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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0614; Project Identifier AD-2021-00831-T; Amendment 39-21677; AD 2021-16-15]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737-8, 737-9, and 737-8200 (737 MAX) airplanes; and certain Model 737-800 and 737-900ER series airplanes. This AD was prompted by the determination that the aft cargo compartment fire suppression capability is reduced if the airplane is dispatched or released with failed electronic flow control of air conditioning packs, as is currently allowed by these airplane models' master minimum equipment lists (MMELs). This AD prohibits the carriage of cargo in the aft cargo compartment when the airplane is dispatched or released with failed electronic flow control of air conditioning packs. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 9, 2021.

The FAA must receive comments on this AD by September 23, 2021.

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 <https://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.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0614; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Sam Nalbandian, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3993; email: Samuel.K.Nalbandian@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA was notified by Boeing in March 2021 of a potential concern that the aft cargo compartment fire suppression capability is reduced on affected airplanes if the airplane is dispatched or released with failed electronic flow control of air conditioning packs, as is currently allowed by the existing FAA-approved MMEL of the affected airplane models. This MMEL allowance can result in the inability to contain a fire in the aft cargo compartment due to increased air leakage that degrades the fire suppression performance. A failed electronic flow control of air conditioning packs would significantly increase the pack airflow and cargo compartment air leakage. In April 2021, Boeing advised the FAA that such increased leakage could result in insufficient concentration of Halon fire suppressant in the aft cargo compartment, which can result in the inability to contain a fire for the time necessary to divert to a suitable airport.

The FAA is issuing this AD to address failed electronic flow control of air conditioning packs, which can result in an uncontained aft cargo compartment fire due to insufficient cargo fire suppression capability. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD prohibits dispatch or release of an airplane with cargo in the aft cargo compartment with failed electronic flow control of air conditioning packs. The AD specifically allows non-combustible and/or non-flammable empty cargo handling equipment, ballast, and/or fly-away kits in the aft cargo compartment.

MMEL Revisions

This AD refers to items in ATA System No. 21, Air Conditioning, of Boeing 737 (B-737-100/200/300/400/500/600/700/800/900/900ER) MMEL, Revision 61, dated July 8, 2020; and Boeing 737 MAX (B-737-8/-8200/-9) MMEL, Revision 3, dated April 12, 2021;¹ those items may also be included in an operator's FAA-approved minimum equipment list (MEL). This AD prohibits dispatch or release of the airplane under conditions currently allowed by those items in the MMEL. The FAA

¹ The MMEL items can be found in the applicable FAA-approved MMEL, which can be found on the Flight Standards Information Management System (FSIMS) website, <https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel>.

plans to revise the MMELs to modify those items; operators would then be required to also revise their applicable existing FAA-approved MEL accordingly.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because failed electronic flow control of air conditioning packs can result in an uncontained aft cargo compartment fire due to insufficient cargo fire suppression capability. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include Docket No. FAA-2021-0614 and Project Identifier AD-2021-00831-T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Sam Nalbandian, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3993; email: Samuel.K.Nalbandian@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 663 airplanes of U.S. registry.

The FAA has determined that revising the operator's existing FAA-approved MEL, if accomplished in association with compliance for the requirements of this AD, would take an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators typically incorporate MEL changes for their affected fleets, the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be \$7,650 (90 work-hours x \$85 per work-hour).

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.

The FAA is 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

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, and
- (2) Will not affect intrastate aviation in Alaska.

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:



AIRWORTHINESS DIRECTIVE

www.faa.gov/aircraft/safety/alerts/
www.gpoaccess.gov/fr/advanced.html

2021-16-15 The Boeing Company: Amendment 39-21677; Docket No. FAA-2021-0614; Project Identifier AD-2021-00831-T.

(a) Effective Date

This airworthiness directive (AD) is effective August 9, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) through (3) of this AD.

- (1) All Model 737-8, 737-9, and 737-8200 airplanes.
- (2) Model 737-800 series airplanes, line numbers 5684 and 5759 and subsequent.
- (3) Model 737-900ER series airplanes, line numbers 5768 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Unsafe Condition

This AD was prompted by the determination that the aft cargo fire suppression capability is reduced if the airplane is dispatched or released with failed electronic flow control of air conditioning packs. The FAA is issuing this AD to address this condition, which can result in an uncontained aft cargo compartment fire due to insufficient cargo fire suppression capability.

(f) Compliance

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

(g) Conditions for Prohibited Operation

Beginning August 19, 2021, no person may dispatch or release an airplane with cargo in the aft cargo compartment with failed electronic flow control of air conditioning packs, unless the aft cargo compartment remains empty, or is verified by the operator to contain only non-combustible and/or non-flammable empty cargo handling equipment, ballast, and/or fly-away kits.

Note 1 to paragraph (g): The operator's existing FAA-approved minimum equipment list (MEL) defines which items are approved for inclusion in the fly-away kits, and which materials may be used as ballast.

(h) Minimum Equipment List (MEL) Items

The master minimum equipment list (MMEL) items specified in paragraphs (h)(1) and (2) of this AD are affected by the prohibition specified in paragraph (g) of this AD, and therefore may affect the operator's existing FAA-approved MEL.

(1) For Model 737-8, 737-9, and 737-8200 airplanes: MMEL System No. 21, Sequence No. 51-02-01, "Electronic Flow Control."

(2) For Model 737-800 and 737-900ER series airplanes: MMEL System No. 21, Sequence No. 02-03, "Electronic Flow Control."

Note 2 to paragraph (h): The MMEL items specified in paragraph (h) of this AD can be found in the applicable FAA-approved MMEL: Boeing 737 (B-737-100/200/300/400/500/600/700/800/900/900ER) MMEL, Revision 61, dated July 8, 2020; and Boeing 737 MAX (B-737-8/-8200/-9) MMEL, Revision 3, dated April 12, 2021. These MMELs can be found on the Flight Standards Information Management System (FSIMS) website, <https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel>.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, 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 responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed 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 responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Sam Nalbandian, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3993; email: Samuel.K.Nalbandian@faa.gov.

(k) Material Incorporated by Reference

None.

Issued on July 29, 2021.

Lance T. Gant,
Director, Compliance & Airworthiness Division, Aircraft Certification Service.
[FR Doc. 2021-16972 Filed 8-5-21; 11:15 am]