mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 50,000,000 pounds of mushrooms annually.

(3) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

(4) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

(5) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

(6) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e)(1), (2), (3), (4) and (5) of this section that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

(f) * * *

(g) * * *

3. In § 1209.38, redesignate paragraphs (l) and (m) as paragraphs (m) and (n), respectively, and add a new paragraph (l) to read as follows:

§ 1209.38 Powers.

* * * * *

(l) To develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms.

* * * * *

§ 1209.230 [Removed]

4. Section 1209.230 is removed.

Dated: March 30, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–7476 Filed 4–6–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0314; Directorate Identifier 2008–NM–196–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, –300F, and –400ER 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, –300F, and –400ER series airplanes. This proposed AD would require an inspection to determine if certain motor operated valve actuators for the fuel tanks are installed, and related investigative and corrective actions if necessary. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing 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.

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*; 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: 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.

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–2009–0314; Directorate Identifier 2008–NM–196–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 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 fuel tank explosions and consequent loss of the airplane.

Boeing has found that, under specific conditions, it is possible for electrical current to flow through certain motor operated valve (MOV) actuators into the fuel tank. Boeing has developed a new valve actuator to replace those actuators. The new MOV actuator includes an internal electrical isolator to give the MOV actuator protection against electrical energy from lightning, hot shorts, and internal shorts. The new MOV actuator will prevent the flow of an electrical current into the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Related Rulemaking

On May 8, 2008, we issued AD 2008–11–01, amendment 39–15523 (73 FR 29414, May 21, 2008), for certain Boeing Model 767–200, –300, –300F, and –400ER series airplanes. That AD requires revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy SFAR 88 requirements. That AD also requires the initial inspection of certain repetitive AWL inspections to phase in those inspections, and repair if necessary. 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 fuel tank explosion and consequent loss of the airplane.

The version of the Maintenance Planning Data (MPD) Document (described below) that is required by AD 2008–11–01 and referenced in this proposed AD has not been changed and includes the AWLs for this proposed AD.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008. The service bulletin describes procedures for inspecting to determine the part number (P/N) of MOV actuators for the main and center fuel tanks. The service bulletin specifies that no more work is necessary if the part number is acceptable.

If the part number is not acceptable, the service bulletin specifies related investigative and corrective actions as follows:

- Replacing the MOV actuator with a new actuator having P/N MA30A1001.
- Doing an electrical resistance check; and, if the resistance is not acceptable, reworking the faying bond and airplane parts (including the index plate and adapter plate, as applicable).
- For any new part installed at the dual forward/aft engine fuel crossfeed location, inspecting for the ''SWEENEY ENGR CORP'' marking on the adaptor plate, and installing a shim kit as applicable.
- For airplanes that have a deflector kit installed at the left and right engine fuel shutoff MOV actuator location, installing a new wire support assembly on the deflector to prevent part interference.

Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008, also cites Section 9 of the Boeing 767 MPD Document, D622T001–9.

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, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

Although Boeing Alert Service Bulletin 767–28A0090, dated July 3, 2008 (''the service bulletin''), refers to Section 9 of the Boeing 767 Maintenance Planning Data (MPD) Document, D622T001–9, this proposed AD would not require revising the FAA-approved maintenance program to incorporate the new airworthiness limitations (AWLs) in Revision April 2008 of that document. We require that action in AD 2008–11–01.

The service bulletin also specifies replacing any MOV actuator having part number MA20A1001–1 with a new MOV actuator having P/N MA30A1001; however, this proposed AD would include other acceptable replacement part numbers. Other approved part numbers that are interchangeable with P/N MA30A1001 are as follows:

- MA20A2027 (S343T003–56)
- MA11A1265–1 (S343T003–41)
- AV–31–1 (S343T003–111)

Costs of Compliance

We estimate that this proposed AD would affect 397 airplanes of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $80 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $63,520, or $160 per product.

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–2009–0314; 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–