

"of this chapter" both times they appear.

Done in Washington, DC, this 23rd day of December 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-34179 Filed 12-31-97; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-271-AD; Amendment 39-10230; AD 97-25-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information that appeared in airworthiness directive (AD) 97-25-06, amendment 39-10230, that was published in the **Federal Register** on December 1, 1997 (62 FR 63622). The error resulted in an advertent omission in reference to acceptable replacement components. This AD, applicable to certain Boeing Model 747 series airplanes, requires disconnection of the electrical connector to the scavenge pump of the center wing tank. This AD also requires a one-time inspection to identify the part number of the electrical connector; and replacement of the pump with a new or serviceable pump, if necessary.

DATES: Effective December 16, 1997.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of December 16, 1997 (62 FR 63622, December 1, 1997).

FOR FURTHER INFORMATION CONTACT: Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM-130S; or G. Michael Collins, Aerospace Engineer, Propulsion Branch, ANM-140S; FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2864 or (425) 227-2689; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: On November 26, 1997, the FAA issued AD 97-25-06, amendment 39-10230 (62 FR 63622, December 1, 1997). The AD

requires disconnection of the electrical connector to the scavenge pump of the center wing tank; and a one-time inspection to identify the part number of the electrical connector, and replacement of the pump with a new pump, if necessary.

As published, that AD contained an inadvertent omission in reference to acceptable replacement components. Throughout the preamble and in paragraph (a)(2) of the AD, the FAA required that a replacement scavenge pump be new. However, the FAA intended that a serviceable scavenge pump also be specified as an acceptable replacement component. In all other respects, the original document is correct.

Since no other part of the regulatory information has been changed, the entire final rule is not being republished.

The effective date of the AD remains December 16, 1997.

§ 39.13 [Corrected]

On page 63623, in the second column, paragraph (a)(2) of AD 97-25-06 is corrected to read as follows:

* * * * *

(2) If an electrical connector having a part number other than the correct part number (as specified in the alert service bulletin) is installed: Prior to further flight, replace the scavenge pump with a new or serviceable scavenge pump with an electrical connector having the correct part number (as specified in the alert service bulletin) in accordance with the Accomplishment Instructions of the alert service bulletin.

* * * * *

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-34180 Filed 12-31-97; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121, and 135

Compliance With Parts 119, 121, and 135 by Alaskan Hunt and Fish Guides Who Transport Persons by Air for Compensation or Hire

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice to operators.

SUMMARY: Operators transporting persons or property by air from one location to another for compensation or

hire must comply with the regulatory requirements for air carriers and commercial operators. The FAA has not enforced these regulatory requirements consistently throughout the country. In particular, it has not enforced them adequately against Alaskan guides, and many Alaskan guides conducting such operations are not properly certificated under applicable regulations. The FAA expects to provide those guides who do not currently hold the necessary certification a fair opportunity to achieve compliance with the applicable regulations. During 1998, the FAA intends to offer certification clinics for these guides in three Alaskan cities in order to expedite the necessary certification process for the influx of these new operators. This notice is published to emphasize these regulatory requirements.

EFFECTIVE DATE: This notice is effective December 24, 1997.

FOR FURTHER INFORMATION CONTACT: Jerry Paterson, Technical Standards Branch Manager, AAL-230, Federal Aviation Administration, Alaskan Region Headquarters, 222 West 7th Avenue, #14, Anchorage, Alaska 99513, Telephone 907-271-5514 or Kathleen Yodice, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone 202-267-9956.

SUPPLEMENTARY INFORMATION:

History

In Alaska there are organizations generally referred to as "guides," that offer commercial packages for persons seeking to hunt, fish, and engage in other similar sport activities within the state of Alaska. This industry has grown to be a major economic activity in Alaska contributing directly and indirectly to the livelihood of a significant percentage of the state's population. The use of an aircraft plays a key role in these operations because it is often the guide's only reasonable means of transporting customers. In some instances, these guides transport people by aircraft from airports within the state of Alaska to lodges within the state of Alaska. They often transport persons and supplies to and from lodges and remote hunting and fishing sites within the state of Alaska. As a general rule, the hunting and fishing sites are not easily accessible by any conventional mode of surface transportation. Charges for the flights are usually not separately itemized on a bill, but are usually included in the "package price." Many of the guides conduct only day, VFR operations and

employ only one pilot. Some of these pilots hold the minimum airman certification for flying passengers not for compensation, *i.e.*, a private pilot certificate without an instrument rating, which is not valid for commercial operations. This transportation of persons from one location to another location is transportation by air for compensation or hire, and requirements contained in part 119, and parts 121 or 135, are applicable.

Part 119 contains the certification requirements for operations conducted under part 121 and for operations conducted under part 135. Operation conducted under part 121 or part 135 provide a higher level of safety than those conducted solely under part 91. Alaskan guides providing transportation by air to persons from one point to another point for compensation or hire are acting as air carriers or commercial operators, and each must comply with the applicable requirements of part 121 or part 135, including proper certification of pilots, proper training of pilots, and proper maintenance of aircraft.

