

# 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-2010-0035; Directorate Identifier 2009-NM-066-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Model 747-400, 747-400D, and 747-400F 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 Model 747-400, 747-400D, and 747-400F series airplanes. This proposed AD would require installing a hot short protector (HSP) for the fuel quantity indicating system (FQIS) of the center fuel tank and, for certain airplanes, the horizontal stabilizer fuel tank. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent an electrical hot short from a source outside the FQIS to the densitometer wiring from causing failure of the FQIS densitometer resistors, which could result in an ignition source inside the center or horizontal stabilizer fuel tanks. An ignition source, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by March 29, 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](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:** Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6482; 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-2010-0035; Directorate Identifier 2009-NM-066-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

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in

combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

As part of SFAR 88 analysis, Boeing found that an electrical hot short from a source outside the fuel quantity indicating system (FQIS) to the densitometer wiring could result in an ignition source if the densitometer resistors failed while not covered by fuel. Installation of an electrical isolation device, a “hot short protector” (HSP), would protect the fuel densitometer for the horizontal stabilizer tank (HST) and the center wing tank (CWT) from exposure to unsafe energy levels. Failure of the FQIS densitometer resistors caused by a hot short could result in an ignition source inside the center or horizontal stabilizer fuel tanks. An ignition source, in combination with flammable fuel vapors, could result in a fuel tank

explosion and consequent loss of the airplane.

**Relevant Service Information**

We have reviewed Boeing Service Bulletin 747–28A2266, Revision 1, dated December 10, 2009 (for airplanes with CWTs), and Boeing Alert Service Bulletin 747–28A2267, dated December 18, 2008 (for airplanes with HSTs). Those service bulletins describe procedures for installing an HSP in the CWT and the HST, as applicable. The installation involves re-terminating the existing wire bundle from the densitometer connector to the HSP, adding a new wire bundle that connects between the HSP and the densitometer connector, and installing the HSP and support bracket. For the HSP, the installation might also include reworking the lower center drip shield to provide clearance for the new wire connector backshell on the densitometer.

Boeing Service Bulletin 747–28A2266, Revision 1, dated December 10, 2009 (for airplanes with CWTs), and Boeing Alert Service Bulletin 747–28A2267, dated December 18, 2008, refer to Cinch Service Bulletin CN1036–28–01, Revision C, dated January 18, 2007, as an additional source of service information for installing the HSP in the fuel tanks.

**Other Related Rulemaking**

On April 28, 2008, we issued AD 2008–10–06, Amendment 39–15512 (73 FR 25990, May 8, 2008), applicable to Boeing Model 747–400, –400D, and –400F series airplanes. That AD requires revising the maintenance program by incorporating new airworthiness limitations (AWLs) for fuel tank systems to satisfy SFAR 88 requirements. One of those AWLs, AWL 28–AWL–23, is related to this proposed AD by including inspection of the bonding integrity during any subsequent replacement of the HSP.

**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 same type design. 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 80 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           | Fleet cost                |
|---------------------------------|---------------|-----------------------------|----------------------------|----------------------------|---------------------------|
| Installation <sup>1</sup> ..... | 6 to 17 ..... | \$85                        | \$15,821 to \$30,650 ..... | \$16,331 to \$32,095 ..... | \$306,480 to \$2,567,600. |

<sup>1</sup> Work hours and parts costs depend on airplane configuration.

**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–2010–0035; Directorate Identifier 2009–NM–066–AD.

**Comments Due Date**

(a) We must receive comments by March 29, 2010.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to The Boeing Company Model 747–400, 747–400D, and 747–400F series airplanes, certificated in any category; as identified in the service bulletins listed in paragraphs (c)(1) and (c)(2) of this AD.

(1) Boeing Service Bulletin 747–28A2266, Revision 1, dated December 10, 2009.

(2) Boeing Alert Service Bulletin 747–28A2267, dated December 18, 2008.

**Subject**

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

**Unsafe Condition**

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent an electrical hot short from a source outside the Fuel Quantity Indicating System (FQIS) to the densitometer wiring from causing failure of the FQIS densitometer resistors, which could result in an ignition source inside the center or horizontal stabilizer fuel tanks. An ignition source, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss 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.

**Installation of Hot Short Protector**

(g) Within 60 months after the effective date of this AD: Do the applicable installations of the hot short protector (HSP) specified in paragraphs (g)(1) and (g)(2) of this AD.

*Note 1:* Boeing Service Bulletin 747–28A2266, Revision 1, dated December 10, 2009; and Boeing Alert Service Bulletin 747–28A2267, dated December 18, 2008; refer to Cinch Service Bulletin CN1036–28–01, Revision C, dated January 18, 2007, as an additional source of guidance for installing the HSP in the fuel tanks.

(1) For all airplanes: Install the HSP in the center wing tank, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–28A2266, Revision 1, dated December 10, 2009.

(2) For airplanes identified in Boeing Alert Service Bulletin 747–28A2267, dated December 18, 2008: Install the HSP in the horizontal stabilizer tank, in accordance with the Accomplishment Instructions of Boeing

Alert Service Bulletin 747–28A2267, dated December 18, 2008.

**Credit for Installation Previously Accomplished in Accordance With Previous Issue of Service Bulletin**

(h) Actions accomplished before the effective date of this AD according to Boeing Alert Service Bulletin 747–28A2266, dated December 18, 2008, are considered acceptable for compliance with the corresponding action specified in this AD.

**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:* Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6482; 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.

Issued in Renton, Washington, on February 4, 2010.

**Stephen P. Boyd,**

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

[FR Doc. 2010–2992 Filed 2–10–10; 8:45 am]

**BILLING CODE 4910–13–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 51 and 52**

**[EPA–HQ–OAR–2004–0014: FRL–9113–1]**

**RIN 2060–AP73**

**Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Proposal for Additional Stay**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to put in place an additional 18-month stay to the existing stay of the inclusion of fugitive emissions requirements in the federal Prevention of Significant Deterioration (PSD) program published in the **Federal Register** on December 19, 2008, in the final rule entitled,

“Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Fugitive Emissions” (“Fugitive Emissions Rule”). The Fugitive Emissions Rule under the federal PSD program requires that fugitive emissions be included in determining whether a physical or operation change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j) of the Clean Air Act (Act or CAA).

The existing stay is in effect for three months; that is, from December 31, 2009, until March 31, 2010. This action proposes to put in place an additional stay for 18 months, which we believe will allow for sufficient time for EPA to propose, take public comment on, and issue a final action concerning the inclusion of fugitive emissions in the Federal PSD program.

**DATES:** Comments must be received on or before March 15, 2010.

**Public Hearing.** If anyone contacts EPA requesting the opportunity to speak at a public hearing concerning the proposed regulation by February 22, 2010, we will hold a public hearing on February 26, 2010. If a hearing is held, the record for the hearing will remain open until March 29, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0014, 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.*

- *Fax: (202) 566–1741.*

- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mail code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

- *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://*