

# 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-2005-21748; Directorate Identifier 2005-NM-071-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier proposed airworthiness directive (AD) for certain Boeing Model 767-200 and -300 series airplanes. For certain airplanes, the original NPRM would have required repetitive inspections for discrepancies of the tube assemblies and insulation of the metered fire extinguisher system and the bleed air duct couplings of the auxiliary power unit (APU) located in the aft cargo compartment; and corrective actions if necessary. For certain other airplanes, the original NPRM would have required a one-time inspection for sufficient clearance between the fire extinguishing tube and the APU bleed air duct in the aft cargo compartment, and modification if necessary. The original NPRM resulted from one report indicating that an operator found a hole in the discharge tube assembly for the metered fire extinguishing system; and another report indicating that an operator found chafing of the fire extinguishing tube against the APU duct that resulted in a crack in the tube. This action revises the original NPRM by expanding the applicability and adding an inspection for signs of chafing and to verify sufficient clearance between the fire extinguisher system and the bleed air duct couplings of the APU. We are proposing this supplemental NPRM to

prevent fire extinguishing agent from leaking out of the tube assembly in the aft cargo compartment which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the fire.

**DATES:** We must receive comments on this supplemental NPRM by July 3, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this supplemental NPRM.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
  - Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
  - Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC 20590.
  - Fax: (202) 493-2251.
  - Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for service information identified in this proposed AD.

#### FOR FURTHER INFORMATION CONTACT:

Marcia Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6484; fax (425) 917-6590.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA-2005-21748; Directorate Identifier 2005-NM-071-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by

the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this supplemental NPRM. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

#### Examining the Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level in the Nassif Building at the DOT street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management System receives them.

#### Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the "original NPRM") for certain Boeing Model 767-200 and -300 series airplanes. The original NPRM was published in the **Federal Register** on July 8, 2005 (70 FR 39433). For certain airplanes, the original NPRM proposed to require repetitive inspections for discrepancies of the tube assemblies and insulation of the metered fire extinguisher system and the bleed air duct couplings of the auxiliary power unit (APU) located in the aft cargo compartment; and corrective actions if necessary. For certain other airplanes, the original NPRM proposed to require a one-time inspection for sufficient clearance between the fire extinguishing tube and the APU bleed air duct in the aft cargo compartment, and modification if necessary.

### **Actions Since Original NPRM was Issued**

Since we issued the original NPRM, Boeing has published Boeing Alert Service Bulletin 767–26A0130, Revision 1, dated December 15, 2005. (The original issue, dated December 2, 2004, was referenced in the original NPRM as the appropriate source of service information for accomplishing certain actions.) Revision 1 includes the following changes to the Accomplishment Instructions of the original issue:

- Adds airplanes to the effectivity and divides affected airplanes into Groups 1 through 7.
- Adds concurrent requirements for Group 3 through 7 airplanes.
- Adds an inspection for signs of chafing and to verify that there is sufficient clearance between the fire extinguisher system and the bleed air duct couplings of the APU.

The corrective action includes the following:

- If the clearance between the fire extinguisher tube assembly and the couplings is insufficient, either repeat the inspection or move the assembly so there is a minimum clearance of 0.75 inch.
- If the fire extinguisher tube assembly shows signs of chafing or contact with the couplings, repair or replace any damaged tube assembly with a new assembly; and move the tube assemblies and/or duct couplings to allow for a minimum clearance of 0.75 inch, if clearance is insufficient. The installation of tube assemblies to allow minimum clearance eliminates the need for the repetitive inspections, provided initial inspections and any necessary corrective action have been done.
- If the insulation shows signs of chafing or contact with the couplings, replace any damaged insulation with new insulation.

- We have revised paragraph (f) of the supplemental NPRM to refer to Revision 1 of the service bulletin, and we have added a new paragraph (g) to give credit for actions done before the effective date of the AD per the original service bulletin.

### **Comments**

We have considered the following comments on the original NPRM.

### **Support for the Original NPRM**

Boeing concurs with the contents of the original NPRM.

### **Request To Add Revised Service Bulletin**

Japan Airlines states that, according to Boeing, Revision 1 of Boeing Alert

Service Bulletin 767–26A0130 will be issued on September 22, 2005, and it wants to make sure that Revision 1 will be referenced in the supplemental NPRM. Japan Airlines has confirmed with Boeing that, in certain locations, the clearance between the couplings of the APU bleed air duct and the fire extinguisher tube, as specified in the original issue of the service bulletin, does not completely satisfy the requirements in the original NPRM.

We agree with the commenter and, as noted above, we have added Boeing Alert Service Bulletin 767–26A0130, Revision 1, dated December 15, 2005, to this supplemental NPRM.

