[Federal Register: May 26, 2006 (Volume 71, Number 102)]
[Rules and Regulations]
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[DOCID:fr26my06-6]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-23213; Directorate Identifier 2005-NM-192-AD; Amendment 39-14615; AD 2006-11-11]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 757 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 757 series airplanes. That AD currently requires revising the Airworthiness Limitations section of the maintenance manual (757 Airworthiness Limitations Instructions (ALI)) to incorporate certain inspections and compliance times to detect fatigue cracking of principal structural elements (PSEs). This new AD requires incorporating a new revision to the Airworthiness Limitations section of the Instructions of Continued Airworthiness to mandate certain repetitive inspections for fatigue cracking of PSEs, and adds airplanes to the applicability in the existing AD. This AD results from a new revision to the ALI. We are issuing this AD to ensure that fatigue cracking of various PSEs is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: This AD becomes effective June 30, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 30, 2006.

On November 20, 2001 (66 FR 52492, October 16, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "May 1997"; and Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "November 1998."

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC.

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

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6450; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (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 street address stated in the ADDRESSES section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2001-20-12, amendment 39-12460 (66 FR 52492, October 16, 2001). The existing AD applies to certain Boeing Model 757 series airplanes. That NPRM was published in the Federal Register on December 8, 2005 (70 FR 72939). That NPRM proposed to require incorporating a new revision to the Airworthiness Limitations section of the Instructions of Continued Airworthiness to mandate certain repetitive inspections for fatigue cracking of principal structural elements (PSEs). That NPRM also proposed to add airplanes to the applicability in the existing AD.

Comments

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

Support for NPRM

American Airlines states that it will comply with the requirements in the NPRM and has no objection or additional comments.

United Airlines concurs with the contents of the NPRM, and adds that it plans to comply with the June 2005 revision of the Boeing 757 Maintenance Planning Data (MPD) Document and will update its documents to incorporate that revision.

Request To Change Applicability

Boeing asks that we add Model 757-200CB series airplanes to the applicability specified in the NPRM. Boeing states that Model 757-200CB is listed on Type Certificate Data Sheet A2NM, Revision 24, dated May 16, 2005.

We agree with Boeing as this AD is applicable to all Boeing Model 757 airplanes. We find that this change does not expand the scope of the NPRM because no additional U.S. airplanes will be affected by this AD as a result of this change. We have added Model 757-200CB series airplanes to the applicability section of this AD accordingly.

Request for Credit for Previous/Later Approved MPD Revisions

Continental Airlines (CAL) recommends that paragraph (h) of the NPRM mandate incorporation of Revision "May 2003" or later FAA-approved revisions of Boeing Document D622N001-9, instead

of Revision "June 2005." CAL states that Revision "June 2005" only incorporated a minor escalation of the time interval to a certain MPD item. The item is related to the operational check of the right Engine Indication And Crew Alerting System (EICAS) computer and has no bearing on any PSE. CAL adds that a review of the Revision "July 2004" changes showed minor typographical errors being corrected on certain MPD items. These items relate to the operational check of the decompression panel of the flight deck door, and have no relation to any PSE. CAL notes that it is Revision "May 2003" that incorporates significant changes to the Airworthiness Limitations–Structural Inspections.

CAL also states that, since the release of AD 2001-20-12, Boeing Document D622N001-9 has been revised seven times. Since that AD mandated the use of Revision "May 1997" or Revision "November 1998" only, an alternative method of compliance (AMOC) to the AD which was issued by the Seattle Aircraft Certification Office (ACO) was required in order to incorporate a later FAA-approved revision of the Boeing Document. CAL adds that the AMOC requirement did not provide any added value, since only the Seattle ACO is allowed to revise the Airworthiness Limitations–Structural Inspections. CAL also refers to approval of later FAA-approved revisions through an AMOC they received for AD 2001-20-12.

