

are a limited partnership, "S Corporation," or equivalent pass-through entity for tax purposes, you may make "tax Distributions" to your investors in accordance with this § 107.1550, whether or not they have an actual tax liability. * * *

* * * * *

(b) *How to compute the Maximum Tax Liability.* (1) You may compute your Maximum Tax Liability for a full fiscal year or for any calendar quarter. Use the following formula:

$M = (TOI \times HRO) + (TCG \times HRC)$

where:

M = Maximum Tax Liability

TOI = Net ordinary income allocated to your partners or other owners for Federal income tax purposes for the fiscal year or calendar quarter for which the Distribution is being made, excluding Prioritized Payments allocated to SBA.

HRO = The highest combined marginal Federal and State income tax rate for corporations or individuals on ordinary income, determined in accordance with paragraphs (b)(2) through (b)(4) of this section.

TCG = Net capital gains allocated to your partners or other owners for Federal income tax purposes for the fiscal year or calendar quarter for which the Distribution is being made, excluding Prioritized Payments allocated to SBA.

HRC = The highest combined marginal Federal and State income tax rate for corporations or individuals on capital gains, determined in accordance with paragraphs (b)(2) through (b)(4) of this section.

* * * * *

(d) *Paying a tax Distribution.* You may make an annual tax Distribution on the first or second Payment Date following the end of your fiscal year. You may make a quarterly tax Distribution on the first Payment Date following the end of the calendar quarter for which the Distribution is being made. See also § 107.1575(a).

(e) *Excess tax Distributions.* (1) As of the end of your fiscal year, you must determine whether you made any excess tax Distributions for the year in accordance with paragraph (e)(2) of this section. Any tax Distributions that you make for a subsequent period must be reduced by the excess amount distributed.

(2) Determine your excess tax Distributions by adding together all your quarterly tax Distributions for the year (ignoring any required reductions for excess tax Distributions made in prior years), and subtracting the maximum tax Distribution that you would have

been permitted to make based upon a single computation performed for the entire fiscal year. The result, if greater than zero, is your excess tax Distribution for the year.

16. In § 107.1575, revise paragraphs (a)(1) and (b)(2) and add a new paragraph (a)(4) to read as follows:

§ 107.1575 Distributions on other than Payment Dates.

(a) * * *

(1) Required annual Distributions under § 107.1540(a)(1), annual Distributions under § 107.1550, and any Distributions under § 107.1560 must be made no later than the second Payment Date following the end of your fiscal year.

* * * * *

(4) Quarterly Distributions under § 107.1550 must be made no earlier than the last day of the calendar quarter for which the Distribution is being made and no later than the first Payment Date following the end of such calendar quarter.

(b) * * *

* * * * *

(2) The ending date of the period for which you compute your Earmarked Profits, Prioritized Payments, Adjustments, Charges, Profit Participation, Retained Earnings Available for Distribution, liquidity ratio, Capital Impairment, and any other applicable computations required under §§ 107.1500 through 107.1570, must be:

(i) The distribution date, or

(ii) If your Distribution includes annual Distributions under §§ 107.1540(a)(1), 107.1550 and/or 107.1560, your most recent fiscal year end;

* * * * *

17. In § 107.1580, revise the heading for paragraph (a) introductory text, and revise paragraphs (a)(1), (a)(4), and (b)(2) to read as follows:

§ 107.1580 Special rules for In-Kind Distributions by Licensees.

(a) *In-Kind Distributions while Licensee has outstanding Participating Securities.* * * *

(1) You may distribute only Distributable Securities.

* * * * *

(4) You must deposit SBA's share of securities being distributed with a disposition agent designated by SBA. As an alternative, if you agree, SBA may direct you to dispose of its shares. In this case, you must promptly remit the proceeds to SBA.

(b) * * *

(2) You must obtain SBA's prior written approval of any In-Kind

Distribution of Earmarked Assets that are not Distributable Securities, specifically including approval of the valuation of the assets.

