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–2010–0764; Directorate Identifier 2009–NM–260–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–900ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model 737–900ER series airplanes. This proposed AD would require doing a one-time general visual inspection for a keyway in two fuel tank access door cutouts, and related investigative and corrective actions if necessary. This proposed AD results from reports of cracks emanating from the keyway of the fuel tank access hole. We are proposing this AD to detect and correct such cracking, which could result in the loss of the lower wing skin load path and consequent structural failure of the wing.

DATES: We must receive comments on this proposed AD by September 24, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed 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.* You may review copies of the referenced 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.

Examining the AD Docket

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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0764; Directorate Identifier 2009–NM–260–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of cracks, ranging from 0.02 to 0.380 inch in length emanating from the keyway of the fuel tank access hole on the wing lower skin between wing rib numbers 8 and 9 on Model 777–200LR and 777–300ER series airplanes. The fuel tank access door at this location has a fuel measuring stick installed, and the keyway is used to ensure that the fuel measuring stick is oriented correctly when the fuel tank access door is installed. The crack is believed to be the result of fatigue due to the position of the keyway. The lower wing skins on Model 737–900ER series airplanes have fuel tank access holes with the same configuration as that of the affected fuel tank access holes on Model 777–300ER series airplanes. The affected fuel tank access holes on the Model 737–900ER series airplanes are located between ribs 4 and 5, between wing stations 180 and 204.25. These fuel tank access holes are for fuel tank access doors 531BB and 631BB. Although cracks have not yet been reported on any Model 737–900ER series airplanes, damage tolerance analysis shows potential for Model 737–900ER series airplanes lower wing skins to crack at the noted locations. This condition, if not corrected, could result in the loss of the lower wing skin load path and consequent structural failure of the wing.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–57A1308, Revision 1, dated October 1, 2009. The service bulletin describes procedures for a general visual inspection for a keyway in the fuel tank access door cutout on the left and right wings, and related investigative and corrective actions if necessary. The related investigative action is a high frequency eddy current inspection for cracking of the keyway. The corrective actions include changing the profile of the keyway for the fuel tank access door cutout, repairing any cracking of the keyway of the access door cutout, and contacting Boeing for certain repair instructions and doing the repair.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the Proposed AD and Service Bulletin."

Difference Between the Proposed AD and Service Bulletin

Boeing Alert Service Bulletin 737–57A1308, Revision 1, dated October 1, 2009, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

Using a method that we approve; or

Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA), whom we have authorized to make those findings.

Other Relevant Rulemaking

The lower wing skins on Model 777–200LR and 777–300ER series airplanes have fuel tank access holes with the same configuration as those of the affected fuel tank access holes on the Model 737–900ER airplanes. Therefore, Model 777–200LR and 777–300ER series airplanes may be subject to the identified unsafe condition. We are considering similar rulemaking related to the identified unsafe condition for certain Model 777–200LR and 777–300ER series airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 30 airplanes of U.S. registry. We also estimate that it would take 3 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $7,650, or $255 per product.

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 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 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. 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 FAA amends § 39.13 by adding the following new AD:

The Boeing Company: Docket No. FAA–2010–0764; Directorate Identifier 2009–NM–260–AD.

Comments Due Date

(a) We must receive comments by September 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 737–900ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–57A1308, Revision 1, dated October 1, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Unsafe Condition

(e) This AD results from reports of cracks emanating from the keyway of the fuel tank access hole. The Federal Aviation Administration is issuing this AD to detect and correct such cracking, which could result in the loss of the lower wing skin load path and consequent structural failure of the wing.

Compliance

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

Inspection

(g) Before the accumulation of 7,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a one-time general visual inspection for a keyway in the fuel tank access door cutouts 531BB and 631BB, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1308, Revision 1, dated October 1, 2009 ("the service bulletin").

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If both access door cutouts do not have a keyway, no further action is required by this AD.

(2) If any access door has a keyway, before the accumulation of 7,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do a high frequency eddy current (HFEC) inspection for cracking of the keyway, in accordance with the Accomplishment Instructions of the service bulletin.

(i) If no cracking is found during the HFEC inspection, before further flight, modify the profile of the keyway of the fuel tank access door cutout, in accordance with the

Accomplishment Instructions of the service bulletin.

(ii) If any cracking is found and the crack is 0.030 inch or less in length, before further flight repair the keyway, in accordance with the Accomplishment Instructions of the service bulletin.

(iii) If any cracking is found and the crack is greater than 0.030 inch in length, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (h) of this AD

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), 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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590. Information may be e-mailed to: *9–ANM–Seattle-ACO–AMOC–Request@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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on July 30, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19695 Filed 8–9–10; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4062 and 4063

RIN 1212–AB20

Liability for Termination of Single-Employer Plans; Treatment of Substantial Cessation of Operations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: ERISA section 4062(e) provides for reporting of and liability for certain substantial cessations of operations by employers that maintain single-employer plans. PBGC proposes to amend its current regulation on Liability for Termination of Single-Employer Plans to provide guidance on the applicability and enforcement of ERISA section 4062(e).

DATES: Comments must be submitted on or before October 12, 2010.

ADDRESSES: Comments, identified by Regulation Identifier Number (RIN) 1212–AB20, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *E-mail: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212–AB20). Comments received, including personal information provided, will be posted to *http://www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, or Deborah C. Murphy, Attorney, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Introduction

Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Under ERISA section 4002(b)(3), PBGC has authority to adopt, amend, and repeal regulations to carry out the purposes of title IV.

Background of Proposed Rule

ERISA section 4062(e) provides that "[i]f an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment, the employer shall be treated with respect to that plan as if he were a substantial employer under a plan under which more than one employer makes contributions and the provisions of [ERISA sections] 4063, 4064, and 4065 shall apply."

ERISA section 4063(a) requires the plan administrator of a multiple employer plan (that is, a single-employer plan with at least two contributing sponsors that are not under common control) to notify PBGC within 60 days after a substantial employer withdraws from the plan, and section 4063(b) and (c) makes the withdrawn employer liable to provide a bond or escrow in a specified amount for five years from the date of withdrawal, to be applied—if the plan terminates within that period—against the plan's underfunding. Section 4063(e) allows PBGC to waive this liability if there is an appropriate indemnity agreement among contributing sponsors of the plan, and ERISA section 4067 authorizes PBGC to make alternative arrangements for satisfaction of liability under sections 4062 and 4063. (ERISA sections 4064 and 4065 deal with plan termination liability and annual reports by plan administrators.)

The method described in section 4063(b) for computing the amount of liability focuses on relative amounts of contributions by more than one employer and is thus impracticable for calculating liability triggered by an event involving a plan of a single employer under section 4062(e). However, section 4063(b) provides that PBGC "may also determine the liability on any other equitable basis prescribed by [PBGC] in regulations." Pursuant to that authority, on June 16, 2006 (at 71 FR 34819), PBGC published a final rule providing a formula for computing liability under section 4063(b) when there is an event described in section 4062(e). The formula provided by the 2006 rule apportions to an employer affected by an event under section 4062(e) a fraction of plan termination liability based on the number of participants affected by the event. Over the next three-and-a-half years, PBGC resolved 37 cases under section 4062(e) through negotiated settlements valued at nearly $600 million, providing protection to over 65,000 participants.