In the past, the FAA's Alaskan Region has not enforced part 121 or part 135, as applicable, against those guides who provide transportation by air to persons patronizing their lodges. The Alaskan Region's enforcement, inconsistent with enforcement in the rest of the country, was apparently based, in part, upon a misunderstanding of when an aircraft operation is "merely incidental" to the guide services and upon incorrect analysis of circumstances in which it might be concluded that "no charge" was made for the flight. On the "merely incidental" issue, there appears to have been a misinterpretation of the scope and effect of a 1963 enforcement case involving a registered hunting guide, *Administrator v. Marshall*, 39 CAB 948 (1963) (decided on an extremely narrow set of facts that involved a registered guide's single flight from base camp to spot game from the air and return to base camp, with no landing at a point other than the point of takeoff).

This local misunderstanding was not based on any agency interpretation or policy, and it must be corrected. The use of aircraft by a guide who transports customers to and from hunting or fishing sites and from their lodge may not reasonably be viewed as "merely incidental" to the guide's business, even when no separate charge is made for the flights. Rather, it is an integral part of the guide's business to transport the customer to the remote fishing or hunting sites. It is, in fact, transportation of persons from point to point and those persons are paying

compensation for the transportation, either by separate charge or by an amount included in a "package price." The transportation by air is itself an integral, major part of the enterprise for profit. Without the transportation by air, the business arrangement would likely not exist. Furnishing transportation by air is a crucial part of the guide's package because there is no alternative, practical, or commercially acceptable way for the customers to get to the lodge or to the remote hunting or fishing sites. The lack of proper enforcement in this situation is contrary to the FAA's consistent interpretation that transportation of persons from point to point, even to remote sites and even when no separate charge is made, is transportation of persons by air for compensation or hire requiring the appropriate commercial FAA certification.

It should not be assumed that all guides operating within the state of Alaska have been operating under part 91 only. On the contrary, many guides have obtained part 121 or part 135 certification and have been operating in compliance with those standards. This notice is intended to ensure improvement in consistently enforcing compliance with, and that all of the guides operate under the stricter and safer aviation standards of, parts 119, 121, and 135, as applicable. As a result, all of the guides will operate under similar high standards and will receive fair and consistent treatment under the Federal Aviation Regulations.

The FAA's statutory and regulatory provisions require that commercial air transportation services are to be conducted under a higher standard of care than air operations that are not conducted for compensation or hire. However, wholly apart from the legal requirements that require operators transporting persons from point to point to comply with parts 119, 121, and 135, as applicable, there are safety concerns as well.

On December 31, 1992, the FAA's Alaskan Regional Flight Standards Division released a Study of Aviation Commercial Guiding Activities Within the State of Alaska. The purpose of the study was to assess the safety of transportation by air associated with commercial hunting, fishing, and guiding activities within the state of Alaska. In that study, the Alaskan Regional Flight Standards Division concluded that those guides who conducted transportation by air solely under part 91 experienced a higher number of accidents and violations of the Federal Aviation Regulations, indicating a lower level of safety

associated with those operations. Accordingly, the Alaskan Regional Flight Standards Division recommended taking action to ensure the higher level of aviation safety that is required for commercial operations involving transportation by air that is engaged in by guides.

In May 1994, the National Transportation Safety Board (NTSB) made several safety recommendations to the FAA based on its own study of the Alaskan guide operations. See NTSB recommendations A-94-99 and A-94-100. The NTSB studied 29 aircraft accidents involving pilots working in guide operations in Alaska who had been operating only under part 91 and not also under the more stringent standards of part 135. Specifically, the NTSB considered those aircraft accidents that had occurred over a two-year period, from July 4, 1991, to August 31, 1993. The NTSB concluded that because of the large number of accidents and causal factors revealed by the study, there are serious safety problems associated with guides who commercially transport persons from point to point solely under part 91, and that the number of accidents and a review of the legal issues involved warrant action to enhance the level of passenger safety by ensuring that these operations are operated under part 135. The NTSB observed that "the overall [Alaska flying] operation requires a high degree of knowledge, skill, professionalism, respect for the elements, and a keen awareness of the limitation of the aircraft and one's self."

In November 1995, the NTSB released a Safety Study that superseded its earlier safety recommendations. See NTSB Safety Study NTSB/SS-95-03. The NTSB reaffirmed its belief that the requirements of part 135 are needed to provide an enhanced level of safety to guide operations by introducing safety improvements and by facilitating FAA oversight. The NTSB recommended that, by December 31, 1996, the FAA take action that would ensure that the transportation by air services provided by Alaskan guides are conducted under a part 135 level of safety. See NTSB recommendation A-95-134.

