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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2004-19990; Directorate Identifier 2004-NM-199-AD; Amendment 39-14114; AD 2005-11-12]**

**RIN 2120-AA64**

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

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

**ACTION:** Final rule.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 767-200, -300, and -300F series airplanes. This AD requires installing a new, improved foam seal around certain ducts in the forward cargo compartment. This AD is prompted by the detection of incorrectly installed smoke barrier seals around the electrical/electronic equipment air supply and exhaust ducts. We are issuing this AD to prevent fire extinguishing agent from leaking out of the seals around the ducts in the forward cargo compartment in the event of an in-flight fire, which could result in failure to extinguish the fire and consequent smoke or fire extinguishing agent entering a compartment occupied by passengers or crew.

**DATES:** This AD becomes effective July 12, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of July 12, 2005.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

*Docket:* The AD docket contains the proposed AD, comments, and any final disposition. You can 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 of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Washington, DC. This docket number is FAA-2004-19990; the directorate identifier for this docket is 2004-NM-199-AD.

**FOR FURTHER INFORMATION CONTACT:** Barbara Mudrovich, 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) 917-6477; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 767-200, -300, and -300F series airplanes. That action, published in the Federal Register on January 5, 2005 (70 FR 727), proposed to require installing a new, improved foam seal around certain ducts in the forward cargo compartment.

## **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD. Two commenters concur with the proposed AD.

## **Request To Change Costs of Compliance Section**

One commenter estimates that the proposed modification of the foam seals requires approximately 3.5 work hours per airplane, at a cost of \$22,220 for its fleet. The commenter notes that it has accomplished the modification on all of its fleet. A second commenter estimates that the required work hours for the proposed AD would be 4.5 work hours per airplane, as specified in the referenced service information, at an estimated cost of \$292.50 per airplane.

We infer that the commenters are asking that the work hour estimate specified in the "Costs of Compliance" section be increased. We do not agree. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. This AD requires installing a new, improved foam seal around certain ducts in the forward cargo compartment. We recognize that in accomplishing the requirements of any AD, operators may incur incidental costs in addition to the direct costs. However, the cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. We have made no change to the AD in this regard.

## **Conclusion**

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

## **Costs of Compliance**

There are about 468 airplanes of the affected design in the worldwide fleet. This AD affects about 342 airplanes of U.S. registry.

For Group 1 and 2 airplanes: The foam seal installation around the cooling air supply and exhaust ducts takes about 2 work hours per airplane, at an average labor rate of \$65 per work hour. The cost of parts is minimal. Based on these figures, the estimated cost of the installation is \$130 per airplane.

For Group 2 airplanes: The foam seal installation around the avionics cooling and refrigeration unit duct takes about 2 work hours per airplane, at an average labor rate of \$65 per work hour. The cost of parts is minimal. Based on these figures, the estimated cost of the installation is \$130 per airplane.

## **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 AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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 AD. 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, Incorporation by reference, Safety.

## **Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 airworthiness directive (AD):

# AIRWORTHINESS DIRECTIVE



Aircraft Certification Service  
Washington, DC

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

*We post ADs on the internet at "www.faa.gov"*

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The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

**2005-11-12 Boeing:** Amendment 39-14114. Docket No. FAA-2004-19990; Directorate Identifier 2004-NM-199-AD.

## Effective Date

- (a) This AD becomes effective July 12, 2005.

## 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 Alert Service Bulletin 767-26A0119, Revision 1, dated July 15, 2004.

## Unsafe Condition

- (d) This AD was prompted by the detection of incorrectly installed smoke barrier seals around the electrical/electronic equipment air supply and exhaust ducts. We are issuing this AD to prevent fire extinguishing agent from leaking out of the seals around the ducts in the forward cargo compartment in the event of an in-flight fire, which could result in failure to extinguish the fire and consequent smoke or fire extinguishing agent entering a compartment occupied by passengers or crew.

## 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.

## Seal Installation

- (f) Within 24 months or 8,000 flight hours after the effective date of this AD, whichever is first: Do the applicable actions required by paragraphs (f)(1) and (f)(2) of this AD by doing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767-26A0119, Revision 1, dated July 15, 2004.

(1) For Group 1 and 2 airplanes: Install a foam seal around the four cooling air supply and exhaust ducts in the electrical/electronic equipment bay in the forward cargo compartment.

(2) For Group 2 airplanes: Install a foam seal around the avionics cooling and refrigeration unit duct in the forward cargo compartment.

### **Credit for Actions Accomplished Previously**

(g) Accomplishing the applicable actions before the effective date of this AD in accordance with Boeing Alert Service Bulletin 767-26A0119, dated April 19, 2001, is considered acceptable for compliance with the corresponding actions in paragraph (f)(1) of this AD.

### **Alternative Methods of Compliance (AMOCs)**

(h) 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.

### **Material Incorporated by Reference**

(i) You must use Boeing Alert Service Bulletin 767-26A0119, Revision 1, dated July 15, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-11058 Filed 6-6-05; 8:45 am]

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