

comment on proposed changes to part 712 of its regulations. 63 FR 65714 (November 30, 1998). Although the Board did not request comment on the issue of real estate brokerage services, eight commenters objected to its removal. Based on the comments, the NCUA Board issued an interim final rule that provided a grandfather exemption for real estate brokerage services if a CUSO was providing that service prior to April 1, 1998. 64 FR 33187 (June 22, 1999). The interim final rule also requested comment on that exemption and whether real estate brokerage services should be reinstated as a permissible activity.

Summary of Comments

The NCUA Board received sixteen comments on the interim final rule: ten from credit unions; two from credit union trade associations; two from state leagues; one from a CUSO trade; and one from a bank trade association. Fifteen of the sixteen commenters were in favor of reinstating real estate brokerage service as a permissible service.

The only negative commenter was a bank trade group. That commenter stated that allowing a CUSO into the "real estate service arena" results in unfair competition because of credit unions' tax advantages.

Some of the reasons stated throughout the comment letters in support of reinstating the service were: there is no evidence that the service presents a safety and soundness risk; if a safety and soundness concern arises with respect to a particular CUSO, NCUA has within its supervisory power the authority to require a credit union to divest itself of the investment; the real estate brokerage services of a CUSO are monitored by state licensing authorities; the CUSO must comply with the code of ethics and standards of practice imposed by the National Association of Realtors; and the service is an important member service because it provides a convenience and possible savings to the member.

Twelve of the fourteen commenters that commented on the grandfather provision were in favor of it. The two negative commenters were the bank trade group discussed above and a credit union trade group. The credit union trade group wants the grandfather exemption eliminated because "real estate brokerage should be reinstated as a permissible activity for all CUSOs."

Final Rule

The Board continues to have concerns with conflicts and the appearance of conflicts between real estate brokerage

CUSOs and the credit unions such CUSOs serve. However, because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as a permissible CUSO service. This final rule eliminates the grandfather exemption and amends § 712.5 so that CUSOs may again engage in real estate brokerage services.

Section 712.5 allows the Board to limit or discontinue a CUSO service if it has supervisory, legal, or safety and soundness concerns. The Board cautions that, if a conflict between the real estate brokerage CUSO and the FCU's loan program arises, the Board may order the FCU to divest its investment in the real estate brokerage CUSO.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under 1 million in assets). The NCUA Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendment to the rule reduces regulatory burden. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule has no effect on reporting requirements in part 712.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The CUSO regulation applies only to FCUs. Thus, the NCUA Board has determined that this interim rule does not constitute a "significant regulatory action" for purposes of the Executive Order. NCUA will continue to work with the state credit union supervisors to achieve shared goals concerning CUSOs with both FCU and state-chartered credit union participation.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A

reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and determined that, for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, this is not a major rule.

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons stated in the preamble, the NCUA amends part 712 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS

1. The authority citation for part 712 will continue to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

2. In § 712.5, redesignate paragraph (p) as paragraph (q) and add a new paragraph (p) to read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * * *

(p) *Real estate brokerage services.*

* * * * *

§ 712.6 [Amended]

3. In § 712.6, remove the designation from paragraph (a), and remove paragraph (b).

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-18-AD; Amendment 39-11430; AD 99-24-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-100, -200, -300, -400, and -500 Series Airplanes; and Model 727-100 and -200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, -300, -400, and -500 series airplanes; and Model 727-100 and -200 series airplanes. This amendment requires a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new or serviceable pump, if necessary. This amendment is prompted by a report that breather plugs were missing from fuel tank boost pumps. The actions specified by this AD are intended to prevent possible ignition of fuel vapor in the fuel tank boost pump, which could result in a fuel tank explosion in the event of a boost pump internal failure.

DATES: Effective January 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2000.

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: Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2684; fax (425) 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 certain Boeing Model 737-100, -200, -300, -400, and -500 series airplanes; and all Model 727-100 and -200 series airplanes; was published in the **Federal Register** on May 10, 1999 (64 FR 24964). That action proposed to require a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new pump, if necessary.

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 Proposal

One commenter supports the proposed rule.

Request To Clarify Part Numbers of Affected Fuel Pump

Two commenters request that Argo-Tech/TRW fuel tank boost pumps subject to the unsafe condition be identified by part number in the proposed rule. The commenters state that there are Argo-Tech/TRW fuel tank boost pumps with certain part numbers that are not subject to the identified unsafe condition. The FAA concurs and has revised the applicability section and paragraph (b) of the final rule accordingly.

Request To Allow Replacement With Serviceable Pumps

One commenter requests that the proposed rule be revised to allow replacement of any discrepant fuel tank boost pump with a serviceable pump. The proposed rule specifies that discrepant fuel tank boost pumps be replaced with new pumps. The commenter states that boost pumps may be overhauled and re-installed on airplanes. The FAA concurs with the commenter that either overhauled or new pumps are acceptable for compliance with this AD. Therefore, paragraph (a) of the final rule has been revised to allow replacement of any discrepant boost pump with a new or serviceable pump.