Dated: December 10, 1999.

Fred P. Hochberg,
Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-189-AD; Amendment 39-11466; AD 99-26-07]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737-100, -200, and -200C series airplanes, that currently requires periodic inspections to detect missing nuts and/or damaged secondary support hardware adjacent to the aft engine mount, and replacement, if necessary. That AD also provides for optional terminating action for certain inspections and a torque check. This amendment requires accomplishment of the previously optional terminating action. This amendment is prompted by the FAA's determination that the repetitive inspections required by the existing AD may not be providing the degree of safety assurance necessary for the transport airplane fleet. The actions specified by this AD are intended to prevent failure of the secondary support to sustain engine loads in the event of failure of the aft engine mount cone bolt, which could result in the separation of the engine from the wing.

DATES: Effective January 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 24, 2000.

The incorporation by reference of Boeing Service Bulletin 737-71-1289, dated August 19, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 18, 1994 (59 FR 18294, April 18, 1994).

ADDRESSES: The service information referenced in this AD may be obtained

from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Schneider, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2028; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 91-09-14 R1, amendment 39-8876 (59 FR 18294, April 18, 1994), which is applicable to all Boeing Model 737-100, -200, and -200C series airplanes, was published in the **Federal Register** on October 2, 1998 (63 FR 52992). The action proposed to continue to require periodic inspections to detect missing nuts and/or damaged secondary support hardware adjacent to the aft engine mount, and replacement, if necessary. The action also proposed to mandate accomplishment of the previously optional terminating action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

Two commenters support the proposed rule.

Requests to Revise Compliance Time of Paragraph (c) of the Proposed AD

Two commenters request that the compliance time in paragraph (c) of the proposed AD be revised by removing the threshold "at next engine removal" and setting the threshold simply to "within 8,000 flight hours after the effective date of this AD." One commenter states that the requirement to accomplish the terminating action (*i.e.*, installation of Boeing Secondary Support, Kit Number 65C37057-1) is overly restrictive. Operators would have to be prepared to modify the secondary support (*i.e.*, install the secondary support kit) at any unscheduled engine change, even though the conditions that lead to an unscheduled engine removal are not likely to affect safety of the secondary support. Another commenter

states that the threshold of "at next engine removal" in paragraph (c) of the proposed rule is too harsh. The commenter states that it accomplishes a magnetic particle inspection of the aft engine mount cone bolt during each engine removal, and that these inspections are more than adequate to ensure the integrity of the aft mount cone bolt until the modification is accomplished at 8,000 flight hours.

The FAA partially concurs with the commenters' request to revise the compliance time specified in paragraph (c) of the AD. The FAA's intent was to require installation at the next "scheduled" engine removal, or within 8,000 flight hours after the effective date of this AD, whichever occurs first, which is the typical interval between scheduled engine changes/overhauls. The FAA agrees that the threshold should not be subject to "unscheduled" engine removals, but does not agree that the threshold should be set solely to "within 8,000 flight hours," as suggested by the commenters. The FAA has determined that a compliance time at the next "scheduled" engine removal, or within 8,000 flight hours after the effective date of the AD, whichever occurs first, will provide operators adequate time to procure and install the secondary support kit, and will not be an unnecessary burden on operators.

In addition, the FAA does not agree with the second commenter that a magnetic particle inspection of the cone bolt during the engine removal will ensure that cracks will not initiate prior to the next engine removal. The magnetic inspection only ensures that the bolts being installed have no detectable cracks. In light of the results of testing conducted by Boeing and the two occurrences of failure of the aft engine mount cone bolts after the bolts had been subjected to ultrasonic inspections, the FAA finds that installation of a new, improved secondary support at the next scheduled engine removal, or within 8,000 flight hours after the effective date of this AD, whichever occurs first, is necessary to address the identified unsafe condition.

Therefore, the FAA has revised the compliance time of paragraph (c) of the final rule accordingly.

