Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0036; Directorate Identifier 2009–NM–077–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–200, –200C, –300, –400, and– 500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model 737–200, –200C, –300, –400, and– 500 series airplanes. This proposed AD would require repetitive inspections for cracking and corrosion of the skin and surrounding structure under the number 3 very high frequency (VHF) antenna, and corrective actions if necessary. Also, for certain airplanes, this proposed AD would require replacing bonded skin panels with solid skin panels. This proposed AD results from reports of cracks in the skin and surrounding structure under the number 3 VHF antenna on the lower external surface of the airplane at Buttock Line 0.0, aft of the main landing gear wheel well. We are proposing this AD to detect and correct cracks and corrosion of the skin and surrounding structure under the number 3 VHF antenna, which could result in separation of the antenna from the airplane, and rapid depressurization of the airplane.

DATES: We must receive comments on this proposed AD by June 1, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0036; Directorate Identifier 2009–NM–077–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of cracks of the skin and surrounding structure under the number 3 (very high frequency) VHF antenna on the lower external surface of the airplane at Buttock Line 0.0, aft of the main landing gear wheel well on Model 737–200, –200C, –300, –400, and– 500 series airplanes. One report indicated there was a 15-inch longitudinal crack in the skin near Buttock Line 0.0 just forward of the number 3 VHF antenna cutout, running forward. The first 14 inches of the crack was hidden beneath the number 3 VHF antenna. Five other reports indicated there were skin cracks between 1.5 and 3 inches in length in the same area. The reports also indicated that the main antenna support channel and other support structure were cracked. The earliest reported cracks were at 18,289 flight cycles. This condition, if not corrected, could result in crack growth, possibly leading to separation of the antenna from the airplane, and rapid depressurization of the airplane.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009. The service bulletin describes procedures for repetitive external detailed and external high frequency eddy current (HFEC) inspections for cracking and corrosion in the skin; and repetitive internal detailed inspections for cracking and corrosion in the skin, antenna support structure, and surrounding frames and stringers; depending on the airplane configuration. For Group 1–4, configuration 2 airplanes, having a cover plate at the number 3 VHF antenna location, accomplishing the HFEC inspection eliminates the need for repetitive external detailed inspections.

Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, also specifies contacting Boeing

for certain inspection instructions, and for all repair instructions.

The initial compliance time is 15,000 total flight cycles, or within 1,100 or 6,000 flight cycles (depending on configuration and inspection type) from the date on the service bulletin, whichever occurs later, for the following inspections:

- External detailed inspections for any crack in the skin;
- External HFEC inspections for any crack in the skin;
- Internal detailed inspection for any crack in the skin, antenna support structure, and surrounding frames and stringers; and
- Internal detailed inspection for any crack or corrosion in the skin, antenna support structure, and surrounding frames and stringers.

The initial compliance time is within 18,000 flight cycles (depending on configuration and inspection type) from the date on the service bulletin, for the following inspections:

- External detailed and HFEC inspection for any crack or corrosion in the skin; and
- Internal detailed inspection for any crack or corrosion in the skin.

The repetitive inspection intervals, which depend on the airplane configuration and inspection type, range between 1,100 flight cycles and 18,000 flight cycles.

Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, specifies prior or concurrent accomplishment, for certain airplanes, of the replacement of bonded skin panels with solid skin panels in accordance with Part 5 of Boeing Service Bulletin 737–53A1042, Revision 5, dated October 5, 1984. The actions specified in Boeing Service Bulletin 737–53A1042, Revision 5, dated October 5, 1984, are necessary to comply with AD 90–06–02, Amendment 39–6489 (55 FR 8372, March 7, 1990).

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the Proposed AD and Service Bulletin."

Difference Between the Proposed AD and Service Bulletin

Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings.

Interim Action

We consider this proposed AD interim action. If final action is later identified, we might consider further rulemaking then.

Costs of Compliance

We estimate that this proposed AD would affect 1,016 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection	Between 3 and 9.	$85	None	Between $255 and $765, per inspection cycle.	629	Between $160,395 and $481,185, per inspection cycle.
Concurrent Replacement for Group 2 airplanes.[1]	2,112	$85	$35,000	$214,520	387	$83,019,240.

[1] The concurrent modification for Group 2 airplanes required by this AD is already required by AD 90–06–02. AD 90–06–02 mandated the skin replacement per Boeing Service Bulletin 737–53A1042 within 20 years of the manufacture date of the airplane. All group 2 airplanes have exceeded the 20-year threshold.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866,

2. Is not a "significant rule" under the 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by adding the following new AD:

The Boeing Company: Docket No. FAA–2010–0036; Directorate Identifier 2009–NM–077–AD.

Comments Due Date

(a) We must receive comments by June 1, 2010.

Affected ADs

(b) AD 90–06–02, Amendment 39–6489, affects this AD.