Request To Reference Additional Service Information

Three commenters request that the proposed rule be revised to reference Boeing Alert Service Bulletin 737-28A1134, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 737 series airplanes); and Boeing Alert Service Bulletin 727-28A0125, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 727 series airplanes); as additional sources of service information. The commenters state that these alert service bulletins provide instructions equivalent to those contained in Boeing Telex M7200-98-03173, dated October 21, 1998 (which is cited in the proposed rule as the appropriate source of service information for accomplishment of the inspection requirements of the proposed AD).

The FAA partially concurs and has revised paragraph (a) of the final rule to cite Boeing Alert Service Bulletin 737-28A1134, Revision 1, and Boeing Alert

Service Bulletin 727-28A0125, Revision 1, as additional sources of service information. However, the original issues of the alert service bulletins incorrectly identify the part numbers of affected fuel tank boost pumps, though the procedures needed to accomplish the required actions of this AD are correctly described. Therefore, a note has been added to the final rule stating that, for the applicable boost pumps, accomplishment of the actions in accordance with the original issues of the alert service bulletins, prior to the effective date of this AD, is acceptable.

Request for Change in Applicability

One commenter requests that the Model 737-500 series airplane be excluded from the applicability of the proposed rule. The commenter states that, to its knowledge, Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition are not approved for installation on the Model 737-500 series airplane. The commenter also requests that boost pumps installed in the main or center fuel tanks of the Model 737-400 series airplane be excluded from the applicability of the proposed rule because, to its knowledge, Argo-Tech/TRW boost pumps subject to the identified unsafe condition are not approved for installation in those fuel tanks on the Model 737-400 series airplane.

The FAA does not concur. The FAA recognizes that Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition were not installed during production in any fuel tank on Model 737-500 series airplanes or in the main or center fuel tanks of Model 737-400 series airplanes. However, the FAA cannot confirm that these boost pumps were not installed as part of a post-production modification to an airplane. Therefore, the FAA continues to require that each operator confirm whether Argo-Tech/TRW boost pumps subject to the identified unsafe condition are installed on its airplanes. No change to the final rule is necessary in this regard.

Request To Extend Compliance Time

One commenter requests that the proposal rule be revised to extend the compliance time from the proposed 6 months to 12 months for the inspection of the fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes. The commenter requests this extension so that affected operators will be able to perform the inspection during a regularly scheduled maintenance interval. The commenter states that the

adoption of the proposed compliance time of 6 months would require operators to schedule special times for the accomplishment of the inspection, at additional expense and downtime.

The FAA does not concur. The operator provided no technical justification for revising this interval as requested. The FAA specifically selected a shorter compliance time for fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes because these fuel tanks have a higher flammability exposure than the other fuel tanks. This is due to the fact that these fuel tanks are warmer than the main fuel tanks and because they are routinely operated until they are dry, exposing the pump return lines directly to flammable fuel vapors. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, the availability of any necessary replacement parts, and the practical aspect of accomplishing the required inspection within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In light of these factors, the FAA has determined that the 6-month compliance time for inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes, as proposed, is appropriate. No change to the final rule is necessary in this regard.

Request To Reduce Compliance Time

One commenter requests that the proposed 6-month compliance time for the inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes be shortened to 3 months, and that the proposed 12-month compliance time for the inspection of boost pumps in the main fuel tanks on Model 737 series airplanes and in center and main fuel tanks on Model 727 series airplanes be shortened to 6 months. This commenter suggests that the proposed compliance time may be too long to allow an airplane to fly with a potential failure that could result in a fuel tank explosion. The commenter notes that the time required to carry out the inspections will have minimal impact on airplane operations.

The FAA does not concur with the request for a shorter compliance time. In developing the proposed compliance time, the FAA considered the probability of a fuel tank explosion occurring on any of these airplanes due

to a missing breather plug. The FAA determined that the occurrence of a fuel tank ignition event is improbable; therefore, more urgent action is not necessary. In making this determination, the FAA has taken into account the conditions that are required for a missing breather plug to cause a fuel tank explosion. Specifically, the FAA considered the probability of an in-service fuel tank boost pump missing a breather plug (based on inspections that had been conducted on over 1,050 fuel pumps), the probability of a boost pump failure that would cause an internal ignition inside the pump, and the probability of fuel vapors in the fuel tank being flammable. The proposed compliance times were determined to be appropriate in consideration of the safety implications, the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of required replacement parts. No change to the final rule is necessary in this regard.

Request To Revise Compliance Time

One commenter requests that the proposed rule be revised to provide an extension of the compliance time for any airplane that is out of service for heavy maintenance for a long period of time. The commenter suggests the compliance time should be within 6 months (or 12 months) after the effective date of this AD, or prior to further flight, whichever occurs later.

The FAA does not concur with the commenter's request; however, the FAA agrees with the commenter's intent. Part 39 of the Federal Aviation Regulations (14 CFR part 39) states that, "No person may operate a product to which an airworthiness directive applies except in accordance with the requirements of that airworthiness directive." This regulation provides compliance relief for airplanes that are not being operated, because affected airplanes need only be in compliance prior to return to operation. No change to the final rule is necessary in this regard.

