

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 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.

Note 3: The subject of this AD is addressed in German airworthiness directives 2002-126/2 and 2002-127/2, both dated June 27, 2002.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-24307 Filed 9-24-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-343-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, that would have required inspection of landing gear parts and/or their records to see that parts have serial numbers and that each part's number of flight cycles has been tracked; assignment of serial numbers and flight cycle use numbers if necessary; and removal of individual landing gear components from service when they reach their life limit. This new action revises the proposed rule by adding landing gear parts to the lists of safe-life components, and assigning life limits to landing gear parts already in service. The actions specified by this new proposed AD are intended to prevent failure of landing gear parts, which could lead to landing gear collapse. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-343-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-343-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Suzanne Lucier, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2186; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-343-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-343-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 28, 2001 (66 FR 45194). That NPRM would have required inspection of landing gear parts and/or their records to see that parts have serial numbers and that each part's number of flight cycles has been tracked; assignment of serial numbers and flight cycle use numbers if necessary; and removal of individual landing gear components from service when they reach their life limit. Failure of landing gear parts, if not corrected, could lead to landing gear collapse.

Actions Since Issuance of Previous Proposal

Since the issuance of the original NPRM, the FAA has received reports from the manufacturer indicating that, during a check of the list of life-limited parts for the main landing gear and nose landing gear on Model 737 series airplanes, some life-limited parts were not included in the tables in Part 2 of the Accomplishment Instructions of

Boeing Service Bulletin 737-32-1322, dated September 30, 1999. To correct this exclusion, the manufacturer issued Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001, which has been reviewed and approved by the FAA. This new revision of the service bulletin includes the previously omitted life-limited parts. Failure to remove these "safe-life" parts at their life limit could result in failure of landing gear parts, which could lead to landing gear collapse.

Compliance Time Changes

In paragraphs (a), (b), and (c) of the NPRM, the FAA specified the compliance time as, "During the next gear overhaul or within 10 years from the effective date of this AD, whichever occurs later." Since there is no specific required time for "the next gear overhaul," we have removed that provision from this supplemental NPRM.

Comments

Due consideration has been given to the comments received in response to the original NPRM.

Request to Cite Revision 1 of the Service Bulletin

The manufacturer, Boeing, states that Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001, was issued to add part numbers for any life-limited spares that were not included in the original issue of the service bulletin. The commenter adds that additional work may be required for previously completed work done per the original issue of the service bulletin. The commenter considers that accomplishment of Revision 1 of the service bulletin will ensure that all life-limited parts are tracked and will prevent unnecessary requests for alternative methods of compliance.

The FAA concurs with the request to cite Revision 1 of the previously referenced service bulletin, which adds additional spares part numbers that were not included in the original issue of Boeing Service Bulletin 737-32-1322, dated September 30, 1999, as cited in the original NPRM. In response, we have revised paragraphs (a), (b), (c), (d), and (f) of this supplemental NPRM accordingly.

Requests To Revise Paragraphs (e) and (f) of the Original NPRM

Several commenters request revising paragraphs (e) and (f) of the original NPRM for several reasons:

- One commenter suggests clarifying that the requirements of those paragraphs apply only to those airplane

models specified in the Boeing service bulletin and in the applicability of the original NPRM. As presently stated, the requirements could be misconstrued to apply to all makes and models.

- A second commenter suggests revising paragraphs (e) and (f) of the original NPRM to specify that only "safe-life" landing gear parts are identified in the Boeing service bulletin.
- Another commenter suggests revising paragraph (e) of the original NPRM to add the words "life-limited" landing gear part because all components of the landing gear are not life-limited, and do not require tracking. (The FAA infers that the suggestion also would apply to paragraph (f) of the original NPRM.)

We concur with the requests to revise paragraphs (e) and (f) of the original NPRM. Those paragraphs are revised in the supplemental NPRM to specify that "* * * no person shall install on any Model 737-100, -200, -200C, -300, -400, and -500, line numbers 1 through 3132 inclusive, a life-limited landing gear part unless * * *."

Request To Change a Service Information Reference

One commenter requests changing paragraph (f) of the original NPRM to reference "737 Type Certificate Data Sheet A1WE" instead of Boeing Service Bulletin 737-32-1322, dated September 30, 1999. The commenter contends that the service bulletin includes an incomplete list of life-limited landing gear parts, but the type certificate data sheet provides landing gear life limits and a reference to a detailed list of life-limited components.

We partially concur with the request to change the service information reference in paragraph (f) of the original NPRM. However, we do not concur that the previously referenced type certificate data sheet should be cited instead of the service bulletin in paragraph (f) of the supplemental NPRM. We point out that the proposed AD does not change the requirements for all of the life-limited landing gear parts cited in the data sheet, but only for certain specified parts. However, as described previously, this supplemental NPRM has been revised to cite Revision 1 instead of the original issue of the service bulletin. Paragraph (f) of the supplemental NPRM is changed accordingly.

