

determination under this part that a nonbank financial company, or the financial activities of a company, shall be subject to supervision by the Board of Governors and subject to prudential standards, such nonbank financial company or company may, not later than 30 days after the date of receipt of the notice of final determination under § 1310.21(d) or (e) or § 1310.22(e), or § 1310.23(a)(2), bring an action in the United States district court for the judicial district in which the home office of such nonbank financial company or company is located, or in the United States District Court for the District of Columbia, for an order requiring that the final determination be rescinded.

(b) *Review of a final determination by the Council* by the court shall be limited to whether the final determination made under this part was arbitrary and capricious.

Dated: January 19, 2011.

**Alastair Fitzpayne,**

*Deputy Chief of Staff and Executive Secretary,  
Department of the Treasury.*

[FR Doc. 2011-1551 Filed 1-25-11; 8:45 am]

**BILLING CODE 4810-25-P-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2011-0032; Directorate Identifier 2010-NM-236-AD]

RIN 2120-AA64

#### **Airworthiness Directives; The Boeing Company Model 737-600, -700, -700C, -800, and -900 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 the products listed above. This proposed AD would require an inspection of the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck, re-clocking the connector keyways to 12 o'clock if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. This proposed AD was prompted by reports of arcing and smoke at the number 2 window in the flight deck. We are proposing this AD to prevent arcing, smoke, and fire in the

flight deck, which could lead to injuries to or incapacitation of the flight crew.

**DATES:** We must receive comments on this proposed AD by March 14, 2011.

**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:* Deliver to Mail address above 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.

#### **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 (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office; phone: 425-917-6478; fax: 425-917-6590; e-mail: [elias.natsiopoulos@faa.gov](mailto:elias.natsiopoulos@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-

2011-0032; Directorate Identifier 2010-NM-236-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**

We received a report of arcing and smoke at the left number 2 window in the flight deck. The arcing and smoke were traced to mechanical damage of the heat-coil assembly at the 90-degree connector back shell. It appears that the wires are being stressed at the back shell when the window is cycled open and closed. The repeated cycles are causing the wires to fatigue and break resulting in arcing, smoke, and fire in the flight deck. This condition, if not corrected, could lead to injuries to or incapacitation of the flight crew.

#### **Relevant Service Information**

We reviewed Boeing Special Attention Service Bulletin 737-30-1058, Revision 3, dated July 7, 2010. The service information describes procedures for inspecting the orientation of both sides of the coil cord connector keyways, re-clocking the connector keyways to the 12 o'clock position if necessary; and replacing the existing coil cord assemblies with new assemblies on both sides of the flight deck.

#### **FAA's Determination**

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type designs.

#### **Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously.

#### **Costs of Compliance**

We estimate that this proposed AD will affect 687 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Keyway inspection and installation of new cord assemblies on both sides of the flight deck.	6 work-hours × \$85 per hour = \$510.	\$1,608	\$2,118	\$1,455,066

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

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 airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2011–0032; Directorate Identifier 2010–NM–236–AD.

Comments Due Date

(a) We must receive comments by March 14, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010.

Subject

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

Unsafe Condition

(e) This AD was prompted by reports of arcing and smoke at the left number 2 window in the flight deck. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flight crew.

Compliance

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

Replacement

(g) Within 48 months after the effective date of this AD, do the actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection of the orientation of the coil cord connector keyways on the captain’s and first officer’s side of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010. If the orientation is not at the 12 o’clock position, before further flight, re-clock the connector keyways to the 12 o’clock position, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010.

(2) Replace the coil cord assemblies with new assemblies on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010.

Credit for Actions Accomplished in Accordance With Previous Service Information

(h) Actions done before the effective date of this AD, in accordance with a service bulletin identified in table 1 of this AD, are acceptable for compliance with the corresponding actions specified in this AD.

TABLE 1—ACCEPTABLE PREVIOUS SERVICE INFORMATION

Boeing Service Bulletin	Revision	Dated
737–30–1058 .....	Original .....	July, 27, 2006.
737–30–1058 .....	1 .....	June 18, 2007.
737–30–1058 .....	2 .....	February 13, 2009.

## Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

## Related Information

(j) For more information about this AD, contact Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office (ACO); phone: 425-917-6478; fax: 425-917-6590; e-mail: *elias.natsiopoulos@faa.gov*.

(k) For service information identified in this 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.

Issued in Renton, Washington, on January 12, 2011.

**Jeffrey E. Duven,**

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

[FR Doc. 2011-1438 Filed 1-25-11; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 165

**RIN Number 3038-AD04**

## Implementing the Whistleblower Provisions of Section 23 of the Commodity Exchange Act

### Correction

In proposed rule document 2010-29022, beginning on page 75728 in the issue of Monday, December 6, 2010, make the following correction:

On page 75727, in the cover for Part II, the agency name “Commodity Futures Trading Corporation” should

read “Commodity Futures Trading Commission.”

[FR Doc. C1-2010-29022 Filed 1-25-11; 8:45 am]

**BILLING CODE 1505-01-D**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 35

**[Docket No. RM10-20-000]**

### Market-Based Rate Affiliate Restrictions

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Withdrawal of notice of proposed rulemaking and termination of rulemaking proceeding.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) withdraws a notice of proposed rulemaking, which proposed to amend its regulations governing market-based rates for public utilities pursuant to section 205 of the Federal Power Act (FPA) to include in the regulatory text the clarification that employees that determine the timing of scheduled outages or that engage in economic dispatch, fuel procurement or resource planning may not be shared under the market-based rate affiliate restrictions codified in Order No. 697.

**DATES:** *Effective Date:* This withdrawal will become effective February 25, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Michelle Barnaby (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8407.

Stephen J. Hug (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8009.

#### SUPPLEMENTARY INFORMATION:

Issued January 20, 2011.

1. On April 15, 2010, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this proceeding.<sup>1</sup> For the reasons set forth below, we are exercising our discretion to withdraw the NOPR and terminate this rulemaking proceeding.

<sup>1</sup> *Market-Based Rate Affiliate Restrictions*, 75 FR 20796 (Apr. 21, 2010), Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,567 (2010).

## I. Background

2. In Order No. 697,<sup>2</sup> the Commission adopted affiliate restrictions that govern the relationship between franchised public utilities with captive customers and their “market-regulated” power sales affiliates, i.e., affiliates whose power sales are regulated in whole or in part on a market-based rate basis. These market-based rate affiliate restrictions govern the separation of functions, the sharing of market information, sales of non-power goods or services, and power brokering. The Commission requires that, as a condition of receiving and retaining market-based rate authority, sellers comply with these affiliate restrictions unless explicitly permitted by Commission rule or order. Failure to satisfy the conditions set forth in the affiliate restrictions constitutes a violation of a seller’s market-based rate tariff.<sup>3</sup>

3. On March 9, 2009, the Compliance Working Group<sup>4</sup> submitted a request for clarification in the Commission’s market-based rate rulemaking proceeding regarding which employees can be shared for purposes of compliance with the Commission’s market-based rate affiliate restrictions. On October 28, 2009, the Compliance Working Group submitted an amended request for clarification. In response to the Compliance Working Group’s request, the Commission provided clarification regarding which employees may not be shared under the affiliate

<sup>2</sup> *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh’g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh’g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh’g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh’g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010).

<sup>3</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 549-550.

<sup>4</sup> The Compliance Working Group stated that it consists of 27 energy companies, which include integrated electric businesses, merchant generators, marketing and trading businesses, and natural gas distributors, and explains that the group was formed in mid-2008 “to develop a model [Commission] compliance program guide.” Compliance Working Group Request for Clarification, Docket No. RM04-7-007, at 2 (filed Mar. 9, 2009); Compliance Working Group Amended Request for Clarification, Docket No. RM04-7-007, at 3 (filed Oct. 28, 2009). The members of the Compliance Working Group taking part in its request for clarification are: Allegheny Energy, Inc., American Electric Power Company, Inc., Cleco Corporation, Consumers Energy Company, Dominion Resources, Inc., Duke Energy Corporation, Edison International, El Paso Electric Company, Energy East Corp., Entergy Corporation, Exelon Corporation, FirstEnergy Corp., FPL Group, Inc., Pacific Gas and Electric Co., Progress Energy, Inc., Public Service Enterprise Group Incorporated, and Westar Energy, Inc.