

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 8, 2001.

**Donald L. Riggan,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NM-351-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 767-200 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767-200 series airplanes. This proposal would require replacement of certain duct assemblies of the air distribution system for the flight compartment with new duct assemblies with improved insulation, and follow-on actions. This action is necessary to prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by June 28, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-351-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2000-NM-351-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2788; fax (425) 227-1181.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-351-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-351-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### **Discussion**

The FAA has received a report that an operator found burned insulation on an air distribution system duct located in the Electronics and Electrical (E/E) bay. The burned insulation was discovered while the airplane was on the ground when a maintenance crew noticed an odor of burning. Investigation revealed that the ignition source was an overheated heater tape for the water line. Polyurethane foam insulation which was touching the water line heater tape ignited and burned completely. The foam had lost its original fire-retardant properties. The reason for the degradation of the foam's fire retardant properties is unknown; however, contamination and aging of the material are suspected. Ignition of foam insulation on the air distribution ducts could result in a fire in the airplane.

##### **Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-21A0154, dated March 16, 2000, which describes procedures for replacement of certain duct assemblies of the air distribution system for the flight compartment (which are located under the main deck) with new duct assemblies having fiberglass insulation. The service bulletin also describes procedures for a general visual inspection of the water line heater tape where it passes close to the new duct assembly to detect damage such as wear, chafing, pinching, discoloration, or localized burn marks. The service bulletin specifies that any damaged tape should be replaced with new heater tape. If no damage is found, the service bulletin specifies that any heater tape that is too close to the new duct assemblies must be rerouted to increase the distance between the water line heater tape and duct insulation. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

##### **Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin

described previously, except as discussed below.

### Differences Between Proposed Rule and Service Bulletin

Operators should note that the service bulletin does not define appropriate clearance between the new duct assemblies and the water line heater tape. This proposed AD would require that a minimum clearance of 0.25 inch be maintained between the new duct assemblies and the water line heater tape.

Also, operators should note that the service bulletin recommends accomplishment of the actions in that bulletin at the earliest opportunity. The FAA finds that a more definite compliance time is necessary to ensure that the proposed actions are done in a timely manner. Therefore, the proposed AD would require the replacement of the duct assemblies with new assemblies and the other follow-on actions be accomplished within 18 months after the effective date of the AD. The FAA finds that such a compliance time is adequate to ensure the safety of the airplane fleet while allowing enough time so that the majority of affected operators would be able to accomplish the proposed requirements at a normal scheduled maintenance visit.

### Cost Impact

There are approximately 81 airplanes of the affected design in the worldwide fleet. The FAA estimates that 52 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost a maximum of \$7,285 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$385,060, or \$7,405 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2000-NM-351-AD.

**Applicability:** Model 767-200 series airplanes, as listed in Boeing Alert Service Bulletin 767-21A0154, dated March 16, 2000; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane, accomplish the following:

### Replacement and Follow-On Actions

(a) Within 18 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per the Accomplishment Instructions of Boeing Alert Service Bulletin 767-21A0154, dated March 16, 2000.

(1) Replace subject duct assemblies of the air distribution system for the flight compartment (which are located under the main deck) with new duct assemblies having fiberglass insulation.

(2) Before further flight after replacement of the ducts, perform a one-time general visual inspection of the water line heater tape where it passes close to the new duct assemblies to detect damage, including wear, chafing, pinching, discoloration, localized burn marks, etc.

(i) If no damage is detected, measure the clearance between the new duct assemblies and the water line heater tape. If clearance is less than 0.25 inch, re-route the heater tape per the service bulletin.

(ii) If any damage is detected, before further flight, replace the heater tape with new heater tape, per the service bulletin. When installing the new tape, make sure that clearance between the water line heater tape and the new duct assemblies is a minimum of 0.25 inch.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

### Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

### Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR

21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 8, 2001.

**Donald L. Rigglin,**

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

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 39

**RIN 3038-AB66**

### A New Regulatory Framework for Clearing Organizations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is proposing rules to implement various provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), which fundamentally alters the regulation of derivatives clearing organizations. These proposed rules apply to derivatives clearing organizations that are, are required to, or seek to become registered with the Commission and implement the statutory framework in the CFMA governing those entities.

**DATES:** Comments must be received by June 13, 2001.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418-5521 or, by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Clearing Organizations."