Requests To Withdraw Proposed Rule

The Air Transport Association (ATA) of America, on behalf of two of its member airlines, requests withdrawal of the original NPRM. The commenters contend that the requirements in the

original NPRM already exist in other regulations (e.g., FAR 121.380), which provide an equivalent level of safety for all fleets, including Model 737. The commenters state that they previously have complied with the intent of the service bulletin. In addition, one of the commenters states that the time required for the original NPRM process, and for development of the service data, indicate that the problem is not urgent, and therefore the NPRM is not needed.

We do not concur that the original NPRM should be withdrawn. We consider that issuance of the proposed supplemental NPRM is necessary to include the life-limited parts that were not included in the original NPRM. Issuance will ensure that operators add serial numbers and track the specified parts. No change to the supplemental NPRM is necessary in this regard.

Request To Remove "Unsafe" From Note 1 in the Original NPRM

One commenter requests deleting the word "unsafe" from Note 1 in the original NPRM. The commenter contends that the condition addressed by the original NPRM, and by Revision 1 of the previously referenced service bulletin, is a compliance issue. As such, life-limited components are required to be tracked and removed from service when the specified life limit is reached. Revision 1 of the service bulletin identifies parts that previously should have been identified as life-limited, and provides procedures to ensure that operators comply with the requirements for adding serial numbers and tracking those parts. In addition, the commenter is not aware that any condition addressed by the original NPRM has resulted in the failure of any landing gear components, or has created an unsafe condition.

We do not concur that the word "unsafe" should be removed from the text of Note 1 of the original NPRM. The supplemental NPRM addresses a potential problem that would be unsafe: using life-limited landing gear parts beyond their safe-life limitations. No change to Note 1 in the supplemental NPRM is necessary in this regard.

Request To Clarify Requirements for Life-Limited Parts

One commenter requests clarification of the requirements in the original NPRM for life-limited parts. The commenter states that the original NPRM requires the actions specified in the original issue of Service Bulletin 737-32-1322, dated September 30, 1999. That service bulletin cites additional life-limited parts that were not previously listed in Boeing Drawing

65C73761, "737 Main Landing Gear Components," and Boeing Drawing 65C73762, "737 Nose Landing Gear Components." The commenter considers that the original NPRM applies only to the life-limited parts listed in the service bulletin and not to those listed in Boeing Service Letter 32-18D, dated December 22, 1999. The commenter also states that, because it has tracked each life-limited part listed in the service letter since 1996, such action meets the requirements of the original NPRM. The FAA infers that the service letter includes more life-limited parts than the service bulletin.

We do not concur that accomplishment of the actions specified in the service letter meets the requirements of the supplemental NPRM. However, we note that the requirements in the supplemental NPRM are limited only to the life-limited parts specified in Revision 1 of the service bulletin. No change to the supplemental NPRM is necessary in this regard. As discussed earlier, the supplemental NPRM cites Revision 1 of the service bulletin instead of the original issue.

Request To Revise the Parts Requirements

One commenter requests revising the parts requirements in the original NPRM. The commenter suggests discarding life-limited parts at each landing gear overhaul and replacing them with new parts, instead of adding serial numbers to the specified parts and tracking those parts. The commenter states that, at first overhaul, landing gear parts are commonly found beyond economical repair. Therefore, replacing the parts would be more economical and would simplify the tracking system.

We do not concur with the commenter's request to revise the parts requirements. We consider that, in order to ensure that parts are not used beyond their safe-life limit, it is necessary for operators to permanently mark each part and track its service use. However, under the provisions of paragraph (g) of the supplemental NPRM, the FAA may consider requests for approval of an alternative method of compliance, if sufficient data are submitted to substantiate that such an option would provide an acceptable level of safety.

Request To Delete Paragraph (d) of the Original NPRM

One commenter requests deleting paragraph (d) of the original NPRM because that paragraph is redundant with existing regulatory requirements. The commenter states that the Original Equipment Manufacturer has added the

parts referenced in Boeing Service Bulletin 737-32-1322, dated September 30, 1999, in Boeing drawings 65C73761 and 65C73762, and in Boeing Service Letters 737-SL-32-21 and 737-SL-32-018. The commenter contends that the requirements of the proposed AD will require operators to maintain two sets of records to track the identified parts.

We do not concur with the request to delete paragraph (d) of this supplemental NPRM. We point out that the documents referenced by the commenter are not regulatory. Therefore, it is necessary for this supplemental NPRM to include a requirement to remove from service a specified part that has reached its life limits to ensure regulatory compliance. Further, paragraph (d) of the supplemental NPRM does not impose any additional recordkeeping requirement for operators. No change to the supplemental NPRM is necessary in this regard.

