

[Federal Register: April 7, 2005 (Volume 70, Number 66)]
[Rules and Regulations]
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[DOCID:fr07ap05-9]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19986; Directorate Identifier 2004-NM-247-AD; Amendment 39-14045; AD 2005-07-20]

RIN 2120-AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737-600, -700, -800, and -900 series airplanes. This AD requires installing and testing an updated version of the operational program software of the flight control computers. This AD is prompted by a report of an airplane pitching up with rapidly decreasing indicated airspeed after the flightcrew set a new altitude into the autopilot. We are issuing this AD to prevent anomalous autopilot operation that produces a hazardous combination of airplane attitude and airspeed, which could result in loss of control of the airplane.

DATES: This AD becomes effective May 12, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of May 12, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

Docket: The AD docket contains the proposed AD, comments, and any final disposition. You can 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 U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Washington, DC. This docket number is FAA-2004-19986; the directorate identifier for this docket is 2004-NM-247-AD.

FOR FURTHER INFORMATION CONTACT: Gregg Nesemeier, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6479; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR Part 39 with an AD for certain Boeing Model 737-600, -700, -800, and -900 series airplanes. That action, published in the Federal Register on January 5, 2005 (70 FR 733), proposed to require installing and testing an updated version of the operational program software of the flight control computers.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD.

Support for the Proposed AD

Two commenters support the AD as proposed. A third commenter supports the intent of the proposed AD.

Request To Prohibit Testing in Revenue Service

One commenter requests that we prohibit testing of the updated software in revenue service. The commenter provides no justification for the request. We infer that the commenter believes the proposed AD would require a flight test of the updated software installation, and that performing a flight test during revenue service would pose undue hazard to airplane occupants.

We do not agree because we believe the commenter has misunderstood the testing requirement of this AD. The test of the updated version of the operational program (OPS) software is a ground test performed by maintenance personnel, not a flight test. This test, which must be satisfactorily accomplished before returning an airplane to service, is adequate for ensuring that the OPS software is properly installed and updated. Therefore, no change to this final rule is necessary in this regard.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 155 airplanes of the affected design in the worldwide fleet. This AD affects about 34 airplanes of U.S. registry. The actions take about 2 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts cost about \$0 per airplane. Based on these figures, the estimated cost of this AD for U.S. operators is \$4,420, or \$130 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 AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. 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, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 airworthiness directive (AD):

AIRWORTHINESS DIRECTIVE



Aircraft Certification Service
Washington, DC

U.S. Department
of Transportation
**Federal Aviation
Administration**

We post ADs on the internet at "www.faa.gov"

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

2005-07-20 Boeing: Amendment 39-14045. Docket No. FAA-2004-19986; Directorate Identifier 2004-NM-247-AD.

Effective Date

- (a) This AD becomes effective May 12, 2005.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to Boeing Model 737-600, -700, -800, and -900 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737-22A1164, dated May 20, 2004.

Unsafe Condition

- (d) This AD was prompted by a report of an airplane pitching up with rapidly decreasing indicated airspeed after the flightcrew set a new altitude into the autopilot. We are issuing this AD to prevent anomalous autopilot operation that produces a hazardous combination of airplane attitude and airspeed, which could result in loss of control of the airplane.

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.

Install and Test Updated Software

- (f) Within 12 months after the effective date of this AD, install and test an updated version of the operational program software of the enhanced digital flight control system (EDFCS) flight control computers (FCCs), in accordance with Boeing Alert Service Bulletin 737-22A1164, dated May 20, 2004.

Alternative Methods of Compliance (AMOCs)

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

Material Incorporated by Reference

(h) You must use Boeing Alert Service Bulletin 737-22A1164, dated May 20, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on March 30, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-6762 Filed 4-6-05; 8:45 am]

BILLING CODE 4910-13-P

SUPERSEDED