One commenter requests that the compliance time in paragraph (c) of the proposed AD coincide with its hush kit installation schedule. The commenter states that its hush kit schedule will occur prior to the proposed 8,000-flight hour threshold, but may not occur prior to the next engine removal. The commenter also states that aligning the compliance time with the hush kit installation will avoid the dual cost of

installing the Boeing secondary support kit at the next engine removal at a cost of \$10,600 per aircraft, and replacing it within one year as part of the NORDAM hush kit installation.

The FAA partially concurs with the commenter's request to revise the subject compliance time. The FAA finds that a threshold of "at the next engine removal" may result in the unnecessary installation and removal of the Boeing secondary support kit for those operators currently working to a schedule for incorporation of the NORDAM hush kit. However, the FAA finds that a compliance time of at the next "scheduled" engine removal, or within 8,000 flight hours after the effective date of the AD, whichever occurs first, will preclude any unnecessary installation and removal of the Boeing secondary support kit. The FAA based its determination on an expectation that operators will not schedule an engine change/overhaul within 12 months prior to installing a hush kit, but rather will schedule both to coincide in order to minimize down time. As discussed previously, the FAA has revised the threshold of paragraph (c) to at the next "scheduled" engine removal.

Requests to Allow an Alternative Method of Compliance (AMOC)

Two commenters request that paragraph (c) of the proposed AD be revised to include a statement that installation of certain NORDAM hush kits is an AMOC to the requirement to install the Boeing secondary support, Kit Number 65C37057-1. The commenters state that they are currently installing a certain NORDAM hush kit, and that this hush kit has been approved by the Seattle Aircraft Certification Office (SACO), FAA, Transport Airplane Directorate, as an AMOC to AD 91-09-14 R1. Specifically, the installation of NORDAM Low Gross Weight (LGW) Hush Kit [*i.e.*, Supplementary Type Certificate (STC) ST00131SE] has been approved by the FAA as terminating action for the inspections mandated by AD 91-09-14 R1, with the exception of the repetitive inspections of the aft cone bolt failure indicator required in paragraph (a)(1) of AD 91-09-14 R1. The commenters state that this approval indicates that the secondary support that is installed as part of the NORDAM hush kit should provide an acceptable level of safety and meet the intent of the proposed rule.

The FAA concurs with the commenters' request to include a statement in paragraph (c) of the final rule to clarify this point. The FAA has revised the final rule to include a new

NOTE to specify that installation of certain NORDAM hush kits is considered an acceptable AMOC to the requirements of this AD, and is considered terminating action for the inspections mandated by this AD, except for the repetitive inspections of the aft cone bolt failure indicator required in paragraph (a)(1) of this AD. The repetitive inspections of the aft cone bolt failure indicator specified in paragraph (a)(1) are still required. In addition, the FAA finds that paragraph (d)(2) of the final rule also must be revised to clarify this point.

Requests to Not Mandate Replacement of Secondary Support

One commenter requests that the FAA continue to require the current inspections required by AD 91-09-14 R1 and continue to provide the optional terminating action (i.e., replacement of the secondary support of the aft engine mount with a new, improved secondary support) rather than mandating it. Another commenter questions the necessity of the proposed rule based upon existing mandates that will provide an equivalent means of compliance with a similar time period. One commenter states that it has been inspecting the aft mount cone bolt indicator for alignment during every over-night check in accordance with its maintenance policy and has been inspecting the secondary support hardware (i.e., the aft mount cone bolt and nut) in accordance with AD 91-09-14 R1. The commenter also states that it has been replacing the forward and aft mount cone bolt, nut, and vibration isolator every 6,000 flight hours or engine hard time, or at any engine removal, whichever occurs first. The commenter notes that it has not detected a failure of the secondary support hardware in the aft mount cone bolt, or detected loosening of the nut.