Request for Credit for Previously Accomplished Actions

Two commenters request that a statement be added to the proposed rule to clarify that no further action is required for airplanes that have already accomplished the actions specified in the proposed rule. The FAA agrees that no further action is required for these airplanes. Operators are always given credit for previously accomplished actions by means of the phrase in the compliance section of the AD that

states, "Required . . . unless accomplished previously." Therefore, no change to the final rule is necessary in this regard.

Explanation of Change Made to Proposal

The airplane manufacturer has revised the instructions in the airplane maintenance manual (AMM) sections specified in paragraph (a) of the proposed rule to include, prior to installation of a new fuel tank boost pump, a check of the vent port to ensure that a breather plug is installed. The FAA finds that this check is appropriate. Therefore, the FAA has revised paragraph (a) of the final rule to specify that, after the effective date of the final rule, only Section 28-22-41 of the Boeing 737 AMM, dated May 1, 1999, or Section 28-22-21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used.

The FAA also has added a note to the final rule to clarify the definition of a detailed visual inspection.

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 2,477 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,345 airplanes of U.S. registry will be affected by this AD. It will take approximately 2 work hours per fuel tank boost pump to accomplish the required actions at an average labor rate of \$60 per work hour. (There are 6 boost pumps in the center and main fuel tanks on Model 737 series airplanes, 8 boost pumps in the center and main fuel tanks on Model 727 series airplanes, and 2 boost pumps in each auxiliary fuel tank, which may be installed on some affected airplanes of both models.) Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$120 per boost pump.

The cost impact figure discussed above is 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 adding the following new airworthiness directive:

99-24-06 Boeing: Amendment 39-11430. Docket 99-NM-18-AD.

Applicability: Model 737-100, -200, -300, -400, and -500 series airplanes; and Model 727-100 and -200 series airplanes; certificated in any category; equipped with Argo-Tech/TRW fuel tank boost pumps having part numbers 258000-2, -3, and -5, or 382300-1, -2, and -3.

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 (c) 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 possible ignition of fuel vapor in the fuel boost pump, which could result in a fuel tank explosion, accomplish the following:

Inspection and Corrective Actions

(a) Perform a one-time detailed visual inspection to detect discrepant breather plugs (including loose, damaged, and missing plugs) in the fuel tank boost pumps, at the time specified in paragraph (a)(1) or (a)(2), as applicable, of this AD; in accordance with Boeing Telex M-7200-98-03173, dated October 21, 1998; or Boeing Alert Service Bulletin 737-28A1134, Revision 1, dated June 10, 1999 (for Model 737 series airplanes); or Boeing Alert Service Bulletin 727-28A0125, Revision 1, dated June 10, 1999 (for Model 727 series airplanes). If any discrepancy is detected, prior to further flight, either install a new breather plug in accordance with Temporary Revision (TR) No. 28-1 of the Argo-Tech Overhaul Manual, dated November 13, 1998, or the alert service bulletins; or replace the boost pump with a new or serviceable pump, in accordance with procedures specified in Section 28-22-41 of the Boeing 737 Airplane Maintenance Manual (AMM), or Section 28-22-21 of the Boeing 727 AMM, as applicable. After the effective date of this AD, only Section 28-22-41 of the Boeing 737 Airplane Maintenance Manual (AMM), dated May 1, 1999, or Section 28-22-21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used for replacement of the boost pump.

(1) For center fuel tanks installed on Model 737 series airplanes, and for auxiliary fuel tanks installed on Model 727 and 737 series airplanes: Inspect within 6 months after the effective date of this AD.

(2) For main fuel tanks installed on Model 737 series airplanes, and for center and main fuel tanks installed on Model 727 series airplanes: Inspect within 12 months after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: For Argo-Tech/TRW fuel tank boost pumps, part numbers 258000-2, -3, and -5, and 382300-1, -2, and -3: Accomplishment of the actions specified in paragraph (a) of

this AD, prior to the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737-28A1134, dated February 23, 1999 (for Model 737 series airplanes), or Boeing Alert Service Bulletin 727-28A0125, dated February 23, 1999 (for Model 727 series airplanes), is acceptable for compliance with this AD.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane an Argo-Tech/TRW fuel tank boost pump having the part number 258000-2, -3, or -5; or 382300-1, -2, or -3; unless that pump has been inspected and applicable corrective actions have been performed in accordance with the requirements of this AD.

Alternative Methods of Compliance

(c) 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.

Special Flight Permits

(d) 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

(e) The inspection and installation shall be done in accordance with Boeing Telex M-7200-98-03173, dated October 21, 1998; Boeing Alert Service Bulletin 737-28A1134, Revision 1, dated June 10, 1999; Boeing Alert Service Bulletin 727-28A0125, Revision 1, dated June 10, 1999; or Temporary Revision No. 28-1 of the Argo-Tech Overhaul Manual, dated November 13, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. 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.

(f) This amendment becomes effective on January 3, 2000.

Issued in Renton, Washington, on November 17, 1999.

D.L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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