#### FOR FURTHER INFORMATION CONTACT:

Alan L. Seifert, Deputy Director, Division of Trading and Markets, Lois J. Gregory, Special Counsel, or David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone (202) 418-5260 or e-mail [ASeifert@cftc.gov](mailto:ASeifert@cftc.gov), [LGregory@cftc.gov](mailto:LGregory@cftc.gov), or [DVanWagner@cftc.gov](mailto:DVanWagner@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

## I. Background

Congress on December 15, 2000, passed, and the President on December 21, 2000, signed into law, the CFMA,<sup>1</sup> which substantially amended the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* ("Act"). New Section 5b(a) of the Act, added by the CFMA, requires that contracts of sale of a commodity for future delivery, options on such contracts, and options on a commodity be cleared only by a derivatives clearing organization ("DCO") registered with the Commission,<sup>2</sup> unless the contracts are: (i) Excluded under the Act, (ii) exempted under the Act, or (iii) security futures products cleared by a securities clearing agency. Contracts traded on a designated contract market, if cleared, must be cleared by a DCO.<sup>3</sup> Excluded or exempted contracts, including those elected pursuant to section 5a(g) to be traded on a registered derivatives transaction execution facility, are not required to be cleared by a DCO, although a clearing organization that clears these contracts may voluntarily apply, pursuant to section 5b(b), to register with the Commission as a DCO.<sup>4</sup> In addition, a DCO may clear other contracts, agreements, or transactions, including, but not limited to, certain over-the-counter ("OTC") derivative instruments referenced in section 5b(b) of the Act and transactions in spot and forward contracts.<sup>5</sup>

<sup>1</sup> See Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>2</sup> For purposes of this release, use of the term "derivatives clearing organization" means an applicant seeking registration as a DCO, or a DCO registered or required to be registered, with the Commission pursuant to section 5b of the Act.

<sup>3</sup> The Commission will consider, however, under the exemptive authority provided by section 4(c) of the Act, requests to clear transactions through alternative means.

<sup>4</sup> Thus, under the CFMA, DCOs are treated as entities that are separate and distinct from the markets for which they provide clearing services.

<sup>5</sup> Under section 409 of the Federal Deposit Insurance Corporation Act of 1991, as amended by section 112 of the CFMA, OTC derivatives also may be cleared by a multilateral clearing organization supervised by federal banking authorities, a clearing agency registered under the Securities Exchange Act of 1934, or a clearing organization supervised by a foreign financial regulator that satisfies appropriate standards as determined by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, or the CFTC. This approach to clearing is consistent with the Report of the President's Working Group on Financial Markets ("PWG"), which encouraged the development of clearing systems for OTC derivatives to reduce systemic risk. *See* Over-the-Counter Derivatives Markets and the Commodity Exchange Act, Report of the PWG (Nov. 1999). The Commission believes that appropriate standards referred to above include regulating and overseeing the organization pursuant to principles comparable

To be registered as a DCO, an applicant must demonstrate that it complies with fourteen core principles set forth in the CFMA. Section 5b requires any person desiring to so register to submit to the Commission an application in such form and containing such information as the Commission may require for the purpose of determining whether the applicant meets the core principles.

The Commission is now proposing rules to implement section 5b of the Act. This proposal follows the Commission's proposal of regulations to implement the CFMA's provisions governing trading facilities, which was published for comment on March 9, 2001.<sup>6</sup> Part 39 would stipulate the form and provide guidance for the content of applications for DCO registration, as well as procedures for processing such applications. Other provisions would assist the Commission in carrying out its oversight responsibilities with respect to the operations and activities of DCOs, enforcing compliance by DCOs with the core principles and other provisions of the Act and regulations, protecting clearing participants from fraud, and ensuring the enforceability of contracts cleared on DCOs. Part 39 does not apply to the execution of transactions cleared by DCOs; its provisions apply specifically and only to the clearing of transactions by DCOs.<sup>7</sup>

## II. Proposed Part 39

### A. Application and Approval Procedures

Proposed part 39 would apply to any DCO, as defined under section 1a(9) of the Act,<sup>8</sup> that is registered with the

to the core principles set forth in section 5b of the Act and a requirement to participate in appropriate and adequate information sharing arrangements.

<sup>6</sup> 66 FR 14262. That release, when it is published as a final rulemaking, will be conformed to this release insofar as this release clarifies the application of the DCO-related provisions of the CFMA.

<sup>7</sup> Section 1a(9) of the Act defines the term DCO to encompass entities that, "with respect to an agreement, contract, or transaction—(i) enables each party to the agreement \* \* \* to substitute, through novation or otherwise, the credit of the [DCO] for the credit of the parties; (ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from such agreements \* \* \* executed by participants in the [DCO]; or (iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the [DCO] the credit risk arising from such agreements \* \* \* executed by the participants."

<sup>8</sup> The CFMA's definition of DCO does not necessitate the performance of a direct credit enhancement function. *See* section 1a(9)(ii). Thus, the provision of certain settlement or netting services in the absence of direct credit enhancement would generally meet the definition of a DCO. An organization that intends to provide settlement or other clearing-type services to a designated contract