We partially agree with CAL as follows:

As policy, we do not reference "later-approved" service information in ADs. Using the phrase "or later FAA-approved revisions" violates Office of the Federal Register regulations for approving materials that are incorporated by reference. However, affected operators may request approval to use a later revision of the referenced MPD Document as an AMOC under the provisions of paragraph (j) of this AD. In addition, as specified in paragraph (j)(1) of this AD, AMOCs approved previously in accordance with AD 2001-20-12 are approved as AMOCs for the corresponding provisions of this AD.

We do not agree to replace Boeing 757 MPD Document, Section 9, "Airworthiness Limitations and CMRs," Subsection B., of Boeing Document D622N001-9, Revision "June 2005" with Revision "May 2003." However, since Revision "May 2003" includes all significant changes that are in Revision "June 2005," we have added Revision "May 2003" to paragraph (h) of this AD as an acceptable method of compliance for revising the MPD.

Revise Paragraph (f) of the NPRM

US Airways asks that the language specified in paragraph (f) of the NPRM be changed to require that operators incorporate the changes to Boeing 757 MPD Document, Section 9, "Airworthiness Limitations and CMRs," Subsection B., of Boeing Document D622N001-9, Revision "May 1997" or Revision "November 1998." U.S. Airways states that, operators cannot revise the MPD Document specified in paragraph (f), only Boeing can make such revisions with FAA approval. U.S. Airways states that, as an operator, they can only incorporate the changes into their Boeing 757 maintenance program to comply with the published requirements of the subject MPD Document Airworthiness Limitations.

We do not agree with U.S. Airways. The airworthiness limitations, like the operating limitations, are a part of the type certificate for an airplane. Once an airworthiness certificate is issued for an airplane certifying that it conforms to an approved type design, this design is "locked" in the sense that the manufacturer cannot unilaterally change it for the subject airplane. Therefore, when the manufacturer makes any subsequent changes to the type certificate, including changes to the operating or airworthiness limitations, those changes are legally required only for products that are submitted for airworthiness certification based on a showing of conformity to the later design.

Thus, for many years, we have imposed operating restrictions that are necessary to address identified unsafe conditions by requiring revisions to the operating limitations section of the Airplane Flight Manual (AFM). (Revision of the AFM by the type certificate holder would be effective only for airplanes produced after that revision.) Similarly, Boeing's revision to the ALI was effective only

for airplanes later certificated with those revisions included in their type certificate. For this reason, as stated in the NPRM, we must engage in rulemaking (i.e., issuance of an AD), in order to make the revisions mandatory for previously certificated airplanes.

While the ALIs are contained in a "Boeing document" in the sense that Boeing originally produced it, the document, nevertheless, is a part of the instructions for continued airworthiness that operators must use to maintain the airplane properly. As explained in the NPRM, the effect of requiring that the document be revised to incorporate the current version of the ALI is that, in accordance with 14 CFR part 91.403(c), operators are then required to comply with those limitations. This is analogous to the effect of requiring a revision to the operating limitations: In accordance with 14 CFR part 91.9(a), operators are required to comply with the revised operating limitations.

Of course, those operators that have previously revised the ALI (or incorporated the revision into their maintenance programs) are given credit for having previously accomplished the requirements of this AD, as allowed by paragraph (e) of this AD. The legal effect is the same: The operator is required to comply with the limitations per 14 CFR part 91.403(c). We have made no change to the AD in this regard.

Conclusion

We have carefully reviewed the available data, including the comments that have been received, and determined that air safety and the public interest require adopting the AD with the changes described previously. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 1,038 airplanes of the affected design in the worldwide fleet. This AD affects about 673 airplanes of U.S. registry.

The actions that are required by AD 2001-20-12, and retained in this AD, take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the currently required actions is $65 per airplane.

The new actions take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is $43,745, or $65 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 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, 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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-12460 (66 FR 52492, October 16, 2001) and by adding the following new airworthiness directive (AD):

AIRWORTHINESS DIRECTIVE

Aircraft Certification Service
Washington, DC

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

www.faa.gov/aircraft/safety/alerts/

2006-11-11 Boeing: Amendment 39-14615. Docket No. FAA-2005-23213; Directorate Identifier 2005-NM-192-AD.

Effective Date

(a) This AD becomes effective June 30, 2006.

Affected ADs

(b) This AD supersedes AD 2001-20-12.

Applicability

(c) This AD applies to all Boeing Model 757-200, -200PF, -200CB, and -300 series airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to incorporate new inspections for fatigue cracking of principal structural elements (PSEs). Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to incorporate the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25-1529.

Unsafe Condition

(d) This AD results from a new revision to the Airworthiness Limitations section of the maintenance manual (757 Airworthiness Limitations Instructions (ALI)). We are issuing this AD to ensure that fatigue cracking of various PSEs is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

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.

Requirements of AD 2001-20-12

Revision of Airworthiness Limitations and Certification Maintenance Requirements

(f) For Model 757 series airplanes having line numbers 1 through 764 inclusive, and subject to the requirements of AD 2001-20-12: Within 3 years after November 20, 2001 (the effective date of AD 2001-20-12), revise Section 9 of the Boeing 757 Maintenance Planning Data (MPD) Document entitled "Airworthiness Limitations and Certification Maintenance Requirements (CMRs)" to incorporate Subsection B. of Boeing Document D622N001-9, Revision "May 1997" or Revision "November 1998." Accomplishing the requirements in paragraph (h) of this AD ends the requirements in this paragraph.

Note 2: For the purposes of this AD, the terms PSEs as used in this AD, and Structural Significant Items (SSIs) as used in Section 9 of Boeing 757 MPD Document, are considered to be interchangeable.

No Alternative Inspections/Inspection Intervals

(g) Except as provided in paragraph (j) of this AD: After the actions required by paragraph (f) of this AD have been accomplished, no alternative inspections or inspection intervals shall be approved for the PSEs contained in Boeing Document D622N001-9, Revision "May 1997" or "November 1998."

New Actions Required by This AD

(h) For all airplanes: Within 36 months after the effective date of this AD, revise Section 9, "Airworthiness Limitations and CMRs" of the Boeing 757 MPD Document to incorporate Subsection B. of Boeing Document D622N001-9, Revision "May 2003;" or Revision "June 2005," as applicable. Accomplishing the requirements in this paragraph ends the requirements in paragraph (f) of this AD.

No Alternative Inspections/Inspection Intervals

(i) Except as provided in paragraph (j) of this AD: After the actions required by paragraph (h) of this AD have been accomplished, no alternative inspections or inspection intervals shall be approved for the PSEs contained in Boeing 757 MPD Document D622N001-9, Revision "May 2003" or Revision "June 2005."

Alternative Methods of Compliance (AMOCs)

(j) 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.

(1) AMOCs approved previously in accordance with AD 2001-20-12, are approved as AMOCs for the corresponding provisions of this AD.

(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.

(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 an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who 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.

Material Incorporated by Reference

(k) The actions required by this AD shall be done in accordance with Boeing 757 Maintenance Planning Data Document, Section 9, "Airworthiness Limitations and Certification Maintenance Requirements," Subsection B. of Boeing Document D622N001-9, Revision "May 2003;" Boeing 757 Maintenance Planning Data Document, Section 9, "Airworthiness Limitations and Certification Maintenance Requirements," Subsection B. of Boeing Document D622N001-9, Revision "June 2005;" Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "May 1997;" or Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "November 1998;" as applicable; unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing 757 Maintenance Planning Data Document, Section 9, "Airworthiness Limitations and Certification Maintenance Requirements," Subsection B. of Boeing Document D622N001-9, Revision "May 2003;" and Boeing 757 Maintenance Planning Data Document, Section 9, "Airworthiness Limitations and Certification Maintenance Requirements," Subsection B. of Boeing Document D622N001-9, Revision "June 2005;" in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On November 20, 2001 (66 FR 52492, October 16, 2001), the Director of the Federal Register approved the incorporation by reference of Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "May 1997;" and Boeing 757 Maintenance Planning Data Document, Section 9, Boeing Document D622N001-9, Revision "November 1998."

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at 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 May 15, 2006.
Kevin M. Mullin,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 06-4844 Filed 5-25-06; 8:45 am]
BILLING CODE 4910-13-P