Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(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) The actions shall be done in accordance with Jetstream Service Bulletin J41–32–023, dated May 27, 1996. 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 Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. 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.

(e) This amendment becomes effective on August 28, 1996.

Issued in Renton, Washington, on August 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–20427 Filed 8–12–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–04–AD; Amendment 39–9712; AD 96–17–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100 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 and –200 series airplanes, that requires inspections to detect cracking of the support fittings of the Krueger flap actuator and, if necessary, replacement of existing fittings with new steel fittings and modification of the aft attachment of the actuator. This amendment is prompted by reports of cracking due to fatigue and stress corrosion of the support fittings of the Krueger flap actuator. The actions specified by this AD are intended to prevent such cracking, which could result in fracturing of the actuator attach lugs, separation of the actuator from the support fitting, severing of the hydraulic lines, and resultant loss of hydraulic fluids. These conditions, if not corrected, could result in possible failure of one or more hydraulic systems, and subsequent reduced controllability of the airplane.

DATES: Effective September 17, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 17, 1996.

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: Della Swartz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2785; 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 certain Boeing Model 737–100 and –200 series airplanes was published in the Federal Register on March 13, 1996 (61 FR 10294). That action proposed to require inspections to detect cracking of the support fittings of the Krueger flap actuator and, if necessary, replacement of existing fittings with new steel fittings and modification of the aft attachment of the actuator.

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 proposal.

Request to Revise Proposed Inspection Requirements

The Air Transport Association (ATA), on behalf of its member operators, requests that the proposed requirement to perform repetitive eddy current inspections be replaced with a requirement to perform close visual inspections at 3,000-flight hour intervals, followed by an eddy current inspection or replacement of the fitting within a 4-year period. This commenter maintains that this alternative inspection program is:

1. More consistent with the recommendations of the airframe manufacturer;
2. Equivalent in safety to that proposed in the notice; and
3. More cost effective.

Further, this commenter states that, while the proposed eddy current inspection may be viewed as a more critical inspection process, it is not necessary to respond to the airworthiness concern. This commenter contends that, in order to determine whether a more stringent process is required (i.e., more stringent than the manufacturer's recommendations), the FAA should review service history data to determine whether cracking of the subject support fittings has actually become a fleet-wide problem. The commenter maintains that, while the one incident described in the preamble to the notice was certainly of concern, there is insufficient data to indicate that cracked support fittings is an industry problem.

The FAA does not concur. As explained in the preamble to the notice, the subject cracking in the fittings is attributed to stress corrosion combined with fatigue. The crack growth rate for such cracking is not known; however, it is known that material that the fitting is made from, 7075–T6 aluminum, is highly susceptible to stress corrosion cracking and has low toughness. It is also known that the critical crack size for this fitting is 0.165 inch. Cracks of this small size cannot be found with a high degree of confidence using a visual inspection technique. An eddy current inspection is a much more reliable method of finding such small cracks.

As for the service history of the subject problem, there have been several reports of cracking found in actuator attach support fitting assemblies on a number of in-service Model 737 series airplanes. There also have been two accidents involving hydraulic system failures that were associated with the failure of the actuator attach lugs on the support fittings. The FAA considers this a sufficient amount of service history to demonstrate that a potential unsafe condition associated with the subject cracking exists in airplanes equipped with the subject fittings.

In light of the small critical crack size, the high susceptibility to stress corrosion cracking of 7075–T6 material, and the ample service history relative to the addressed unsafe condition, the FAA does not find that the commenter's suggested alternative inspection program would provide an acceptable level of safety compared to that required by this final rule.

Request to Revise Proposed Inspection Intervals

One commenter requests that the proposed inspections be required in terms of flight cycles, rather than in terms of time-in-service. The commenter states that, because fatigue cracking of the actuator support fitting is caused by cycling of the Krueger flap, the maximum inspection intervals should be limited by flight cycles, not flight hours.

The FAA does not concur. The cracking mechanism associated with the addressed problem is stress corrosion cracking combined with fatigue. Although the commenter is correct that fatigue is cycle-driven, stress corrosion cracking is time-or flight hour-driven, since it is caused by a sustained tensile stress in a corrosive environment. Therefore, the FAA finds that a flight hour (time-in-service) inspection interval is appropriate for these inspections.

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 as proposed.

Cost Impact

There are approximately 727 Model 737–100 and –200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 270 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane (6 work hours per wing) to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $194,400, or $720 per airplane, per inspection.

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:

96–17–04 Boeing: Amendment 39–9712. Docket 96–NM–04–AD.

Applicability: Model 737–100 and –200 series airplanes, line positions 001 through 813 inclusive, 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 (d) 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 failure of one or more hydraulic systems and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within one year after the effective date of this AD, perform an eddy current inspection to detect cracking of the support fitting of the Krueger flap actuator, in accordance with Boeing Service Bulletin 737–57–1129, Revision 1, dated October 30, 1981, as revised by Notices of Status Change 737–57–1129NSC1, dated July 23, 1982; 737–57–1129 NSC2, dated April 14, 1983; and 737–57–1129 NSC 3, dated May 18, 1995.

