becomes effective on November 3, 2009.

Issued in Renton, Washington, on September 11, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–22668 Filed 9–28–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0574; Directorate Identifier 2009–CE–028–AD; Amendment 39–16030; AD 2009–20–07]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTAHRT GmbH Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, and Dornier 228–202 Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent installation of A–511000B28B axle on the accident aeroplane's main landing gear with P/N A–511000C00F. This configuration was not approved for installation and was therefore not addressed by LBA AD D–1994–042 or Dornier SB–228–214.

The actions specified in this Airworthiness Directive are intended to prevent main landing gear failure, which could result in loss of control of the aeroplane during landing operations.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective November 3, 2009.

On November 3, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 25, 2009 (74 FR 30247). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent