

[Federal Register: December 31, 2009 (Volume 74, Number 250)]
[Rules and Regulations]
[Page 69264-69267]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr31de09-8]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-1210; Directorate Identifier 2009-NM-165-AD; Amendment 39-16148; AD 2008-10-09 R1]

RIN 2120-AA64

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

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is revising an existing airworthiness directive (AD), which applies to all Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. That AD currently requires revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD also requires an initial inspection to phase in certain repetitive AWL inspections, and repair if necessary. This AD clarifies the intended effect of the AD on spare and on-airplane fuel tank system components. That AD results from a design review of the fuel tank system. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective January 15, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 15, 2010.

On June 12, 2008 (73 FR 25970, May 8, 2008), the Director of the Federal Register approved the incorporation by reference of a certain other publication listed in the AD.

We must receive any comments on this AD by February 16, 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 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>.

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 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: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6438; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Discussion

On April 29, 2008, we issued AD 2008-10-09, Amendment 39-15515 (73 FR 25970, May 8, 2008). That AD applied to all Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. That AD required revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD also required an initial inspection to phase in certain repetitive AWL inspections, and repair if necessary. That AD resulted from a design review of the fuel tank system. The actions specified in that AD are intended to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Critical design configuration control limitations (CDCCLs) are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Actions Since AD Was Issued

Since we issued that AD, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the FAA-approved maintenance program. But once the CDCCLs are incorporated into the FAA-approved maintenance program, future maintenance actions on components must be done in accordance with those CDCCLs.

Relevant Service Information

AD 2008-10-09 cites Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision March 2008. Since we issued that AD, Boeing has revised the referenced service information. We have reviewed Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision May 2009 (hereafter referred to as "Revision May 2009 of Document D6-38278-CMR"). Among other actions, the revised service information clarifies certain task descriptions and adds some new AWLs for certain airplanes.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to revise AD 2008-10-09. This new AD retains the requirements of the existing AD, and adds a new note to clarify the intended effect of the AD on spare and on-airplane fuel tank system components.

Explanation of Additional Changes to AD

AD 2008-10-09 allowed the use of alternative inspections, inspection intervals, or CDCCLs if they are part of a later revision of Revision March 2008 of Document D6-38278-CMR. AD 2008-10-09 also allowed the use of later revisions of Revision March 2008 of Document D6-38278-CMR. Those provisions have been removed from this AD. Allowing the use of a "later approved" or "later FAA-approved revisions" of specific service documents violates Office of the Federal Register regulations for approving materials that are incorporated by reference. Affected operators, however, may request approval to use a later revision or an alternative inspection, inspection interval, or CDCCL that is part of a later revision of the referenced service document, as an alternative method of compliance, under the provisions of paragraph (k) of this AD.

Costs of Compliance

There are about 2,337 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs, at an average labor rate of \$80 per work hour, for U.S. operators to comply with this AD.

Estimated Costs

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Maintenance program revision	8	None	\$640	672	\$430,080
Inspection	8	None	\$640	672	\$430,080

FAA's Justification and Determination of the Effective Date

This revision merely clarifies the intended effect on spare and on-airplane fuel tank system components, and makes no substantive change to the AD's requirements. For this reason, it is found that notice and opportunity for prior public comment for this action are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the ADDRESSES section. Include "Docket No. FAA-2009-1210; Directorate Identifier 2009-NM-165-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

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 the 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.

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 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. The FAA amends § 39.13 by removing Amendment 39-15515 (73 FR 25970, May 8, 2008) and adding the following new AD:



2008-10-09 R1 The Boeing Company: Amendment 39-16148. Docket No. FAA-2009-1210; Directorate Identifier 2009-NM-165-AD.

Effective Date

(a) This airworthiness directive (AD) is effective January 15, 2010.

Affected ADs

(b) This AD revises AD 2008-10-09, Amendment 39-15515.

Applicability

(c) This AD applies to all The Boeing Company Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss 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.

Restatement of Requirements of AD 2008-10-09, With Revised Compliance Method

Service Information Reference

(f) The term "Revision March 2008 of Document D6-38278-CMR," as used in this AD, means Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision March 2008. The term "Revision May 2009 of Document D6-38278-CMR," as used in the AD, means Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision May 2009.

Maintenance Program Revision

(g) Before December 16, 2008, revise the FAA-approved maintenance program to incorporate the information specified in paragraph (g)(1) or (g)(2) of this AD, as applicable; except that the initial inspection required by paragraph (h) of this AD must be done at the applicable compliance time specified in that paragraph.

(1) For Model 737-100, -200, and -200C series airplanes: Section C, "FUEL SYSTEMS AIRWORTHINESS LIMITATIONS," including AWLs No. 28-AWL-01 through No. 28-AWL-20 inclusive, of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR. As an optional action, AWLs No. 28-AWL-21 through No. 28-AWL-23 inclusive, as identified in Section C of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR, also may be incorporated into the FAA-approved maintenance program.

(2) For Model 737-300, -400, and -500 series airplanes: Section C, "FUEL SYSTEMS AIRWORTHINESS LIMITATIONS," including AWLs No. 28-AWL-01 through No. 28-AWL-19 inclusive, Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR. As an optional action, AWLs No. 28-AWL-20 through No. 28-AWL-22 inclusive, as identified in Section C of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR, also may be incorporated into the FAA-approved maintenance program.

Initial Inspection and Repair if Necessary

(h) For the airplanes identified in the "Applicability" column of AWL No. 28-AWL-03 of Section C of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR: At the later of the compliance times specified in paragraphs (h)(1) and (h)(2) of this AD, do a special detailed inspection of the lightning shield to ground termination on the out-of-tank fuel quantity indication system (FQIS) wiring to verify functional integrity, in accordance with AWL No. 28-AWL-03 of Section C of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR. If any discrepancy is found during the inspection, repair the discrepancy before further flight in accordance with AWL No. 28-AWL-03 of Section C of Revision March 2008 of Document D6-38278-CMR, or Revision May 2009 of Document D6-38278-CMR. Accomplishing AWL No. 28-AWL-03 as part of an FAA-approved maintenance program before the applicable compliance time specified in paragraph (h)(1) or (h)(2) of this AD constitutes compliance with the requirements of this paragraph.

Note 1: For the purposes of this AD, a special detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required."

(1) Within 120 months since the date of issuance of the original standard airworthiness certification or the date of issuance of the original export certificate of airworthiness.

(2) Within 24 months after June 12, 2008 (the effective date of AD 2008-10-09).

No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

(i) After accomplishing the actions specified in paragraphs (g) and (h) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

Credit for Actions Done According to Previous Revisions of the Service Information

(j) Actions done before the effective date of this AD in accordance with the Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision May 2006; Revision September 2006; Revision

November 2007; or Revision March 2008; are acceptable for compliance with the corresponding requirements of paragraphs (g) and (h) of this AD.

New Information

Explanation of CDCCL Requirements

Note 2: Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the FAA-approved maintenance program, as required by paragraph (g) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the FAA-approved maintenance program has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle 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: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6438; 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.

(3) AMOCs approved previously in accordance with AD 2008-10-09, Amendment 39-15515, are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(1) You must use Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision March 2008; or Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision May 2009; 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 Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision May 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Boeing 737-100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6-38278-CMR, Revision March 2008, on June 12, 2008 (73 FR 25970, May 8, 2008).

(3) 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>.

(4) 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.

(5) 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.

Issued in Renton, Washington, on December 16, 2009.
Stephen P. Boyd,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. E9-30565 Filed 12-30-09; 8:45 am]