Rules and Regulations

Federal Register
Vol. 62, No. 86
Monday, May 5, 1997

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Waiver of the nonmanufacturer rule for power circuit breakers, current and potential transformers, autotransformer, and surge arresters.

SUMMARY: This document advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. The basis for a waiver is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set-aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: May 5, 1997.

ADDRESSES: David Wm. Loines, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, Tel: (202) 205–6475.

FOR FURTHER INFORMATION CONTACT: David Wm. Loines, Procurement Analyst, (202) 205–6475, FAX (202) 205–7324.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines ''class of products'' based on two coding systems. The first is the Office of Management and Budget *Standard Industrial Classification Manual.* The second is the Product and Service Code (PSC) established by the Federal Procurement Data System.

The SBA was asked to issue a waiver for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters because of an apparent lack of any small business manufacturers of processors for them within the Federal market. The SBA searched its Procurement Automated Source System (PASS) for small business participants and found none. We then published a document in the **Federal Register** on February 12, 1997, 62 FR 6499, of our intent to grant a waiver for these classes of products unless new information was found. The proposed waiver covered Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. The document described the legal provisions for a waiver, how SBA defines the market, and asked for small business participants of these classes of products. After the 15-day comment period, no small businesses were identified for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, and Surge Arresters. This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656 for Power Circuit Breakers, Current and Potential Transformers, Autotransformer, Surge Arresters. The waiver will last indefinitely but is subject to both an annual review and a review upon receipt of information that the conditions required for a waiver no longer exist. If such information is found, the waiver may be terminated.

Judith A. Roussel,

Associate Administrator for Government Contracting.

[FR Doc. 97–11555 Filed 5–2–97; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–151–AD; Amendment 39–10011; AD 97–09–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that requires a one-time inspection to determine the part number of the engage solenoid valve of the yaw damper, and replacement of the valve with a valve having a different part number, if necessary. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers.

EFFECTIVE DATE: June 9, 1997.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2764; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes was published in the **Federal Register** on August 28, 1996 (61 FR 44243). That action proposed to require repetitive tests to verify the integrity of the yaw damper coupler, and various follow-on actions. That action also proposed to require a one-time inspection to determine the part number of the engage solenoid valve of the yaw damper, and replacement of the valve with a valve having a different part number, if necessary.

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

Request for Issuance of Two Separate AD's

One commenter requests that the proposed rule, which proposed actions related to the yaw damper coupler/rate gyroscope and the engage solenoid valve of the yaw damper, be separated into two independent AD's—one for the yaw damper coupler/rate gyroscope, and the other for the engage solenoid valve. The commenter believes that the actions required for each of these parts are sufficiently different that recordkeeping requirements warrant separate rules.

The FAA finds that issuance of two separate AD's is appropriate: one to address the yaw damper coupler/rate gyroscope, and another to address the engage solenoid valve. Therefore, this final rule is being issued to address actions associated with the engage solenoid valve of the yaw damper coupler. [Those actions appeared in paragraph (b) of the proposal.]

Further, the FAA is considering the issuance of separate rulemaking action to require accomplishment of the actions contained in the proposal that address the yaw damper coupler/rate gyroscope. [Those actions appeared in paragraph (a) of the proposal.] Since the issuance of the proposal, the FAA has determined that the requirements contained in paragraph (a) must be expanded to require hard-time replacement of the rate gyroscope. That paragraph originally proposed to require, in part, replacement of the rate gyroscope only if necessary following testing.

Request To Withdraw the Proposal

One commenter requests that the FAA withdraw the proposed rule. The commenter does not believe that the proposed requirement to replace the existing engage solenoid valve with one that uses encapsulated coils is warranted. The commenter states that industry experience with the existing engage solenoid valve indicates an extremely reliable valve. The commenter adds that the mean time between failures is in excess of 150,000 flight hours. In addition, the commenter states that valves with encapsulated coils have been no more reliable than the existing valves. The commenter also states that failure of this valve is not a safety of flight issue.

The FAA does not concur with the commenter's request to withdraw the proposal. The FAA has not received data that demonstrate the commenter's contentions concerning the reliability of the existing engage solenoid valve. Additionally, the FAA finds that failure of the existing valve could result in abrupt, uncommanded yawing of the airplane, which could result in reduced controllability of the airplane. This AD addresses that unsafe condition.

Request To Allow Option for Replacing Coils

Another commenter requests that the proposal be revised to allow operators the option of changing the engage solenoid valve or replacing the soft-potted coils with encapsulated coils. The commenter asserts that this option will still accomplish the intent of the AD, and will give credit to operators that previously have upgraded to the encapsulated coils while maintaining the original valve part number. The commenter adds that this valve is used in multiple locations and on several fleets, and the introduction of a new and unique part number is undesirable.