Applicability

(c) This AD applies to The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reports of cracks of the skin and surrounding structure under the number 3 very high frequency (VHF) antenna on the lower external surface of the airplane at Buttock Line 0.0, aft of the main landing gear wheel well. The Federal Aviation Administration is issuing this AD to detect and correct cracks and corrosion of the skin and surrounding structure under the number 3 VHF antenna, which could result in separation of the antenna from the airplane, and rapid depressurization of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspections

(g) Except as required by paragraphs (m) and (n) of this AD, at the applicable time in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009: Do external detailed and high frequency eddy current (HFEC) inspections for cracking in the skin, and for cracking and corrosion in the skin, as applicable; and an internal detailed inspection for cracking or corrosion in the skin, antenna support structure, and surrounding frames and stringers, under the number 3 VHF antenna, as applicable; in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, except as provided by paragraph (h) of this AD. Repeat the inspections, as applicable, thereafter at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009 except as provided by paragraph (i) of this AD.

(h) For airplanes on which any external detailed, or external detailed and HFEC inspection is done, and an external doubler exists under the cover plate that extends a minimum of 3 rows of fasteners all around the cover plate: Do the applicable inspections on the doubler instead of the skin.

(i) For Group 1–4, configuration 2 airplanes having a cover plate at the number 3 VHF antenna location: Accomplishing the HFEC inspection terminates the repetitive external detailed inspections.

Corrective Actions

(j) If any cracking or corrosion is found during any inspection required by this AD, before further flight, repair the crack or corrosion using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

Concurrent Requirement

(k) For Group 2 airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009: Before or concurrently with accomplishing the requirements of paragraph (g) of this AD, replace the bonded skin panels with solid skin panels, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1042, Revision 9, dated July 25, 1991.

Note 1: The concurrent requirement for replacement of bonded skin panels with solid skin panels is already required by AD 90–06–02, Amendment 39–6489.

Replacements Accomplished According to Previous Issue of Service Bulletin

(l) Replacements accomplished before the effective date of this AD in accordance with the Accomplishment Instructions of the service bulletins specified in Table 1 of this AD are considered acceptable for compliance with the corresponding action specified in paragraph (k) of this AD.

TABLE 1—PREVIOUSLY ISSUED SERVICE BULLETIN

Document	Revision	Date
Boeing Service Bulletin 737–53A1042	5	October 5, 1984.
Boeing Service Bulletin 737–53A1042	6	August 10, 1989.
Boeing Service Bulletin 737–53A1042	7	October 19, 1989.
Boeing Service Bulletin 737–53A1042	8	July 19, 1990.

Exceptions to Service Bulletin

(m) Where Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, specifies a compliance time after the date on that service bulletin, this AD requires compliance after the effective date of this AD.

(n) The Compliance Time column of Table 5 of paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, is missing the phrase "(Whichever Occurs Later)." Compliance with the actions in the Action column of Table 5 of paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009, is required by the later of the corresponding times specified in the Compliance Time column of Table 5 of paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1287, dated March 11, 2009.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington on April 2, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–8570 Filed 4–14–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2003–0064; FRL–9133–7]

RIN 2060–AP80

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation; Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to a proceeding for reconsideration, the EPA requests comment on a Clean Air Act (CAA) rule, the New Source Review (NSR) Aggregation Amendments, which was promulgated on January 15, 2009. The NSR Aggregation Amendments established a new interpretation of the existing NSR rules governing the modification of major sources by requiring sources and permitting authorities to combine emissions from nominally-separate activities at a major stationary source only when the activities are "substantially related." This proposed reconsideration is in response to a petition from the Natural Resources Defense Council (NRDC) received on January 30, 2009. EPA requests public comment on all issues included in NRDC's petition. In light of the legal and policy issues raised in the petition and in our own review of the rule, EPA's preferred option is to revoke the NSR Aggregation Amendments. EPA is also proposing to extend the effective date of the stay by an additional 6 months, and soliciting comment on a longer extension of the stay.

DATES: *Comments.* Comments must be received on or before May 17, 2010.

Public Hearing. If anyone contacts EPA requesting the opportunity to speak at a public hearing concerning the proposed regulation by April 26, 2010, EPA will hold a public hearing on April 30, 2010. If a hearing is held, the record for the hearing will remain open until June 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0064, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mail code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to the applicable docket. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1742, and the telephone number for the Air Docket is (202) 566–1744.

Public Hearing. If a public hearing is held, it will be held in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. David Svendsgaard, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541–2380; fax number: (919) 541–5509, e-mail address: *svendsgaard.dave@epa.gov.*

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Air Quality Policy Division (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0641; fax number (919) 541–5509; e-mail address: *long.pam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this sction spply to me?

Entities potentially affected by this action include sources in all industry groups and state, local, and tribal governments.

B. How is this preamble organized?

The preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. How is this preamble organized?
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B. What events have led to this action?
III. This Action
A. What is the standard for reconsideration?
B. What issues are being reconsidered?
C. Key Issues Under Reconsideration
1. Lack of Adequate Opportunity for Notice and Comment on the Adopted Rule
2. Rule may be Inconsistent with a Court of Appeals Decision for Previous NSR Rule
a. Background for Our Historic Approach
b. Our Explanation of Our Authority in the NSR Aggregation Amendments
c. The CAA Requires Aggregation of Nominally-Separate Changes When They Collectively can be Seen as One Change
3. Questioning the Need for a Policy Change
4. State Plan Adoption
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