

reduce the potential of ignition sources near fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

A Boeing and FAA team inspected several 737 airplanes as part of the SFAR 88 system safety analysis. The team identified wire bundles in close proximity of the center fuel tank. The wire bundles were located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 at right buttock line (RBL) and left buttock line (LBL) 24.82. Although no chafing was found on these wire bundles, if these wire bundles chafe, they could arc through the center fuel tank wall, ignite fuel vapor in the fuel tank, and result in a fuel tank explosion.

#### Relevant Service Information

We have reviewed Boeing Service Bulletin 737-28-1209, dated February 17, 2005. The service bulletin describes procedures for modifying the wire bundles located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 through STA 601 inclusive, at RBL and LBL 24.82. The modification includes, among other actions, replacing the nutplate standoffs with support brackets. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

#### Costs of Compliance

There are about 1,636 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 650 airplanes of U.S. registry. The proposed modification would take about 4 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts would cost about \$1,446 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$1,108,900, or \$1,706 per airplane.

#### 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 have 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 that the 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 airworthiness directive (AD):

**Boeing:** Docket No. FAA-2005-21714; Directorate Identifier 2005-NM-065-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by August 19, 2005.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes; certificated in any category; as identified in Boeing Service Bulletin 737-28-1209, dated February 17, 2005.

#### Unsafe Condition

(d) This AD was prompted by the results of fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent chafed wire bundles near the center fuel tank, which could cause electrical arcing through the tank wall and ignition of fuel vapor in the fuel tank, and result in a fuel tank explosion.

#### Compliance

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

#### Modification

(f) Within 60 months after the effective date of this AD: Modify the wire bundles located below the passenger compartment, above the center fuel tank, aft of station (STA) 540 through STA 601 inclusive, at right buttock line and left buttock line 24.82 in accordance with Boeing Service Bulletin 737-28-1209, dated February 17, 2005.

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on June 24, 2005.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
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**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Customs and Border Protection

#### 19 CFR Parts 101 and 122

#### Establishing a New Port of Entry at New River Valley, VA, and Terminating the User-Fee Status of New River Valley Airport

**AGENCY:** Customs and Border Protection; Department of Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Department of Homeland Security's Regulations pertaining to the Bureau of Customs and Border Protection's field organization by conditionally establishing a new port of entry at New River Valley, Virginia, and terminating the user-fee status of New River Valley Airport. The new port of entry would consist of all the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the state of Virginia, including New River Valley Airport, which is currently operated as a user-fee airport. These changes will assist the Bureau of Customs and Border Protection in its continuing efforts to provide better service to carriers, importers and the general public.

**DATES:** Comments must be received on or before September 6, 2005.

**ADDRESSES:** You may submit comments, identified by the title of this document, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dore, Office of Field Operations, 202-344-2776.

**SUPPLEMENTARY INFORMATION:****Background**

As part of its continuing efforts to provide better service to carriers, importers, and the general public, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP), is proposing to amend 19 CFR 101.3(b)(1) by conditionally establishing a new port of entry at New River Valley, Virginia. The new port of entry would include the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia. This area includes New River Valley Airport, located in the town of Dublin, Virginia, which currently operates and is listed as a user-fee airport at 19 CFR 122.15(b). This proposed change of status for New River Valley Airport from a user-fee airport to inclusion within the

boundaries of a port of entry would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

**Port of Entry Criteria**

The criteria considered by CBP in determining whether to establish a port of entry are found in Treasury Decision (T.D.) 82-37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and T.D. 87-65 (52 FR 16328). Under these criteria, CBP will evaluate whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location. Specifically, CBP will consider whether the proposed port of entry location can:

(1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(2) Except in the case of land border ports, be serviced by at least two major modes of transportation (rail, air, water, or highway); and

(3) Except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, one of the following actual or potential workload criteria (minimum number of transactions per year), or an appropriate combination thereof, must be met in the area to be serviced by the proposed port of entry:

(1) 15,000 international air passengers;

(2) 2,500 formal entries for consumption in United States commerce (each valued over \$2,000), with the applicant location committing to optimal use of electronic data input means to permit integration with any CBP system for electronic processing of entries, with no more than half of the 2,500 entries being attributed to one private party;

(3) For land border ports, 150,000 vehicles;

(4) 2,000 scheduled international aircraft arrivals (passengers and/or crew); or

(5) 350 cargo vessel arrivals.

Finally, facilities at the proposed port of entry must include, where appropriate, wharfage and anchorage adequate for oceangoing vessels, cargo and passenger facilities; warehouse space for the secure storage of imported cargo pending final CBP inspection and release; and administrative office space, inspection areas, storage areas, and other space as necessary for regular CBP operations.

In certain cases, where the potential workload at a given location shows pronounced growth, CBP will consider granting conditional port-of-entry status to the location, pending further review of the actual workload generated within the new port of entry. See T.D. 96-3 and 97-64.

**New River Valley's Workload Statistics**

The proposal in this document to conditionally establish New River Valley, Virginia, as a port of entry is based on CBP's analysis of the following information:

1. New River Valley is serviced by three modes of transportation:

(a) rail (The Norfolk Southern Railway and the CSX Corporation);

(b) air (Roanoke Regional Airport (US Airways, United Express, Northwest, Delta), New River Valley User-Fee Airport, and Virginia Tech/Montgomery Executive Airport);

(c) highway (three U.S. interstate highways, I-81, I-64 and I-77).

2. The area within the immediate service area (approximately a 70-mile radius) of the New River Valley airport had a population, as of the 2000 census, of over 702,000.

3. Regarding the five actual or potential workload criteria:

(a) the number of consumption entries valued at over \$2,000 each and filed in the port of New River Valley, Virginia, increased from 1,257 in FY 2001 to 1,817 in FY 2003, a rate of increase of forty-five percent;

(b) the projected number of such entries to be filed in FY 2004 is 1,776, an increase of forty-one percent over the number filed in FY 2001; and

(c) CBP's projection is that, according to the data, over 2,500 consumption entries, each valued at over \$2,000, will be filed per year by FY 2007, and possibly by FY 2006, in the area to be included in the port of New River Valley, Virginia, with no more than half of those entries being made by one private party.

CBP facilities are already in place at the New River Valley User Fee Airport and will continue to be provided at no cost to the Federal Government, as discussed below. CBP believes that the establishment of this port will provide significant benefits to the New River Valley community, further enhancing the economic growth that is already being experienced in this area, by providing enhanced business competitiveness for existing enterprises and enabling the retention and expansion of the number of jobs in the area.

(d) The New River Valley User Fee Airport in Dublin, Virginia, has, for over

three years, provided and maintained administrative office space for a CBP office. Roanoke Regional Airport and Virginia Tech/Montgomery Executive Airport have also provided adequate facilities for regular CBP operations, including passenger and cargo inspection areas, and storage areas as necessary.

CBP believes that the New River Valley community is committed to making optimal use of electronic data transfer capability to permit integration with the CBP Automated Commercial System for processing entries. The New River Valley User Fee Airport has, for over three years, provided and maintained electronic data equipment software necessary to conduct regular CBP business. CBP has been informed that the airport is committed to upgrade equipment as necessary and, in fact, is currently in the process of installing a frame relay computer system, at no expense to the Federal Government, in order that adequate integration may be maintained with the Department of Homeland Security and the CBP systems.

#### Conditional Status

Based on the information above and the level and pace of development in New River Valley and the surrounding area, CBP believes that there is sufficient justification for the establishment of New River Valley, Virginia, as a port of entry on a conditional basis. If, after reviewing the public comments, CBP decides to create a port of entry at New River Valley and terminate New River Valley Airport's designation as a user-fee airport, then CBP will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it is noted that this proposal relies on potential (within approximately 3 years), rather than actual, workload figures. Therefore, even if the proposed port of entry designation is adopted as a final rule, CBP will, in 3 years, review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82-37 (as amended) standards, procedures may be instituted to revoke the port of entry status. In such case, the airport may reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

#### Description of Proposed Port of Entry Limits

The geographical limits of the proposed New River Valley port of entry would be as follows: The continuous outer boundaries of the Montgomery,

Pulaski and Roanoke counties in the Commonwealth of Virginia.

#### Proposed Amendments to Regulations

If the proposed port of entry designation is adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to add New River Valley as a port of entry in Virginia, and New River Valley Airport will be deleted from the list of user-fee airports at 19 CFR 122.15(b).

#### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and 19 CFR 103.11(b), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

#### Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

#### Executive Order 12866 and the Regulatory Flexibility Act

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory proposal is not a significant regulatory action as defined under Executive Order 12866. This proposed rule also will not have significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the

notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

#### Drafting Information

The principal author of this document was Steven Bratcher, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

Dated: April 29, 2005.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

Dated: June 23, 2005.

**Michael Chertoff,**

*Secretary.*

[FR Doc. 05-13120 Filed 7-1-05; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[SATS No. ND-048, North Dakota Amendment No. XXXV]

#### North Dakota Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposes revisions to rules which reduce notice requirements associated with bond release applications. North Dakota intends to revise its program to improve operational efficiency.

This document gives the times and locations that the North Dakota program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., m.d.t. August 4, 2005. If requested, we will hold a public hearing on the amendment on August 1, 2005. We will accept requests to speak until 4 p.m., m.d.t. on July 20, 2005.