The FAA does not concur with the commenter's request to allow an option in this AD. The FAA points out that no new or unique part number is being introduced by this AD. The parts that are required to be installed by this final rule are currently optional parts that could have been installed prior to the issuance of this AD. The FAA acknowledges the commenter's concern regarding the use of the valve in multiple locations and on several fleets; however, the FAA has determined that issuance of this AD is necessary to address the identified unsafe condition. If an operator desires to replace the electric coil inside the valve with an encapsulated coil to bring the valve to the proper configuration, the FAA would consider a request for approval of an alternative method of compliance, in accordance with the provisions of this AD, provided that complete substantiating data are submitted.

Request for Replacement of Engage Solenoid Valve Based on Results of Dielectric Tests

One commenter requests that the FAA eliminate the requirement to replace the engage solenoid valves, and require replacement of the valves only on the basis of results of dielectric tests. The commenter states that simple electrical test can be performed in-situ; the commenter believes this test can reveal dielectric breakdown prior to failure. The commenter concludes that such testing and a requirement to upgrade the engage solenoid valve (if degradation is detected) would be appropriate.

The FAA does not concur. The FAA is unaware of a test procedure such as that suggested by the commenter. The FAA has been advised that data from the manufacturer shows that encapsulated coils provide higher reliability due to increased resistance to damage and moisture. The FAA finds that basing replacement only upon testing, as suggested by the commenter, would not prevent failures that could occur between maintenance checks. However, the FAA would consider a request for approval of an alternative method of compliance, in accordance with the provisions of this AD, provided that complete test procedures and substantiating data are submitted.

Request for Further Testing of Engage Solenoid Valve

One commenter requests that further testing be accomplished on the engage solenoid valve having part number 10–60811-( ) to either develop a test for the internal corrosion or to key the valves so they are unique to the rudder PCU position. The commenter points out that this particular valve is installed in 12 to 16 locations on each airplane, and it would be very difficult to restrict acceptable part numbers to only the rudder PCU. The commenter also states that it would be costly if airlines are forced to change all of these valves to ensure that the wrong valve is not installed on the rudder PCU; if the design of the part was keyed such that the valve installed on the rudder PCU is unique, this cost could be avoided.

The FAA does not concur with the commenter's request. While the FAA recognizes that some operators may elect to replace valves having the affected part number at all locations of the airplane, this AD requires replacement of the engage solenoid valve only in the rudder PCU, and not at all locations where that valve is installed. The FAA does not agree that an internal test for corrosion is necessary since the new replacement

valve is designed to preclude moisture penetration and consequent corrosion. While such a test may be desirable, the FAA is not aware of the availability of such a procedure. Should such a test be developed, the FAA would consider a request for approval of an alternative method of compliance in accordance with the provisions of this AD. The FAA finds that installation of these newly designed valves at the replacement interval specified in this AD will ensure an acceptable level of safety of the affected fleet.

Request for Revised Compliance Time for Replacement of Engage Solenoid Valve

Several commenters request that the requirement for replacement of certain engage solenoid valves be revised from 18 months to the next PCU shop visit. The commenters contend that the proposed AD should not require hard-time replacement. One of these commenters states that past experience has revealed the reliability of engage solenoid valves having part numbers 10–60881–1, –3, and –9 has been very good; these valves have a mean time between failures of 130,000 flight hours.

The FAA concurs that the proposed compliance time can be extended without compromising the safety of the affected fleet. In light of the information presented by the commenters, the FAA has revised the compliance time specified in paragraph (a) of this AD to within five years or 15,000 flight hours after the effective date of this AD, or at the next time the PCU is sent to a repair facility (whichever occurs first). This revised compliance time should allow the action to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available, if necessary.

Request for Reduced Compliance Time for Replacement of Engage Solenoid Valve

One commenter supports the proposal, but requests that the proposed compliance time for one-time inspection of the engage solenoid valve be reduced from 18 months to 3 months to provide an acceptable level of safety.

The FAA does not concur with the commenter's request to shorten the proposed compliance time. In developing the proposed compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the required actions. In consideration of these factors, the FAA determined that the compliance time, as proposed, represents an appropriate time in which the one-time inspection can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety. In fact, the FAA has determined, as discussed above, that the proposed compliance can be extended somewhat without compromising the safety of the fleet. Operators are always permitted to accomplish the requirements of an AD at a time earlier than that specified as the compliance time. If additional data are presented that would justify a shorter compliance time, the FAA may consider further rulemaking on this issue.

Request for Clarification of Part Numbers

Two commenters request clarification of the part numbers (P/N) of the engage solenoid valve addressed in the proposal. One of these commenters, Boeing, indicates that there are two suppliers that have qualified parts to Boeing P/N 10–60811–3. Parker P/N 59600–5007 has a soft-potted coil (similar to P/N 10–60811–1 and –9), while Sterer P/N 45080 has an encapsulated epoxy coil (similar to P/N 10–60811–8 and –13). The second commenter states that the P/N's of the engage solenoid valve that appear in the proposed rule do not exist.

