



[4910-13-P]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2012-0859; Directorate Identifier 2012-NM-090-AD]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed to rescind airworthiness directive (AD) 2008-06-03, which applies to certain The Boeing Company Model 737-600, -700, -700C, -800 and -900 series airplanes; and Model 757-200, -200PF, -200CB, and -300 series airplanes. The NPRM would have rescinded AD 2008-06-03, which requires an inspection to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. AD 2008-06-03 also requires revising the Airworthiness Limitations (AWLs) section of the Instructions for Continued Airworthiness to incorporate certain AWLs. Since the NPRM was issued, we have determined that it does not adequately address the safety concerns. Accordingly, the NPRM is withdrawn.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the proposed rule, which was published on August 27, 2012 (77 FR 51722), is withdrawn.

ADDRESSES: 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 action, the proposed rule (77 FR 51722, August 27, 2012), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: (425) 917-6509; fax: (425) 917-6590; email: Rebel.Nichols@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) to rescind AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008). AD 2008-06-03 applies to the specified products. The NPRM published in the Federal Register on August 27, 2012 (77 FR 51722). The NPRM proposed to rescind AD 2008-06-03, which requires an inspection to determine if certain motor-operated shutoff valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. AD 2008-06-03 also requires revising the AWLs section of the Instructions for Continued Airworthiness to incorporate AWL No. 28-AWL-21, No. 28-AWL-22, and No. 28-AWL-24 (for Model 737-600, -700, -700C, -800, and -900 series airplanes); and No. 28-AWL-23, No. 28-AWL-24, and No. 28-AWL-25 (for Model 757-200, -200PF, -200CB, and -300 series airplanes). AD 2008-06-03 resulted from fuel system reviews conducted by the manufacturer. The proposed actions were intended to prevent an unsafe condition from being introduced on airplanes affected by AD 2008-06-03.

Comments

We gave the public the opportunity to participate in considering the proposal (77 FR 51722, August 27, 2012) to rescind AD 2008-03-03, Amendment 39-15415 (73 FR 13081, March 12, 2008). The following presents relevant comments received on the proposal and the FAA's response to those comments.

Requests to Clarify “Different Unsafe Condition”

FedEx, American Airlines, and Boeing requested clarification of the different unsafe condition introduced by the actions required by AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008). Boeing also stated that the NPRM (77 FR 51722, August 27, 2012) does not indicate if the different unsafe condition is applicable to all actuator locations required by AD 2008-06-03.

We agree that clarification of the different unsafe condition is necessary. AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008), addresses the potential for an electrical current to flow through certain motor-operated shutoff valve actuators into the fuel tank. The new motor-operator valve (MOV) actuators are required by AD 2008-06-03 for three locations on Model 737 airplanes and six or seven locations on Model 757 airplanes (depending on configuration); and that AD addresses an unsafe condition related to Special Federal Aviation Regulation No. 88 (“SFAR 88” (66 FR 23086, May 7, 2001), Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

However, the new motor-operated shutoff valve actuators have been found to have a risk of latent failure. At two of the locations on Model 737 airplanes and at three locations on Model 757 airplanes, this actuator failure could result in a different unsafe condition –i.e., an inability to shut off fuel flow to an auxiliary power unit (APU) (on Model 757 airplanes only) or engine during an engine fire. This latent failure is not a safety risk in the other three to four locations.

We have determined that AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008), should not be rescinded, but should continue to require actions that address SFAR 88-related safety. Because AD 2008-06-03 does address a significant safety risk, it is not in the interest of safety to rescind that AD. For the new MOV actuators, we are considering further rulemaking to address the certain locations where a latent failure of the actuator could result in a failure to shut off fuel flow during an engine fire.

Request to Extend Compliance Time

Allegiant Air supported the proposed rescission (77 FR 62833, August 27, 2012) and requested that, if the FAA decided not to adopt the rescission, the FAA provide an extension of the compliance time required by AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008), by using a “global” alternative method of compliance (AMOC). Allegiant Air stated that the proposed rescission has brought uncertainty to operators of the affected Model 737 and 757 airplanes. We infer the subject of the uncertainty involves an operator still needing to schedule time to do the required actions prior to the compliance time required in AD 2008-06-03.

We disagree. We have not received any AMOC requests to extend the compliance time. We also have not received justification to extend an AMOC to all the airplanes affected by AD 2008-06-03, Amendment 39-15415 (73 FR 13081, March 12, 2008). However, under the provisions of paragraph (i) of AD 2008-06-03, we will consider individual operator requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. We have determined that no change to AD 2008-06-03 is necessary.

FAA's Conclusions

Upon further consideration, we have determined that the NPRM (77 FR 51722, August 27, 2012) does not adequately address the safety concern. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM (77 FR 51722, August 27, 2012) does not preclude the FAA from issuing another related action nor commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (77 FR 51722, August 27, 2012), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA-2012-0859, Directorate Identifier 2012-NM-090-AD, which was published in the Federal Register on August 27, 2012 (77 FR 51722).

Issued in Renton, Washington, on September 5, 2013.

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