

Scientific name	Common name	Dose (gray)
Ceratitis capitata .....	Mediterranean fruit fly .....	100

\* \* \* \* \*

Done in Washington, DC, this 6th day of October, 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-25120 Filed 10-16-09; 8:45 am]

**BILLING CODE: 3410-34-S**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0295; Directorate Identifier 2007-NM-298-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 757 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier proposed airworthiness directive (AD) for all Boeing Model 757-200, -200PF, -200CB, and -300 series airplanes. The original NPRM would have required an inspection of the two spring arms in the spin brake assemblies in the nose wheel well to determine if the spring arms are made of aluminum or composite material, and repetitive related investigative/corrective actions if necessary. The original NPRM resulted from reports of cracked and broken aluminum springs. This action revises the original NPRM to include a parts installation paragraph and to provide options for terminating the repetitive actions. We are proposing this supplemental NPRM to detect and correct cracked or broken springs. A cracked or broken spring could separate from the airplane and result in potential hazard to persons or property on the ground, or ingestion into the engine with engine damage and potential shutdown, or damage to the airplane.

**DATES:** We must receive comments on this supplemental NPRM by November 13, 2009.

**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](mailto: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 or 425-227-1152.

#### 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:** Chris Hartman, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6432; 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-2008-0295; Directorate Identifier 2007-NM-298-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 issued a notice of proposed rulemaking (NPRM) (the "original NPRM") to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 757-200, -200PF, -200CB, and -300 series airplanes. That original NPRM was published in the **Federal Register** on March 13, 2008 (73 FR 13492). That original NPRM proposed to require an inspection of the two spring arms in the spin brake assemblies in the nose wheel well to determine if the spring arms are made of aluminum or composite material, and repetitive related investigative/corrective actions if necessary.

#### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the seven commenters.

#### Request To Refer to Revision 1 of the Service Bulletin

Boeing and Air Transport Association (ATA), on behalf of its member American Airlines (AAL), request that we include Revision 1 of Boeing Special Attention Service Bulletin 757-32-0176, dated October 16, 2008, in the AD. (We referred to the original issue, Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, as the appropriate source of service information in the original NPRM.) Boeing points out that the

revision will include a preferred alternative replacement part made from corrosion-resistant steel (CRES), as well as the current options allowed in the original issue of the service bulletin. The commenters state that including Revision 1 of the service bulletin in the AD would eliminate the need for additional rulemaking.

We agree with the request to include Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, as the appropriate source of service information in this supplemental NPRM. Other changes in Revision 1 include changes throughout the service bulletin to include references to the alternative replacement part, and other editorial changes such as “springs” (instead of “spin brake spring arms”) and “Toe Piece” (instead of “Toe Plate”). Revision 1 of the service bulletin also includes a new Figure 7, which includes steps for assembling the new spin brake assembly with a composite ring. We have therefore revised all applicable sections in this AD to refer to “springs” instead of “spring arms” to match the description in Revision 1 of the service bulletin.

We have also revised paragraph (f) of the original NPRM (paragraph (g) of this supplemental NPRM) to refer to Revision 1 of the service bulletin. Additionally, we have added a new paragraph (i) to this supplemental NPRM to specify that replacement of an aluminum spin brake assembly with a spin brake assembly made of CRES is an optional terminating action for the repetitive inspections specified in paragraph (g) of this supplemental NPRM for that spring. In addition, we have included a new paragraph (k) in this supplemental NPRM to give credit to operators who have accomplished the actions in accordance with Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007.

#### **Request To Address Interchangeability of Parts**

ATA, on behalf of its member Delta Airlines (DAL), requests that we address the interchangeability of spring arms. DAL states that the original NPRM implies the inspection to determine the type of spring arm is done once in the lifetime of the airplane. DAL further states that aluminum spring arms and composite spring arms are interchangeable; therefore, the spring arm could be changed from one to the other type at any time in the life of an airplane. DAL contends that repetitive inspections to determine the type of spring arm should be required for all airplanes unless it can be proven that

aluminum brake arms are not installed and never will be.

We agree that the issue of interchangeability of spring arms needs to be clarified, although we disagree with the request to add a repetitive inspection to determine the type of spring arm. We have, instead, added a new paragraph (j) to this supplemental NPRM to specify that, as of the effective date of the proposed AD, no person may install an aluminum spring arm on any airplane unless it has been inspected and all applicable related investigative and corrective actions have been applied in accordance with the requirements of paragraph (g) of this supplemental NPRM.

