

Issued in Renton, Washington, on April 6, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 04-8544 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-125-AD; Amendment 39-13576; AD 2004-08-07]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 767-300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767-300 series airplanes, that requires a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, and corrective actions, if necessary. This amendment also requires modification of the A1 galley. This action is necessary to prevent interference of the A1 galley with the radial stiffener on the aft pressure bulkhead, which could result in fatigue crack propagation. Fatigue crack propagation could lead to possible rapid decompression of the airplane or to damage and/or interference with the airplane control systems that pass through the bulkhead and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective May 24, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM-120S,

FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6441; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767-300 series airplanes was published in the **Federal Register** on October 1, 2003 (68 FR 56591). That action proposed to require a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, and corrective actions, if necessary. That action also proposed to require modification of the A1 galley.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### Request To Withdraw the Proposed AD

One commenter, the airplane manufacturer, requests that the proposed AD be withdrawn. The commenter asserts that the proposed AD affects five airplanes currently operated by two operators. Of those five airplanes, the commenter states that three have adequate clearance, and no further action is required for those airplanes by Boeing Service Bulletin 767-53A0102 (referenced in the proposed AD as the appropriate source of service information for accomplishment of the actions in the proposed AD). The commenter further states that the (non-U.S.) operator of the two airplanes, which require further action, has the corrective actions scheduled.

We do not agree that the AD be withdrawn. As we explained in the preamble to the proposed AD, the AD differs from the service bulletin in that the AD mandates modification of the A1 galley regardless of the clearance, because the A1 galley is interchangeable and may be installed on other airplanes. The A1 galley exceeds the allowable size-envelope by three inches; this may result in interference and damage to the radial stiffener on the aft pressure bulkhead when the galley is installed on a different airplane. The airplane manufacturer agrees that such damage to the radial stiffener could cause decompression and/or interference with the airplane control systems. Therefore, we have determined that the modification is necessary.

Additionally, even though the two unmodified airplanes are not registered

in the U.S. and are scheduled to be brought into compliance with the requirements of the AD, the issuance of the AD is still necessary to ensure that those airplanes will be required to be in compliance should they be imported and placed on the U.S. register in the future. For these reasons, we find that the AD cannot be withdrawn. No change to the final rule is necessary in this regard.

#### Request To Reduce Compliance Time

One commenter supports the proposed AD, but requests that the proposed 18-month compliance time for inspection of the clearance between the corners of the A1 galley and the aft pressure bulkhead be reduced. The commenter states that, because of the seriousness of the potential resulting damage caused by improper clearances, the inspection should be conducted and any identified damage be repaired in a more timely manner. The commenter suggests no specific compliance time.

The FAA does not agree. In developing an appropriate compliance time, we considered the safety implications and normal maintenance schedules for timely accomplishment of the inspection. Further, we arrived at the compliance time with operator and manufacturer concurrence. In consideration of these factors, and because the amount of time required for a fatigue crack to initiate and propagate from a single area of damage is sufficiently long, we determined that the compliance time, as proposed, represents an appropriate interval in which the inspection can be accomplished in a timely manner, while still maintaining an adequate level of safety. Operators are always permitted to accomplish the requirements of an AD at a time earlier than the specified compliance time; therefore, an operator may choose to accomplish the inspection before the compliance time. If additional data are presented that would justify a shorter compliance time, we may consider further rulemaking on this issue. No change to the final rule is necessary in this regard.

#### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### Cost Impact

There are approximately 5 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 8

work hours per airplane to accomplish the required inspection and modification, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on the U.S. operator is estimated to be \$520 for that airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

**2004-08-07 Boeing:** Amendment 39-13576. Docket 2003-NM-125-AD.

*Applicability:* Model 767-300 series airplanes, line numbers 754, 761, 767, 775, and 776; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent interference of the A1 galley with the radial stiffener on the aft pressure bulkhead, which could result in fatigue crack propagation, leading to possible rapid decompression of the airplane or to damage and/or interference with the airplane control systems that pass through the bulkhead and consequent loss of control of the airplane; accomplish the following:

#### Inspection

(a) Within 18 months after the effective date of this AD, perform a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Corrective Action: Detailed Inspection

(b) If, during the inspection required by paragraph (a) of this AD, the clearance between the corners of the A1 galley and the aft pressure bulkhead is found to be less than 1.0 inch, before further flight, perform a detailed inspection for damage to the insulation and aft pressure bulkhead structure, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003. If any damage to the insulation or cracking in the aft pressure bulkhead is detected, before further flight, repair the damage and/or cracking per the Accomplishment Instructions of the service bulletin, except where the service bulletin specifies to contact the manufacturer for repair instructions if damage exceeds the conditions covered in the structural repair manual. If damage exceeds the limits specified in the structural repair manual, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated

Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Concurrent Modification

(c) Before or concurrent with the requirements of paragraph (a) of this AD, modify the A1 galley, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003.

**Note 3:** Boeing Service Bulletin 767-53A0102, Revision 1, refers to BE Aerospace Service Bulletins 25-30-0079, dated April 22, 2002; and 25-30-0080, dated April 22, 2002; as additional sources of service information for accomplishment of the modification for Model 767-300 series airplanes.

#### Actions Accomplished Per Previous Issue of Service Bulletin

(d) The applicable actions accomplished before the effective date of this AD per Boeing Alert Service Bulletin 767-53A0102, dated November 21, 2002, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, FAA, is authorized to approve alternative methods of compliance for this AD.

#### Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(g) This amendment becomes effective on May 24, 2004.

Issued in Renton, Washington, on April 6, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 04-8543 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-272-AD; Amendment 39-13575; AD 2004-08-06]

RIN 2120-AA64

#### **Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146-100A and -200A Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited Model BAe 146-100A and -200A series airplanes, that requires an inspection to determine the part number of the inner links of the side stays for the main landing gear (MLG), and replacement of the inner links with new parts, if necessary. This action is necessary to prevent the failure of the MLG, which could result in damage to the airplane structure or injury to airplane occupants. This action is intended to address the identified unsafe condition.

**DATES:** Effective May 24, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### **FOR FURTHER INFORMATION CONTACT:**

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all BAE Systems (Operations) Limited Model BAe 146-100A and -200A series airplanes was published in the **Federal Register** on December 5, 2003 (68 FR 67986). That action proposed to require an inspection to determine the part number of the inner links of the side stays for the main landing gear (MLG), and replacement of the inner links with new parts, if necessary.

#### **Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

#### **Request to Revise Description of Part Having Specified Part Numbers**

One commenter requests that paragraphs (b) and (c) of the proposed AD be revised to clarify the description of the part having the specified part numbers. The commenter notes that paragraphs (b) and (c) of the proposed AD require actions for side stays having part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343. The commenter contends that this leads readers to believe the part numbers are for the side stay, but the part numbers are actually for the inner link subassembly of the side stay. The commenter recommends that paragraphs (b) and (c) be revised to clarify that the actions are for any side stay having an inner link with part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343.

The FAA agrees that paragraphs (b) and (c) of the final rule should be revised to clarify the description of the part having the specified part numbers. As stated by the commenter, the part numbers specified in paragraphs (b) and (c) of the final rule are found on the inner link. We have revised paragraphs (b) and (c) of the final rule to clarify that the required actions apply to any side stay having an inner link with part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343.

#### **Conclusion**

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the

adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### **Cost Impact**

The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$975, or \$65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### **Regulatory Impact**

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.