### **Request To Add Certain Requirements**

Air Transport Association (ATA), on behalf of Delta Airlines, requests that the original NPRM specify that Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004, provides terminating action for the actions in Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002.

Delta states that the “Relevant Service Information” paragraph specifies that Alert Service Bulletin 767–26A0123, refers to Service Bulletin 767–26–0118, Revision 2, as the appropriate source of service information for accomplishing the modification of the fire extinguishing tube assembly. Delta adds that the “Applicability” and “Repetitive Inspections” paragraphs do not address Service Bulletin 767–26–0118. Delta notes that they have scheduled modification of its airplanes per Service Bulletin 767–26–0118, rather than accomplishing the inspections per Service Bulletin 767–26A0123, and then addressing potential rework. Delta recommends that we add notes after paragraph (f) of the supplemental NPRM which specify that Service Bulletin 767–26–0118 constitutes terminating action for Service Bulletin 767–26A0123.

We partially agree. We agree that the modification specified in Service Bulletin 767–26–0118 constitutes terminating action for the inspections specified in Service Bulletin 767–26A0123; however, we do not agree to include a note adding that action to the supplemental NPRM. Accomplishing the modification is an on-condition action and is not required if there is sufficient clearance between the APU duct and the fire extinguisher tube. We do agree to add a note after paragraph (f) which specifies that Service Bulletin 767–26–0118 is the appropriate source of service information for accomplishing the modification of the fire extinguishing tube assembly. We have added Note 1 to this supplemental NPRM accordingly.

### **Request To Clarify Repetitive Inspections**

ATA, on behalf of Delta, requests that we clarify the repetitive inspections and explain why they are necessary.

Delta states that the inspections specified in paragraph (f)(1) of the original NPRM are to be repeated per Boeing Alert Service Bulletin 767–26A0130; however, the inspection specified in paragraph (f)(2) of the NPRM, which is to be done per Boeing Alert Service Bulletin 767–26A0123, does not specify repeating. Delta adds that neither Service Bulletin 767–26A0130 or 767–26A0123 recommend accomplishing the inspections on a repetitive basis. Delta notes that both service bulletins address a potential contact or chafing condition that appears to be related to relative installations, and would not be expected to change; therefore, repetitive inspections are not warranted. Delta adds that the title above paragraph (f) is “Repetitive Inspections,” which would imply that both paragraphs (f)(1) and (f)(2) have repetitive inspection requirements, but only paragraph (f)(1) requires repetitive inspections. Delta does not consider this a condition where repetitive inspections are required; however, if repetitive inspections are warranted, Delta asks for clarification of when and why repetitive inspections are required.

We agree that Service Bulletin 767–26A0123 does not specify repetitive inspections; however, Service Bulletin 767–26A0130 does include repetitive inspections as an option if no chafing or contact with the couplings of the APU bleed air duct is found, and support provisions are not in the correct location. The other option is to correct the location as a terminating action. If the couplings of the APU bleed air duct and support provisions are correctly installed (installation of the tube assembly in the correct location), and no contact or chafing is found, no further action is required by paragraph (f)(1). We also agree that to better clarify the header preceding paragraph (f) “Repetitive Inspections” it should be changed to “Inspections and Corrective Actions.” We have changed the header preceding paragraph (f) of this supplemental NPRM accordingly.

### **Request To Change Work Hours**

ATA, on behalf of US Airways, requests that the work hour estimate be revised and notes that the cost does not include potentially significant costs that are dependent on the findings of the proposed inspection.

US Airways does not agree with the work hour assessment in the original NPRM. US Airways states that the required work hours for the inspections and testing specified in the NPRM would take a total of 8 work hours, per the referenced service bulletins, amounting to a total of \$520 per airplane, not \$260 per airplane. US Airways notes that the proposed cost of compliance does not address the cost of damage findings from the inspections, which could add up to 23.5 additional work hours per airplane, increasing the cost up to \$1,527 per airplane.

We acknowledge the commenters' concerns, but don't agree to change the supplemental NPRM. The cost estimate specified in the original NPRM reflects the work hour estimate provided by the manufacturer for the inspections and varies according to the applicable model or group. Further, we do not agree to include the cost of repairing damage findings. Corrective actions are conditional based on the inspection findings. The information in the Costs of Compliance section in an AD action is limited to the cost of actions actually required by the AD. That section does not consider the costs of conditional actions (e.g., "repair, if necessary"). Regardless of AD direction, those actions would be required to correct an unsafe condition identified in an

airplane and ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. In addition, we have removed the cost estimate for the functional test because that test is only accomplished as part of the corrective actions.