#### **Request To Allow Alternative Procedure**

Northwest Airlines (NWA), and ATA on behalf of its member DAL, request that we allow replacement of the brake arm in accordance with the Boeing 757 Airplane Maintenance Manual (AMM) 32-45-05, Nose wheel spin brake—maintenance practices. NWA states that these procedures have been in place for a long time and are equivalent to the procedures for the replacement specified in Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007. The commenters assert that including a note stating that the AMM is acceptable as an alternative procedure would alleviate compliance concerns if the replacement was or is done in accordance with the AMM procedures, but not concurrently with the inspection proposed in the original NPRM.

We agree with the commenters that the procedures in the service bulletin and in the AMM are equivalent. However, Part 5 of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, already refers to the AMM procedures; therefore, it is not necessary for us to revise the supplemental NPRM to include a reference to the AMM. We have not changed this supplemental NPRM in this regard.

#### **Requests To Clarify Compliance Times**

ATA, on behalf of its member AAL, requests that we revise the NPRM to clarify the compliance times. AAL explains that the original NPRM refers to paragraph 1.E., “Compliance,” of Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, as the source for compliance times. However, AAL notes that the table in paragraph 1.E. guides operators to perform the actions in accordance with Parts 2, 3, and 4 of the Accomplishment Instructions of Boeing

Special Attention Service Bulletin 757-32-0176, dated September 10, 2007. Part 2 includes a note that states that Parts 3 and 4 “must be done” at the same time as Part 2 where aluminum spin break arms are installed; AAL states that this note is incorrect.

We agree with the commenter that Parts 2, 3, and 4 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, do not need to be done simultaneously. Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, revised Part 2 to specify that Parts 3 and 4 “can be done” at the same time. The compliance times in paragraph 1.E., “Compliance,” are correct; therefore, we have not changed the supplemental NPRM in this regard.

#### **Request To Clarify Part 1 and Part 6 Compliance**

ATA, on behalf of DAL, requests that we address providing for access and close-up at times convenient to the operators’ maintenance schedules. DAL notes that Parts 1 and 6 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, spell out access and close-up requirements. DAL states that operators might wish to combine the inspection proposed in the original NPRM with other maintenance visits where access is already available. DAL states that tracking compliance for access and close-up tasks using the procedures specified in the original NPRM would add paperwork without value. DAL requests that we add a note to the supplemental NPRM that states that Parts 1 and 6 of the Accomplishment Instructions are for operator use and that compliance documentation is not required.

We disagree with the request to change this supplemental NPRM to state that Parts 1 and 6 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, are for operator use only. Both Note 7 under paragraph 3.A. of Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, and Note 8 under paragraph 3.A. of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, give provisions for operators to use other accepted alternative procedures for actions specified in the Accomplishment Instructions when the words “refer to” are used. Those words are used in both Parts 1 and 6 of the Accomplishment Instructions. In addition, although these actions are

necessary to accomplish the inspections, Boeing Special Attention Service Bulletin 757–32–0176, Revision 1, dated October 16, 2008, provides alternative methods for access and close-up, as defined in Notes 5 and 6 under paragraph 3.A. of the Accomplishment Instructions. Since the suggested note is already contained in the Accomplishment Instructions of the service bulletin, no additional notes are necessary in this supplemental NPRM. We have not changed this supplemental NPRM in either regard.

#### **Request To Address Ferry Permits**

ATA, on behalf of DAL, requests that we state that since removal of the brake arms is allowed by the Minimum Equipment List (MEL), no ferry permit information is included in this supplemental NPRM. The commenter points out that many ADs include language regarding ferry flights.

We disagree with the request to address ferry permits (also called “special flight permits”) in this supplemental NPRM. As specified in the “Relevant Service Information” section of the original NPRM, Boeing Special Attention Service Bulletin 757–32–0176, dated September 10, 2007, states that the airplane can be operated for 10 calendar days with the spin brake spring arms removed provided the airplane is operated within the restrictions given in the Boeing 757 Master Minimum Equipment List (MMEL). If necessary, special flight permits, and the process for applying for them, are described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199); it is not necessary to change this supplemental NPRM in this regard.

#### **Request To Revise Cost Estimate**

Continental Airlines (CAL) believes that the cost estimate given in the original NPRM is relatively low as it assumes zero fallout. If CAL decides either to accomplish the recommended terminating action (which would be to install a CRES spring arm) due to a crack or to avoid the repetitive inspections, it will not only cost around \$10,000 for parts and labor per spring arm, but will add weight to the airplane, making for additional yearly fuel costs.

We infer that CAL would like us to revise the “Costs of Compliance” section of the original NPRM. We disagree. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include the cost of

optional actions, although we recognize that doing the optional terminating action imposes additional operational costs. We have not changed this supplemental NPRM in this regard.