The FAA agrees that clarification is necessary. The P/N's that appeared in paragraph (b) of the proposal were incorrect. Paragraph (a) of this final rule [which appeared as paragraph (b) of the proposal] has been revised to specify that the correct P/N's of the valves to be removed are Boeing P/N 10–60811–3 and Parker P/N 59600–5007 (Boeing P/N 10–60811–3), and that the correct P/N's of the replacement valves are Boeing P/N 10–60811–8 and –13, and Sterer P/N 45080 (Boeing P/N 10–60811–3).

Operators should note that both the Parker and Sterer P/N's have the same Boeing P/N—10–60811–3. If, upon inspection, Boeing P/N 10–60811–3 is found to be installed, operators must ascertain the vendor P/N. Parts having Boeing P/N 10–60811–3 and Parker P/N 59600–5007 must be replaced, and are not considered to be acceptable for use as replacement parts. The FAA has included a note in this final rule to reflect this information.

Request To Revise Reference to Maintenance Manual

Boeing indicates that the appropriate reference for replacement of the engage solenoid valve, as specified in paragraph (b) of the proposal, is the Boeing Maintenance Manual 22–12–11. The proposal indicates that the appropriate reference is Chapter 27–20–01 of the Boeing 737 Overhaul Manual.

The FAA concurs that the reference provided by the commenter is appropriate. The FAA has reviewed the references contained in both the maintenance and overhaul manuals. Both manuals provide procedures for installation of the part. However, the overhaul manual addresses procedures to be used when the PCU is not installed on the airplane; the maintenance manual provides not only those procedures, but additional information related to access and close-up of the airplane. The FAA concludes that the maintenance manual is the appropriate reference for purposes of this AD, and has revised the final rule accordingly.

Request To Revise Statement of Findings of Critical Design Review Team

One commenter requests the second paragraph of the Discussion section that appeared in the preamble to the proposed rule be revised to accurately reflect the findings of the Critical Design Review (CDR) team. The commenter asks that the FAA delete the one sentence in that paragraph, which read: ''The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as correction of certain design deficiencies.'' The commenter suggests that the following sentences should be added: ''The team did not find any design issues that could lead to a definite cause of the accidents that gave rise to this effort. The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as incorporation of certain design improvements in order to enhance its already acceptable level of safety.''

The FAA does not find that a revision to this final rule in the manner suggested by the commenter is necessary, since the Discussion section of a proposed rule does not reappear in a final rule. The FAA acknowledges that the CDR team did not find any design issue that could lead to a definite cause of the accidents that gave rise to this effort. However, as a result of having conducted the CDR of the flight control systems on Boeing Model 737 series airplanes, the team indicated that there are a number of recommendations that should be addressed by the FAA for each of the various models of the Model 737. In reviewing these recommendations, the FAA has concluded that they address unsafe conditions that must be corrected through the issuance of AD's. Therefore, the FAA does not concur that these

design changes merely ''enhance [the Model 737's] already acceptable level of safety.''

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 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,091 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required one-time inspection of the engage solenoid valve, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $65,460, or $60 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.

Should an operator be required to replace an engage solenoid valve of the yaw damper, it will take approximately 3 work hours to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,688 per airplane. Based on these figures, the cost impact of any necessary replacement of an engage solenoid valve is estimated to be $1,868 per airplane.

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, 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 adding the following new airworthiness directive:

97–09–15 Boeing: Amendment 39–10011. Docket 96–NM–151–AD.

Applicability: All Model 737–100, –200, –300, –400, and –500 series 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 otherwise 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 (b) 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 sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers, accomplish the following:

(a) Perform a one-time inspection of the engage solenoid valve of the yaw damper to determine the part number (P/N) of the valve. If any valve having Boeing P/N 10–60811–1 or –9, or Parker P/N 59600–5007 (Boeing P/N 10–60811–3) is installed, prior to further flight, replace it with a valve having Boeing P/N 10–60811–8 or –13, or Sterer P/N 45080 (Boeing P/N 10–60811–3). Accomplish the actions in accordance with procedures specified in Chapter 22–12–11 of the Boeing Maintenance Manual. Accomplish the inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

Note 2: Boeing In-Service Activities Report 95–03–2725–10, dated February 16, 1995 (for Model 737–100 and –200 series airplanes), or 95–04–2725–10, dated February 24, 1995 (for Model 737–300, –400, and –500 series airplanes), provide additional information concerning interchangeability of solenoid valve part numbers.

Note 3: Operators should note that, as specified in paragraph (a) of this AD, both the Parker and Sterer P/N's have the same Boeing P/N (10–60811–3). If, upon inspection, Boeing P/N 10–60811–3 is found to be installed, operators must ascertain the vendor P/N. Parts having Boeing P/N 10–60811–3 and Parker P/N 59600–5007 must be replaced and are not considered to be acceptable replacement parts.

(b) 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) 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.

(d) This amendment becomes effective on June 9, 1997.

Issued in Renton, Washington, on April 24, 1997.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–11201 Filed 5–2–97; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 429

RIN 0960–AE51

Administrative Regulations; Tort Claims

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: These final rules adopt as SSA rules the same procedures and