Conclusion

Since the changes described previously expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 3,132 Model 737-100, -200, -200C, -300, -400, and -500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,099 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$65,940, or \$60 per airplane.

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

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Boeing: Docket 2000-NM-343-AD.

Applicability: Model 737-100, -200, -200C, -300, -400, and -500 series airplanes; certificated in any category; line numbers 1 through 3132 inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) 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 failure of landing gear parts, which could lead to landing gear collapse, accomplish the following:

Inspection of Parts and/or Records

(a) Within 10 years from the effective date of this AD, examine records and/or landing gear parts per Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001, to determine whether parts have serial numbers and whether the number of flight cycles for each part has been tracked. If landing gear parts have serial numbers, as listed in Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001, and the number of flight cycles has been tracked, no further action is necessary for paragraphs (a), (b), or (c) of this AD.

Assignment of Serial Numbers and Flight Cycles

(b) If any part examined, as mandated in paragraph (a) of this AD, does not have a serial number, within 10 years from the effective date of this AD, do the actions required by paragraphs (b)(1) and (b)(2) of this AD.

(1) Assign a serial number to each part per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(2) Mark the serial number on each part per Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001.

(c) If flight cycles for any part examined, as mandated in paragraph (a) of this AD, have not been tracked, within 10 years from the effective date of this AD, assign a number of lifetime flight cycles to that part per Part 2.B. of the Accomplishment Instructions of Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001.

Removal from Service at Life Limit

(d) When any landing gear part has reached its life-limit number of flight cycles, as described in Part 2.B. of the Accomplishment Instructions of Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001, before further flight, remove that part from service and replace it with a landing gear part having a serial number and a lifetime flight cycle number per the service bulletin.

Spare Parts

(e) As of the effective date of this AD, no person shall install on any airplane a life-limited landing gear part unless it has been assigned a serial number and a lifetime flight cycle number per the requirements of this AD.

(f) As of the effective date of this AD, no person shall install on any airplane a life-limited landing gear part that has reached its life limit of flight cycles, per Boeing Service Bulletin 737-32-1322, Revision 1, dated September 27, 2001.

Alternative Methods of Compliance

(g) 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 ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-24306 Filed 9-24-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219-AB29

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: MSHA is initiating rulemaking to amend certain provisions of its existing health standard entitled, "Diesel Particulate Matter Exposure (DPM) of Underground Metal and Nonmetal Miners," published in the **Federal Register** on January 19, 2001 (66 FR 5706), and amended on February 29, 2002 (67 FR 9180). This rulemaking is part of a settlement agreement reached in response to a legal challenge to the January 19, 2001 DPM standard. Accordingly, the scope of this rulemaking will be limited to the terms of the settlement agreement that MSHA shared with the public in its recent **Federal Register** document (final rule; stay of effectiveness notice) of July 18, 2002 (67 FR 47296). MSHA will propose to revise § 57.5060, limit on concentration of DPM; § 57.5061, compliance determinations; and, § 57.5062, diesel particulate matter

control plan. In addition, MSHA will address technological and economic feasibility for the underground metal and nonmetal mining industry to comply with revised interim and final DPM concentration limits. Some mine operators have begun to implement control technology on their underground diesel-powered equipment as a result of the January 19, 2001 final rule. Therefore, MSHA requests relevant information on current experiences with availability of control technology, installation of control technology, effectiveness of control technology to reduce DPM levels, and cost implications of compliance with the current DPM standard. MSHA emphasizes the significance of obtaining this information from mine operators.

The existing rulemaking record, including the risk assessment for the January 19, 2001 standard, will be incorporated into this new rulemaking record. Commenters may submit evidence of new scientific data related to the health risk to underground metal and nonmetal miners from exposure to DPM.

DATES: Comments, suggestions and information on the advance notice of proposed rulemaking (ANPRM) must be received on or before November 25, 2002.

ADDRESSES: Comments on the ANPRM may be transmitted by electronic mail, fax, or mail.

Comments by electronic mail must be clearly identified as such and sent to comments@msha.gov.

Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations and Variances, 202-693-9441.

Send comments by mail to: MSHA, Office of Standards, Regulations and Variances, Room 2352, 1100 Wilson Boulevard, Arlington, VA 22209-3939.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances; MSHA, 1100 Wilson Boulevard, Room 2313, Arlington, Virginia 22209-3939. Mr. Nichols can be reached at nichols-marvin@MSHA.gov, 202-693-9440, or 202-693-9441 (fax).

SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 2001, MSHA published a final rule addressing diesel particulate matter exposure of underground metal and nonmetal miners (66 FR 5706). The final rule established new health standards for underground metal and nonmetal mines that use equipment powered by diesel