(1) If no cracking is found, repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 3,000 hours time-in-service.

(2) If any cracking is found, prior to further flight, accomplish the replacement and modification specified in paragraph (b) of this AD.

(b) Replacement of the support fitting with a steel fitting and modification of the actuator aft attachment in accordance with Boeing Service Bulletin 737–57–1129, Revision 1, dated October 30, 1981, as revised by Notices of Status Change 737–57–1129NSC1, dated July 23, 1982; 737–57–1129 NSC2, dated April 14, 1983; and 737–57–1129 NSC 3, dated May 18, 1995; constitutes terminating action for the repetitive inspections required by this AD.

(c) As of the effective date of this AD, no person shall install a support fitting having part number 69–37892–9, 69–37892–10, 69–37893–1, or 69–37893–2 on the Krueger flap actuator of any airplane.

(d) 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.

(e) 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.

(f) The inspections, replacement, and modification shall be done in accordance with Boeing Service Bulletin 737–57–1129, Revision 1, dated October 30, 1981, as revised by Notice of Status Change 737–57–1129NSC1, dated July 23, 1982; Notice of Status Change 737–57–1129 NSC2, dated April 14, 1983; and Notice of Status Change 737–57–1129 NSC 3, dated May 18, 1995. 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.

(g) This amendment becomes effective on September 17, 1996.

Issued in Renton, Washington, on August 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–20426 Filed 8–12–96; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5551–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Whitewood Creek Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Whitewood Creek Site (Site) in Butte, Meade and Lawrence Counties, South Dakota, from the National Priorities List (NPL). The NPL is Appendix B of title 40 of the Code of Federal Regulations part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA in consultation with the state of South Dakota have determined that the Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA, other than required operations and maintenance (O&M), are appropriate.

EFFECTIVE DATE: August 13, 1996.

FOR FURTHER INFORMATION CONTACT: Michael H. McCeney, Remedial Project Manager, U. S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mailcode: 8EPR–SR, Denver, CO 80202, telephone (303)–312–7023.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: The Whitewood Creek Site in Butte, Meade, and Lawrence Counties, South Dakota.

A Notice of Intent to Delete for this site was published on November 30, 1995, (60 FR 61507). The closing date for comments on the Notice of Intent to Delete was January 2, 1996. Three comments were received during the comment period. Two of the comments received voiced support for the proposed action. In response, EPA agrees that the Site should be deleted from the NPL.

The third comment was from a landowner and current resident at the Site. The commenter was concerned with two aspects of the remedy implemented at the Site: (1) The impacts that the remedy will have on property values at the Site, and (2) the long-term effectiveness of the remedy given the potential for re-contamination of remediated areas at the Site.

In response to the first concern, EPA recognizes that the Superfund law has inadvertently had adverse effects on real estate values and transactions. These problems typically arise as a result of concerns on the part of lending institutions. Three common concerns expressed by lenders are: (1) The uncertainty associated with not knowing what cleanup actions EPA might ultimately require at a site; (2) the fear that the lender may assume liability in the event that they take possession of a Superfund site through foreclosure of loans; and (3) the fear that the loan applicant might be held liable for cleanup costs at a site.

At the Whitewood Creek Site, the first lender concern probably does not apply since EPA has determined that the Site poses no significant threat to public health and the environment and that all required response actions, except for required O&M, have been completed at the Site. All O&M, except that related to future land development at the Site, is the responsibility of the Homestake Mining Company (Homestake) under the terms of a consent decree with EPA.

To help allay the second lender concern, EPA has implemented a policy whereby lenders will not be held liable as a result of foreclosures on loans. EPA set forth this policy in a memorandum entitled ''Policy on CERCLA Enforcement Against Lenders and Government Entities that Acquire Property Involuntarily'', dated September 22, 1995.

To help allay the third concern of lenders, in situations where a Superfund site is used for residential purposes, EPA implemented a policy whereby residential landowners will not be held responsible for response costs related to cleanup at their property. This policy is set forth in EPA Office of Solid Waste and Emergency Response directive number 9834.6, dated July 3, 1991.

EPA believes that these and other policies have successfully curtailed many of the effects that Superfund sites may have had on property values. If lenders do have concerns over granting loans on Whitewood Creek Superfund Site property, EPA Region VIII staff are available to discuss those concerns and provide information necessary to help resolve the situation.

In response to the commentor's second concern, EPA acknowledges that, given the nature of the residual contamination which remains at the Whitewood Creek Site, there is a potential for recontamination to occur in residential areas that were cleaned up as part of the remedy. For this reason, EPA is required to assess the conditions at the Site no less often than once every five years following the start of remedial action at the Site. The first five year review at the Site will therefore take place in 1996. As part of the five year review, Homestake, under the terms of a consent decree with EPA, will conduct soil sampling in residential yards cleaned up as part of the remedy. Any yards that are found to be recontaminated above the action level set forth in the ROD (100 milligrams per kilogram arsenic) will be cleaned up again by Homestake. Deletion of the Site from the NPL does not affect this process nor does it affect Homestake's obligations under the Consent Decree.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future, NCP § 300.425(e)(3) of the NCP. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 1, 1996.

Max H. Dodson,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR,