

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-2009-0314; Directorate Identifier 2008-NM-196-AD.

#### Comments Due Date

- (a) We must receive comments by May 22, 2009.

#### Affected ADs

- (b) None.

### Applicability

(c) This AD applies to Boeing Model 767-200, -300, -300F, and -400ER series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767-28A0090, dated July 3, 2008.

### Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent an ignition source inside the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

### Compliance

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

### Subject

(f) Air Transport Association (ATA) of America Code 28: Fuel.

### Inspection and Related Investigative/Corrective Actions

(g) Within 60 months after the effective date of this AD, do the actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) Inspect the motor operated valves (MOVs) in the main and center fuel tanks to determine if any MOV having part number (P/N) MA20A1001-1 is installed, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767-28A0090, dated July 3, 2008. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number can be conclusively determined from that review.

(2) Do all applicable related investigative and corrective actions specified in and in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767-28A0090, dated July 3, 2008, except as provided by paragraph (h) of this AD.

### Alternative Part Numbers

(h) Where Boeing Alert Service Bulletin 767-28A0090, dated July 3, 2008, specifies replacing any actuator having P/N MA20A1001-1 with a new actuator having P/N MA30A1001, a new or serviceable actuator having any of the following part numbers is also acceptable as a replacement part: MA20A2027 (S343T003-56); MA11A1265-1 (S343T003-41); or AV-31-1 (S343T003-111).

### Alternative Methods of Compliance (AMOCs)

(i)(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: Douglas Bryant, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6505; fax (425) 917-6590.

(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.

Issued in Renton, Washington, on March 30, 2009.

**Steve Boyd,**

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

[FR Doc. E9-7805 Filed 4-6-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0288; Directorate Identifier 2008-NM-214-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, -900 and -900ER 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 Boeing Model 737-600, -700, -700C, -800, -900 and -900ER series airplanes. This proposed AD would require modifying the fluid drain path in the wing leading edge area, forward of the wing front spar and doing all applicable related investigative and corrective actions. This proposed AD results from a report received of leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat. We are proposing this AD to prevent flammable fluids from accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

**DATES:** We must receive comments on this proposed AD by May 22, 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:** Sam Spitzer, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6510; 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-2009-0288; Directorate Identifier 2008-NM-214-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 been notified that leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat was discovered during a post-flight inspection on a Model 737 airplane with a fuel quantity of over 2,500 lbs. Subsequent investigation found that the leak occurred in an area of the front spar that does not have a proper drain path and appears to have been caused by a loose retaining nut of the slat track down stop. This led to the fuel draining onto the engine exhaust nozzle. This condition, if not corrected, could result in flammable fluids accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

**Relevant Service Information**

We have reviewed Boeing Special Attention Service Bulletin 737-57-1293, dated November 13, 2008 ("the service bulletin"). The service bulletin describes procedures for modifying the fluid drain path in the wing leading edge area, forward of the wing front spar.

For Group 1 airplanes, the modification includes applying sealant to the cavities between the inboard slat track ribs and leading edge lower panels at certain slat stations in the left and

right wings; installing a flame arrestor tube through the vapor barrier rib at the outboard leading edge strakelet box to direct fluids to the strut drain system; applying sealant to create a form-in-place gasket at the blowout door located under the strakelet box to prevent fluids from leaking onto the engine exhaust nozzle; replacing the existing seal in the fuel shut-off valve access door with a bulb seal to prevent flammable fluid leakage onto the engine exhaust nozzle; trimming the blowout door hinge; and related investigative and corrective actions if necessary. The related investigative and corrective actions include doing a leak test and reapplying sealant.

For Group 2 airplanes, the modification includes removing the parting agent and sealant at the lower leading edge access panel immediately outboard of the fuel shutoff valve access door in the left and right wings, and installing new parting agent and sealant; and doing related investigative and corrective actions if necessary. The related investigative actions include inspecting the blowout door hinge for trim and doing a leak test. The corrective actions include trimming the blowout door hinge and reapplying sealant.

**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 the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously.

**Costs of Compliance**

We estimate that this proposed AD would affect 754 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE 1—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Modification, Group 1 .....	45	\$80	\$1,545	\$5,145	Up to 754 .....	Up to \$3,879,330.
Install parting agent Group 2 .....	23	80	None	1,840	Up to 754 .....	Up to \$1,387,360.

**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-2009-0288; Directorate Identifier 2008-NM-214-AD.

#### Comments Due Date

(a) We must receive comments by May 22, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Boeing Model 737-600, -700, -700C, -800, -900 and -900ER series airplanes, certificated in any category, as identified in Boeing Special Attention

Service Bulletin 737-57-1293, dated November 13, 2008.

#### Unsafe Condition

(d) This AD results from a report received of leaking fuel from the wing leading edge area at the inboard end of the number 5 leading edge slat. We are issuing this AD to prevent flammable fluids from accumulating in the wing leading edge and draining inboard and onto the engine exhaust nozzle, which could result in a fire.

#### 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.

#### Corrective Actions

(f) Within 24 months after the effective date of this AD, modify the fluid drain path in the wing leading edge area, forward of the wing front spar, and do all applicable related investigative and corrective actions, by accomplishing all applicable actions specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-57-1293, dated November 13, 2008. Do all applicable related investigative and corrective actions before further flight.

#### Alternative Methods of Compliance (AMOCs)

(g)(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: Sam Spitzer, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6510; fax (425) 917-6590.

(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 appropriate 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.

Issued in Renton, Washington, on March 12, 2009.

#### Ali Bahrami,

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

[FR Doc. E9-7769 Filed 4-6-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 080304370-9128-01]

RIN 0648-AW52

### Fisheries in the Western Pacific; Compensation to Commercial Bottomfish and Lobster Fishermen due to Fishery Closures in the Papahānaumokuākea Marine National Monument, Northwestern Hawaiian Islands

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for public comments.

**SUMMARY:** The Consolidated Appropriations Act, 2008, authorizes the Secretary of Commerce (Secretary), through NMFS, to provide monetary compensation to eligible Northwestern Hawaiian Islands (NWHI) commercial lobster permit holders who were, and commercial bottomfish permit holders who will be, displaced by fishery closures resulting from establishment of the Papahānaumokuākea Marine National Monument (Monument) in the NWHI. This proposed rule describes and seeks public comment on a permit compensation proposal, which identifies eligible permit holders and describes the permit valuation methodology. Holders of NWHI commercial Federal bottomfish and lobster permits who voluntarily accept monetary compensation would be required to surrender their permits and leave the fisheries.

**DATES:** Comments must be received by May 4, 2009.

**ADDRESSES:** You may submit comments on the proposed rule, identified by 0648-AW52, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or
- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

Instructions: All comments received are a part of the public record and will generally be posted to [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (for example, name, address, etc.) submitted voluntarily by the commenter may be