#### **Requests To Clarify Inspections**

NWA and CAL request that we clarify the inspections. CAL believes that the visual and high-frequency eddy current (HFEC) inspections are redundant and give somewhat contradictory information about the failure mode of the spring arm. CAL recommends that Boeing and the FAA review the inspection intervals again before the next revision of the service bulletin. NWA finds it unusual that Boeing Special Attention Service Bulletin 757–32–0176, dated September 10, 2007, has two separate and parallel inspection programs to look for cracking in the subject spring arms. One inspection program is a 300-cycle repetitive general visual inspection and the other is a 1,500-cycle repetitive HFEC inspection. NWA asks the FAA to work with Boeing to clarify that these inspections are either parallel to or optional to each other.

We disagree that the inspections are redundant. The manufacturer has determined that both inspections are needed for the required Damage Tolerance Rating (DTR). The manufacturer states that analytical crack growth and residual strength do not match the cracking found in service, and that there are several variables that can affect the stress in the part. The HFEC inspection is the minimum required at the longer 1,500-flight-cycle intervals, while the general visual inspection provides added safety for cracking at 300 flight cycle intervals. Therefore, both the general visual and the HFEC inspections are necessary to meet the DTR. We have not changed this supplemental NPRM in this regard.

#### **Request To Revise Repetitive Inspection Interval**

Air Astana requests that we consider the possibility of revising the repetitive interval from 1,500 flight cycles to 1,800 flight cycles. Air Astana points out that its fleet of Model 757–200 airplanes accumulates 1,800 flight cycles between C-checks.

We disagree with the request to revise the repetitive inspection intervals. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most

affected operators. These maintenance schedules can vary greatly from operator to operator. However, according to the provisions of paragraph (l) of this supplemental NPRM, we may approve a request to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have not changed this supplemental NPRM in this regard.

#### **FAA’s Determination and Proposed Requirements of the Supplemental NPRM**

We are proposing this supplemental NPRM because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design. Certain changes described above expand the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

#### **Explanation of Additional Paragraph in the Supplemental NPRM**

We have added a new paragraph (d) to this supplemental NPRM to provide the Air Transport Association (ATA) of America code. This code is added to make this supplemental NPRM parallel with other new AD actions. We have reidentified subsequent paragraphs accordingly.

#### **Costs of Compliance**

We estimate that this proposed AD would affect 668 airplanes of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this proposed AD for U.S. operators to be \$53,440, or \$80 per product.

#### **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:

**Boeing:** Docket No. FAA-2008-0295; Directorate Identifier 2007-NM-298-AD.

#### Comments Due Date

(a) We must receive comments by November 13, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all Boeing Model 757-200, -200PF, -200CB, and -300 series airplanes, certificated in any category.

### Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

### Unsafe Condition

(e) This AD results from reports of cracked and broken aluminum springs. We are issuing this AD to detect and correct cracked or broken springs. A cracked or broken spring could separate from the airplane and result in potential hazard to persons or property on the ground, or ingestion into the engine with engine damage and potential shutdown, or damage to the airplane.

### Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

### Inspections and Corrective Actions

(g) At the applicable time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, except that where Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, specifies a compliance time after the date "on this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD: Do a general visual inspection to determine the material (aluminum or composite) of the two springs in the spin brake assemblies in the nose wheel well. A review of airplane maintenance records is acceptable in lieu of this inspection if the material can be conclusively determined from that review. Do all applicable related investigative and corrective actions, and all repetitive inspections thereafter, at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008. Do all actions in accordance with Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008.

### Optional Terminating Actions

(h) Replacing an aluminum spin brake assembly with a spin brake assembly made of composite material in accordance with Figure 5 of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, ends the repetitive inspections required by paragraph (g) of this AD for that spring.

(i) Replacing an aluminum spring with a spring made of corrosion-resistant steel (CRES), in accordance with Figure 6 of Boeing Special Attention Service Bulletin 757-32-0176, Revision 1, dated October 16, 2008, ends the repetitive inspections required by paragraph (g) of this AD for that spring.

### Parts Installation

(j) As of the effective date of this AD, no person may install an aluminum spring on any airplane unless it has been inspected and all applicable related investigative and corrective actions have been applied in accordance with the requirements of paragraph (g) of this AD.

### Credit for Previous Revision of Service Bulletin

(k) Actions done before the effective date of this AD in accordance with Boeing Special Attention Service Bulletin 757-32-0176, dated September 10, 2007, are acceptable for compliance with the corresponding requirements of this AD.

### Alternative Methods of Compliance (AMOCs)

(l)(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:* Chris Hartman, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6432; 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 an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who 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.

Issued in Renton, Washington, on October 5, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9-24984 Filed 10-16-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2009-0912; Directorate Identifier 2009-NM-047-AD]**

**RIN 2120-AA64**

### Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the