Regulatory Compliance

To promote uniform compliance under parts 119, 121, and 135, as applicable, those guides carrying persons and/or cargo by air for compensation or hire, who have not done so, must apply for and obtain an air carrier or commercial operating certificate and appropriate operations specifications. 14 CFR 119.5, 119.21, 119.33. These guides are required to

seek and obtain certification under part 119 for operations under part 121 or part 135, as applicable. The FAA anticipates that most guides transporting persons from point to point for compensation or hire will conduct those operations in accordance with the requirements contained within part 135. Qualification to obtain the appropriate part 119 certification principally includes the following:

- Level of airman certification*: pilots conducting operations under part 135 must hold, at a minimum, a commercial pilot certificate and a Class II medical certificate. 14 CFR 61.3, 135.95, and 135.243. In addition, pilots may be required to hold an instrument rating, except where such a rating is not required under 14 CFR 135.243(d).
- Training and testing*: each part 135 operator must properly test and keep current the pilots who are used in these operations. 14 CFR 135.97. Subpart G of 14 CFR part 135 prescribes the tests and checks each operator must perform. Subpart H of 14 CFR part 135 prescribes the requirements for establishing and maintaining an approved training program. Those part 135 operators who employ more than one pilot will be required to provide training to those pilots. 14 CFR 135.341.
- Aircraft requirements*: each part 135 operator must have exclusive use of at least one aircraft, 14 CFR 135.25, and must accomplish annual and 100-hour inspections or comply with an approved inspection program on each of these aircraft, 14 CFR 135.71 and 135.421. Subpart C of 14 CFR part 135 sets forth aircraft and equipment requirements, which must be complied with in addition to those aircraft and equipment requirements under 14 CFR part 91.
- Maintenance requirements*: each part 135 operator using an aircraft that is type certificated with a seating configuration of 9 seats or less, excluding any pilot seat, shall maintain that aircraft in accordance with 14 CFR parts 43 and 91, and those requirements set forth in subpart J of 14 CFR part 135. Each operator shall comply with the aircraft manufacturer's recommended maintenance program or a program approved by the FAA. 14 CFR 135.421.
- Periodic surveillance*: each part 135 operator may be subject to periodic inspections of its required records and its facilities. 14 CFR 135.73 and 135.75.
- Airplane operator security*: each part 135 operator must comply with the

applicable security requirements contained within 14 CFR part 108. 14 CFR 135.125.

- Drug and alcohol testing requirements*: each part 135 operator must establish a drug and alcohol testing program under 14 CFR 135.251 and 135.255.

Compliance Plan

The FAA intends to implement a plan to aid guides and other new part 121 or part 135 operators in obtaining the appropriate part 119 certification in an efficient, expeditious manner. Implementation of this plan is expected to occur during the 1998 calendar year. During the year, the FAA may, of necessity, devote the bulk of its available resources to securing compliance by processing certification applications submitted by persons under this plan. Accordingly, resources that would normally be devoted toward investigation and enforcement may be constrained. The FAA does not expect enforcement actions related to guides operating without proper certification to be a major focus during implementation of the certification plan. However, following this period, FAA resources will be available for a strong enforcement response regarding any guides providing transportation by air for compensation or hire without proper certification. In addition, the FAA expects that resources will be available at that time to permit a special emphasis on investigation and enforcement of compliance with the appropriate certification and operational requirements for those guides who transport persons by air for compensation or hire.

The Alaskan Regional Flight Standards District Offices (FSDOs) intend to hold two informational meetings in three different locations within the State of Alaska. The three Alaskan locations are Anchorage, Fairbanks, and Juneau. The meetings will be held in the spring and in the fall of 1998 in each location, most likely over a weekend. In addition, the FSDOs will provide information and guidance to those guides who contact or visit the FSDOs in Anchorage, Fairbanks, and Juneau. Information concerning the technical requirements will be available at the meetings and at the FSDOs. During the weekend meetings, the FSDOs will be providing personnel who will conduct flight tests and examine documentation and aircraft.

The FAA expects to accept and consider part 119 certification applications from guides during these weekend meetings. The FAA further expects to issue air carrier operating

certificates or commercial operating certificates and appropriate operations specifications to the guides when they are determined to be qualified.

Issued in Washington, DC on December 24, 1997.

Guy Gardner,

Associate Administrator for Regulation and Certification.

[FR Doc. 97-34164 Filed 12-31-97; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8750]

RIN 1545-AV40

General Rules for Making and Maintaining Qualified Electing Fund Elections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary regulations that provide guidance to a passive foreign investment company (PFIC) shareholder that makes the election under section 1295 (section 1295 election) to treat the PFIC as a qualified electing fund (QEF). This document also contains temporary regulations that provide guidance for shareholders that wish to make a section 1295 election that will apply on a retroactive basis (retroactive election). In addition, this document contains a temporary regulation that provides guidance under section 1291 to a PFIC shareholder that is a tax-exempt organization. Temporary regulations are needed to provide taxpayers additional time to satisfy certain requirements to make the section 1295 election. The text of these temporary regulations also serves as the text of proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**. In addition, this document removes § 1.1291-9(i)(1) of the final regulations, and amends § 1.1297-3T. References to sections 1296 and 1297 in this document are references to sections 1296 and 1297 as in effect before the effective date of section 1122(a) of the Tax Relief Act of 1997.

DATES: These regulations are effective January 2, 1998.

For dates of applicability, see §§ 1.1291-1T(e)(2), 1.1293-1T(a)(2)(ii),