After the original NPRM was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we found it necessary to increase the labor rate used in these calculations from \$65 per work hour to \$80 per work hour. The Costs of Compliance section, below, reflects this increase in the specified hourly labor rate.

#### Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

#### FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period

to provide additional opportunity for public comment on this supplemental NPRM.

#### Differences Between the Supplemental NPRM and New Service Information

Boeing Alert Service Bulletin 767–26A0130, Revision 1, recommends concurrently accomplishing the service bulletins specified in the table below; however, this supplemental NPRM would not include that requirement. The concurrent service bulletins describe procedures for installing a metered fire extinguishing system, but this proposed AD is only applicable to airplanes that already have that system installed.

#### CONCURRENT SERVICE BULLETINS

Group	Boeing service bulletin
3 .....	767–26–0016
4 .....	767–26–0027
5 .....	767–26–0034
6 .....	767–26–0058
7 .....	767–26–0070

#### Costs of Compliance

There are about 749 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM.

#### ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection in Service Bulletin 767–26A0123 .....	1	\$80	None	\$80	292	\$23,360
Inspection in Service Bulletin 767–26A0130, Revision 1 .....	5	80	None	400	292	116,800

#### 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 supplemental NPRM and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA–2005–21748; Directorate Identifier 2005–NM–071–AD.

### Comments Due Date

(a) The FAA must receive comments on this AD action by July 3, 2006.

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes; certificated in any category; with a metered fire extinguisher system in the aft cargo compartment.

### Unsafe Condition

(d) This AD was prompted by one report indicating that an operator found a hole in the discharge tube assembly for the metered fire extinguishing system; and another report indicating that an operator found chafing of the fire extinguishing tube against the auxiliary power unit (APU) duct that resulted in a crack in the tube. We are issuing this AD to prevent fire extinguishing agent from leaking out of the tube assembly in the aft cargo compartment which, in the event of a fire in the aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent, and consequent inability of the fire extinguishing system to suppress the 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.

### Inspections and Corrective Actions

(f) Within 24 months or 8,000 flight hours after the effective date of this AD, whichever is first: Accomplish the actions required by paragraphs (f)(1) and (f)(2) of this AD, as applicable.

(1) For airplanes identified in Boeing Alert Service Bulletin 767–26A0130, Revision 1, dated December 15, 2005: Perform detailed and general visual inspections for discrepancies of the fire extinguishing tube assemblies between STA 1197 and STA 1340, and the insulation of the metered fire extinguisher system and the bleed air duct couplings of the APU located in the aft cargo compartment, and any applicable corrective actions, by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–26A0130, Revision 1, dated December 15, 2005. Do all applicable corrective actions before further flight in accordance with the

service bulletin. Repeat the inspections thereafter at intervals not to exceed 24 months or 8,000 flight hours, whichever is first. Installation of the tube assembly in the correct location, in accordance with the service bulletin, terminates the repetitive inspections for that assembly only.

(2) For airplanes identified in Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002: Perform a general visual inspection for sufficient clearance between the fire extinguishing tube and the APU duct on the left sidewall from station 1355 through 1365 inclusive, and do all applicable modifications, by doing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–26A0123, dated August 22, 2002. Do all applicable modifications before further flight.

**Note 1:** Boeing Alert Service Bulletin 767–26A0123 refers to Boeing Service Bulletin 767–26–0118, Revision 2, dated December 21, 2004, as the appropriate source of service information for accomplishing the modification of the fire extinguishing tube assembly.

### Credit for Actions Accomplished Previously

(g) Accomplishing the inspections and corrective actions required by paragraph (f)(1) of this AD before the effective date of this AD, in accordance with Boeing Alert Service Bulletin 767–26A0130, dated December 2, 2004, is considered acceptable for compliance with the corresponding actions in paragraph (f)(1).

### Alternative Methods of Compliance (AMOCs)

(h)(1) 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on May 26, 2006.

**Jeffrey E. Duven,**

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

[FR Doc. E6–8823 Filed 6–6–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2006–24858; **Airspace Docket 06–ASO–8**]

### Proposed Establishment of Class E Airspace; Mooresville, NC

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Proposed Establishment of Class E airspace at Mooresville, NC. An Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) Runway (RWY) 14 has been developed for Lake Norman Airpark. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rules (IFR) operations at Lake Norman Airpark. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

**DATES:** Comments must be received on or before July 7, 2006.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 2590–0001. You must identify the docket number FAA–2005–23075; Airspace Docket 05–ASO–12, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

Any informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

### FOR FURTHER INFORMATION CONTACT:

Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.