The FAA does not concur with the commenter's request to not mandate accomplishment of the previously optional terminating action. As discussed in the preamble of the proposed rule, the FAA has determined that the repetitive inspections required by the existing AD may not be providing the degree of safety assurance necessary for the transport airplane fleet. The 45-day inspection interval of the aft cone bolt failure indicator, as specified in the existing AD, may not detect a broken aft cone bolt in a timely manner, as cracks in the aft cone bolt may go undetected using the current ultrasonic inspection procedures. Worn secondary support components that exceed the wear limits allowed in the AD 91-09-14 R1 may not be reliably detected due to human

factors and may, in the event of the failure of an aft cone bolt, render the secondary support incapable of supporting the aft end of the engine until the next inspection of the aft cone bolt failure indicator. Therefore, the FAA has determined that the repetitive inspections may not be adequate to preclude an engine separation, and finds that installation of the new Boeing secondary support kit should be mandated.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,045 Model 737-100, -200, and -200C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 382 airplanes of U.S. registry will be affected by this AD.

The inspections that are currently required by AD 91-09-14 R1 take approximately 3 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be \$68,760, or \$180 per airplane, per inspection cycle.

The replacement that is required by this AD will take approximately 60 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$7,000 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be \$4,049,200, or \$10,600 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this final rule does

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration 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. Section 39.13 is amended by removing amendment 39-8876 (59 FR 18294, April 18, 1994), and by adding a new airworthiness directive (AD), amendment 39-11466, to read as follows:

99-26-07 Boeing: Amendment 39-11466.

Docket 98-NM-189-AD. Supersedes AD 91-09-14 R1, Amendment 39-8876.

Applicability: All Model 737-100, -200, and -200C airplanes, certificated in any category.

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 (e)(1) 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 the secondary support to sustain engine loads in the event of failure of the aft engine mount cone bolt, which could result in the separation of the engine from the wing, accomplish the following:

Restatement of Requirements of AD 91-09-14, Amendment 39-6972

Repetitive Inspections and Replacement, If Necessary

(a) Within the next 45 landings after May 20, 1991 (the effective date of AD 91-09-14, amendment 39-6972), accomplish the following:

(1) Inspect the aft mount cone bolt indicator for proper alignment. Improper alignment indicates a broken aft cone bolt. Broken cone bolts must be replaced, prior to further flight, with bolts that have been inspected in accordance with Boeing Alert Service Bulletin 737-71A1212, dated December 22, 1987, using magnetic particle inspection techniques. Repeat the inspection of the indicator at intervals thereafter not to exceed 45 landings.

(2) Unless previously accomplished within the last 255 landings, inspect the aft mount cone bolt improved secondary support for missing nuts, evidence of bolt wear, and disbonded honeycomb core; in accordance with Boeing Service Bulletin 737-71-1250, dated June 14, 1990. Except as provided in paragraph (b) of this AD, missing nuts, bolts worn outside the limits specified in the service bulletin, or disbonded honeycomb core must be replaced, prior to further flight, with new or repaired identical parts. Repeat the inspection at intervals not to exceed 300 landings.

Follow-On Inspections, Replacement, and Torque Check

(b) Perform the following inspections if discrepant hardware is found during the inspections required by paragraph (a)(2) of this AD, and replacement hardware is not immediately available:

(1) Prior to further flight, and thereafter at intervals not to exceed 300 landings, inspect for cracks in the aft engine mount cone bolt, in accordance with Boeing Alert Service Bulletin 737-71A1212, dated December 22, 1987, using ultrasonic inspection techniques. Replace cracked cone bolts, prior to further flight, with bolts that have been inspected in accordance with the service bulletin, using magnetic particle inspection techniques. Replacement (newly installed) cone bolts must be ultrasonically inspected for internal cracking in accordance with the provisions of this paragraph at intervals not to exceed 300 landings.

