

cannot freely be found in or through an agency's electronic library. Perhaps this would require agencies to pay license fees for their use of such standards—and if so, they would then have proper bargaining incentives to keep those fees low.

Even should the Director disagree with this proposition—erroneously in our view—he should then make the level and distribution of costs for access to materials incorporated by reference a necessary element of the determination whether they are reasonably available. Since having the Internet eliminates any concern about having to print excessive materials, protecting copyright interests is the only possible rationale for permitting incorporation by reference of materials members of the public might be required to pay to see. The criterion for reasonable availability, as § 51.1(c)(1) recognizes, is whether incorporation by reference “is intended to benefit both the Federal Government and the members of the class affected.” Without doubt, the Government's interests are served by the work of voluntary standards organizations, yet the net benefits to the Federal Government of permitting incorporation by reference have been greatly reduced by today's possibilities for electronic publication. Benefit to the members of the class affected requires ready accessibility, whether by the presence of this material in agency electronic reading rooms or its accessibility on standards organization Web sites. Those benefits are reduced if they must be paid for—and high fees, particularly for local governments, small businesses and concerned citizens that may have a strong interest to know the governing law, will eliminate them. Any agency today proposing to export the costs of learning the law to those affected by it should, at the very least, be required to demonstrate its efforts to contain those costs (especially for small businesses, local governments, citizens, etc.) as a necessary element of demonstrating reasonable availability.

For your convenience in understanding the changes sought by this petition, we set out in the pages following 1 CFR part 51 as it might appear if they were effected. For convenience, added language is italicized, and deleted language struck out. It is important to understand, however, that we are not asking for adoption of this exact language. Indeed, the bracketed language in § 51.7(a)(3)(i)(C) is language we would prefer not appear in the regulation, but reflects the maximum recognition of voluntary standards organizations' authority to charge the public for access to incorporated materials we would regard as tolerable. What is essential is that you now reconsider the antiquated provisions of this regulation in light of the changes wrought by the Information Age and federal statutes and policies building on it.

As coordinator of this petition, Peter L. Strauss avers that each of the persons below has authorized him to include their name on this petition, with affiliations given for purposes of personal identification only.

Respectfully submitted,

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Sidney A. Shapiro  
University Chair in Law, Wake Forest  
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Vice-President, Center for Progressive Reform  
Lea B. Vaughn  
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University of Washington School of Law  
cc: Hon. Susan Collins, Ranking Member  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Hon. Patrick D. Gallagher, Director  
National Institute of Science and Technology  
Hon. John P. Holdren, Director  
Office of Science and Technology Policy  
Hon. Joseph Lieberman, Chair

Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Ms. Maria Pallante  
Register of Copyrights  
Library of Congress

Hon. Cass Sunstein, Director  
Office of Information and Regulatory  
Analysis

Hon. Stephen Van Roekel,  
Federal Chief Information Officer

Hon. Paul Verkuil, Chair  
Administrative Conference of the United  
States

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BILLING CODE 1505-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2012-0183; Directorate  
Identifier 2011-NM-131-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company 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 The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. This proposed AD was prompted by reports from the manufacturer that center overhead stowage (COS) boxes could fall from their supports under forward load levels less than the 9G forward load requirements as defined by Federal Aviation Regulations. This proposed AD would require modifying COS boxes by installing new brackets, stiffeners, and hardware as needed. We are proposing this AD to prevent detachment of COS boxes at forward load levels less than 9G during an emergency landing, which would cause injury to passengers and/or crew and could impede subsequent rapid evacuation.

**DATES:** We must receive comments on this proposed AD by April 12, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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; email [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:** Patrick Gillespie, Aerospace Engineer,

Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6429; fax: 425-917-6590; email: [patrick.gillespie@faa.gov](mailto:patrick.gillespie@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-2012-0183; Directorate Identifier 2011-NM-131-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 reports from the manufacturer that COS boxes could fall from their supports under forward load levels less than the 9G forward load requirements as defined by section 25.561 of the Federal Aviation

Regulations (14 CFR 25.561). This condition, if not corrected, could result in detachment of COS boxes at forward load levels less than 9G during an emergency landing, which would cause injury to passengers and/or crew and could impede subsequent rapid evacuation.

### Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 737-25-1641, Revision 1, dated August 8, 2011. The service information describes procedures for modifying center overhead stowage boxes. The modification includes installing new brackets, stiffeners, and hardware (bolts, washers, and nuts) as needed.

### 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 this same type design.

### 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 affects 526 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
Modification .....	31 work-hours × \$85 per hour = \$2,635 .....	\$6,118	\$8,753	\$4,604,078

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–2012–0183; Directorate Identifier 2011–NM–131–AD.

#### (a) Comments Due Date

We must receive comments by April 12, 2012.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–25–1641, Revision 1, dated August 8, 2011.

#### (d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

#### (e) Unsafe Condition

This AD was prompted by reports from the manufacturer that center overhead stowage (COS) boxes could fall from their supports under forward load levels less than the 9G forward load requirements as defined by Federal Aviation Regulations. We are issuing this AD to prevent detachment of COS boxes at forward load levels less than 9G during an emergency landing, which would cause injury to passengers and/or crew and could impede subsequent rapid evacuation.

#### (f) Compliance

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

#### (g) Modification and Installation of Center Overhead Stowage Boxes

Within 60 months after the effective date of this AD, modify the COS boxes in

accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–25–1641, Revision 1, dated August 8, 2011.

#### (h) Credit for Previous Actions

This paragraph provides credit for the modification required by paragraph (g) of this AD, if the modification was performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–25–1641, dated May 13, 2011.

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

(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. 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 emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto: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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle Aircraft Certification Office to make those findings.

#### (j) Related Information

(1) For more information about this AD, contact Patrick Gillespie, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6429; fax: 425–917–6590; email: [patrick.gillespie@faa.gov](mailto:patrick.gillespie@faa.gov).

(2) 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; email [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.

Issued in Renton, Washington, on February 14, 2012.

**Kalene C. Yanamura,**

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

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**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2012–0102; Directorate Identifier 2012–NM–004–AD]

RIN 2120–AA64

#### Airworthiness Directives; Various Transport Category Airplanes

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

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

**SUMMARY:** We propose to supersede an existing airworthiness directive (AD) that applies to certain transport category airplanes. The existing AD currently requires either activating all chemical oxygen generators in the lavatories until the generator oxygen supply is expended, or removing the oxygen generator(s); and, for each chemical oxygen generator, after the generator is expended (or removed), removing or restowing the oxygen masks and closing the mask dispenser door. Since we issued that AD, we have identified means to provide a supplemental oxygen system that does not have the unsafe condition. This proposed AD would require installing a supplemental oxygen system in affected lavatories, which would terminate the requirements of the existing AD. We are proposing this AD to eliminate a hazard that could jeopardize flight safety, and to ensure that all lavatories have a supplemental oxygen supply.

**DATES:** We must receive comments on this proposed AD by April 12, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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.

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#### Examining the AD Docket

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