

# 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-2008-0978; Directorate Identifier 2008-NM-014-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 767-200, -300, and -300F 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 767-200, -300, and -300F series airplanes. For certain airplanes, this proposed AD would require modifying the fuel quantity indicating system (FQIS) densitometer. For certain other airplanes, this proposed AD would require replacing the existing hot short protector (HSP) on the FQIS densitometer with a new HSP. The proposed AD would also require revising the Airworthiness Limitations (AWL) section of the Instructions for Continued Airworthiness to incorporate AWL No. 28-AWL-22. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent the center tank fuel densitometer from overheating and becoming a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a center fuel tank explosion and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by August 17, 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:

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-2008-0978; Directorate Identifier 2008-NM-014-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 fuel tank explosions and consequent loss of the airplane.

Boeing found that no separation was provided for the fuel quantity indication system (FQIS) wires. A potential hot short of the FQIS lead wire would cause the center fuel tank densitometer to overheat. In situations where the fuel level in the center tank is low, the overheated densitometer could ignite flammable fuel vapors inside the center fuel tank. This condition, if not corrected, could result in a center fuel tank explosion and consequent loss of the airplane.

#### Other Related Rulemaking

On May 8, 2008, we issued AD 2008–11–01, amendment 39–15523 (73 FR 29414, May 21, 2008), applicable to certain Boeing Model 767–200, –300, –300F, and –400ER series airplanes. That AD requires revising the Airworthiness Limitations (AWL) section of the Instructions for Continued Airworthiness to incorporate new AWLs for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88

requirements. That AD resulted from a design review of the fuel tank systems. We issued that AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane. Incorporating AWL No. 28–AWL–22 into the FAA-approved maintenance program in accordance with paragraph (g)(2) of AD 2008–11–01 would terminate the action specified in paragraph (h) of this proposed AD.

#### Relevant Service Information

We have reviewed Boeing Service Bulletin 767–28A0094, Revision 1, dated April 23, 2009. For Group 1 airplanes, Group 2 airplanes, Configuration 1, and Group 3 airplanes, the service bulletin describes procedures for modifying the FQIS densitometer. The modification includes installing new hot short protector (HSP) support brackets and grounding brackets, installing a HSP and bonding jumper, rerouting certain wire bundles, and installing new wire bundles. Group 2 airplanes, Configuration 2, on which Boeing Service Bulletin 767–28–0043 has not been incorporated, will have the Honeywell densitometer installed; therefore, no work is necessary. For Group 4 airplanes, the service bulletin describes procedures for replacing the existing HSP with a new HSP.

We have reviewed Revision March 2009 of Section 9 (“AIRWORTHINESS

LIMITATIONS (AWLs) AND CERTIFICATION MAINTENANCE REQUIREMENTS (CMRs)”) of the Boeing 767 Maintenance Planning Data (MPD) Document, D622T001–9 (hereafter referred to as “the MPD”) of the MPD, which describes AWLs for fuel tank systems. The MPD includes fuel system AWL No. 28–AWL–22, which is a critical design configuration control limitation (CDCCL) to maintain the design features of the center fuel tank HSP during its replacement.

#### 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 the following actions:

- Modifying the FQIS densitometer for certain airplanes, and replacing the existing HSP with a new HSP for certain other airplanes.
- Revising the FAA-approved maintenance program to incorporate AWL No. 28–AWL–22, which would require maintaining the design features of the center fuel tank HSP during its replacement.

#### Costs of Compliance

We estimate that this proposed AD would affect 192 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Affected airplane groups/action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Group 1, Group 2, Configuration 1, and Group 3, modification.	Between 4 and 8	\$80	Between \$11,377 and \$14,376.	Between \$11,697 and \$15,016.	191	Between \$2,234,127 and \$2,868,056.
Group 4, replacement .....	2 .....	80	None .....	\$160 .....	1	\$160.
AWL revision .....	1 .....	80	None .....	\$80 .....	192	\$15,360.

#### 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, Safety, Incorporation by Reference.

#### 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-2008-0978; Directorate Identifier 2008-NM-014-AD.

#### Comments Due Date

- (a) We must receive comments by August 17, 2009.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to Boeing Model 767-200, -300, and -300F series airplanes, certificated in any category; as identified in Boeing Service Bulletin 767-28A0094, Revision 1, dated April 23, 2009.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (k) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

#### Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the center tank

fuel densitometer from overheating and becoming a potential ignition source inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a center fuel tank explosion and consequent loss of the airplane.

#### Compliance

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

#### Modify the Fuel Quantity Indicating System (FQIS) Densitometer/Replace Hot Short Protector (HSP)

(f) Within 60 months after the effective date of this AD, do the actions specified in paragraphs (f)(1) and (f)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767-28A0094, Revision 1, dated April 23, 2009.

(1) For Group 1 airplanes, Group 2 airplanes, Configuration 1, and Group 3 airplanes: Modify the fuel quantity indicating system (FQIS) densitometer.

(2) For Group 4 airplanes: Replace the existing HSP with a new HSP.

#### Credit for Service Information Accomplished Previously

(g) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767-28A0094, dated November 20, 2007; are acceptable for compliance with the requirements of paragraph (f) of this AD.

#### Airworthiness Limitations (AWL) Revision

(h) Concurrently with accomplishing the actions required by paragraph (f) of this AD, revise the AWL section of the Instructions for Continued Airworthiness by incorporating AWL No. 28-AWL-22 of the Boeing 767 Maintenance Planning Data (MPD) Document, D622T001-9, Section 9, Revision March 2009.

#### No Alternative Critical Design Configuration Control Limitations (CDCCL)

(i) After the actions specified in paragraph (g) of this AD have been accomplished, no alternative CDCCL for AWL No. 28-AWL-22 may be used; unless the CDCCL is approved as an AMOC in accordance with the procedures specified in paragraph (k) of this AD.

#### Terminating Action for AWL Revision

(j) Incorporating AWL No. 28-AWL-22 into the AWL section of the Instructions for Continued Airworthiness in accordance with paragraph (g)(2) of AD 2008-11-01, amendment 39-15523, terminates the action required by paragraph (h) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle 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, 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 June 24, 2009.

**Ali Bahrami,**

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

[FR Doc. E9-15618 Filed 7-1-09; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 16

**RIN 3038-AC63**

#### Account Ownership and Control Report

**AGENCY:** Commodity Futures Trading Commission ("Commission").

**ACTION:** Advanced notice of proposed rulemaking ("Advanced Notice") and request for public comment.

**SUMMARY:** The Commission has determined to collect certain ownership, control, and related information for all trading accounts active on U.S. futures exchanges. The information collected will enhance market transparency, leverage the Commission's existing surveillance systems, and foster synergies between its market surveillance, trade practice, enforcement, and economic research programs. The Commission will collect relevant data via an account "Ownership and Control Report" ("OCR") submitted periodically by all reporting entities.<sup>1</sup> Tentatively, the OCR will include a trading account number; the names and addresses of the account's owners and controllers; the last four digits of the owners' and controllers' social security or tax ID numbers; the special account number, if one has been assigned; an indication of whether the account is a reportable account pursuant to large trader thresholds set forth under Part 18 of the Commission's regulations; and other relevant information.<sup>2</sup> This Advanced

<sup>1</sup> The Commission anticipates that most reporting entities will be designated contract markets, but they could be any registered entity that provides trade data to the Commission on a regular basis.

<sup>2</sup> Under the CFTC's Large Trader Record Format, special account numbers contain two elements: (1)