(2) At the next ultrasonic inspection, as required by paragraph (b)(1) of this AD, unless previously accomplished within 150 to 300 landings after cone bolt installation, accomplish a torque check to verify that the cone bolt is torqued to the proper torque limit specified in the appropriate Boeing maintenance manual. This check is to be accomplished without loosening the bolt. After each cone bolt installation, accomplish the torque check procedure required by this paragraph between 150 landings and 300

landings following installation. Replacement of discrepant hardware in accordance with paragraph (a)(2) of this AD constitutes terminating action for the requirements of this paragraph.

(i) If the cone bolt torque is below one-half the specified torque, prior to further flight, remove the cone bolt and replace it with a serviceable bolt.

(ii) If the cone bolt torque is equal to, or above one-half the specified torque, but below the specified torque, re-torque to the specified level and re-check the torque within the next 150 to 300 landings. If, at that time, the torque is below 90 percent of the specified torque, replace the cone bolt with a serviceable bolt.

New Actions Required by This AD

Replacement

(c) At the next scheduled engine removal, or within 8,000 flight hours after the effective date of this AD, whichever occurs first, replace the secondary support of the aft engine mount with a new, improved secondary support, Kit Number 65C37057-1; in accordance with Boeing Service Bulletin 737-71-1289, dated August 19, 1993; as revised by Notices of Status Change 737-71-1289 NSC 1, dated September 2, 1993, 737-71-1289 NSC 2, dated January 26, 1995, and 737-71-1289 NSC 03, dated October 3, 1996. Accomplishment of such replacement constitutes terminating action for the repetitive inspection requirements of paragraphs (a)(2) and (b)(1) of this AD, and for the torque check requirement of paragraph (b)(2) of this AD.

Optional Installation

(d) Installation of Nordam hush kits modified in accordance with the following Supplemental Type Certificate is considered acceptable for compliance with the requirements of paragraphs (a)(2), (b), and (c) of this AD, but are not considered acceptable for compliance with the requirements of paragraph (a)(1) of this AD.

- SA5730NM, issued on June 26, 1992 and amended on October 2, 1992; or
- ST00131SE, issued on November 8, 1994, and amended on January 26, 1995, May 13, 1996, September 13, 1996, and February 20, 1997.

Alternative Methods of Compliance

(e)(1) 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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 91-09-14 R1, amendment 39-8876, are approved as alternative methods of compliance with the requirements of this AD,

except for the requirements of paragraph (a)(1) of this AD.

Special Flight Permits

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

Incorporation by Reference

(g) The inspection required by paragraph (a)(2) of this AD shall be done in accordance with Boeing Service Bulletin 737-71-1250, dated June 14, 1990. The inspection required by paragraph (b)(1) of this AD shall be done in accordance with Boeing Alert Service Bulletin 737-71A1212, dated December 22, 1987. The replacement required by paragraph (c) of this AD shall be done in accordance with Boeing Service Bulletin 737-71-1289, dated August 19, 1993, as revised by Notice of Status Change 737-71-1289 NSC 1, dated September 2, 1993, Notice of Status Change 737-71-1289 NSC 2, dated January 26, 1995, and Notice of Status Change 737-71-1289 NSC 03, dated October 3, 1996.

(1) The incorporation by reference of Boeing Service Bulletin 737-71-1250, dated June 14, 1990; Boeing Alert Service Bulletin 737-71A1212, dated December 22, 1987; Boeing Service Bulletin Notice of Status Change 737-71-1289 NSC 1, dated September 2, 1993; Boeing Service Bulletin Notice of Status Change 737-71-1289 NSC 2, dated January 26, 1995, and Boeing Service Bulletin Notice of Status Change 737-71-1289 NSC 03, dated October 3, 1996; is approved by the director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 737-71-1289, dated August 19, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 18, 1994 (59 FR 18294, April 18, 1994).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on January 24, 2000.

Issued in Renton, Washington, on December 9, 1999.

D.L. Riffin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 99-32509 Filed 12-17-99; 8:45 am]

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