

Dated: September 22, 2004.

**Bentley M. Roberts, Jr.,**  
Clerk of the Board.

[FR Doc. 04-21589 Filed 9-24-04; 8:45 am]

BILLING CODE 7400-01-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 04-038-2]

#### Karnal Bunt; Regulated Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations to make changes to the list of areas regulated because of Karnal bunt, a fungal disease of wheat. The interim rule removed certain areas in Arizona and Texas from the list of regulated areas based on our determination that the fields in those areas met our criteria for release from regulation. That action was necessary to relieve restrictions that were no longer warranted.

**EFFECTIVE DATE:** The interim rule became effective on May 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Matthew Royer, Senior Program Adviser, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737-1236; (301) 734-7819.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective May 12, 2004, and published in the **Federal Register** on May 17, 2004 (69 FR 27821-27823, Docket No. 04-038-1), we amended the regulations in "Subpart—Karnal Bunt" (7 CFR 301.89-1 through 301.89-16) by removing certain areas in Arizona and Texas from the list of quarantined areas in § 301.89-3(e). That action, which was based on our determination that the fields in these areas met our criteria for release from regulation, relieved restrictions on the interstate movement of regulated articles from those areas that were no longer warranted.

Comments on the interim rule were required to be received on or before July 16, 2004. We received one comment by that date, from a private citizen. The commenter stated that the interstate movement of all wheat from States

containing regulated areas should be prohibited. Given that the regulations require wheat grown in regulated areas to be tested prior to movement and restrict the interstate movement of wheat found to be Karnal-bunt positive, we do not believe it is necessary to prohibit the interstate movement of all wheat from States containing regulated areas in order to prevent the spread of Karnal bunt.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 27821-27823 on May 17, 2004.

**Authority:** 7 U.S.C. 7701-7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under Sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under Sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 20th day of September 2004.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 04-21575 Filed 9-24-04; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-90-AD; Amendment 39-13804; AD 2004-19-10]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, that requires repetitive inspections for corrosion and cracking of the pivot hinge pins of the horizontal stabilizer, certain follow-on inspections, and replacement of the hinge pins with new or serviceable pins if necessary. This action is necessary to prevent failure of the outer and inner hinge pins due to corrosion or cracking, which could allow the pins to migrate out of the joint and result in intermittent movement of the horizontal stabilizer structure and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective November 1, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of November 1, 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 National Archives and Records Administration (NARA). For information on the availability of this material at 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).

**FOR FURTHER INFORMATION CONTACT:** Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6440; 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 737–100, –200, –200C, –300, –400, and –500 series airplanes was published in the **Federal Register** on December 8, 2003 (68 FR 68301). That action proposed to require repetitive inspections for corrosion and cracking of the pivot hinge pins of the horizontal stabilizer, certain follow-on inspections, and replacement of the hinge pins with new or serviceable pins if necessary.

#### **Clarification of Changes to the Proposed AD**

Although paragraph (a) of the proposed AD specifies repetitive inspections, paragraph (a)(1) specifies that if the hinge pins are serviceable, “no further action is required.” We have removed the phrase “no further action is required by this paragraph” from paragraph (a)(1) of the proposed AD to clarify that the repetitive inspections are still required.

#### **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.

#### **Comments That Resulted in a Change to the Proposed AD**

##### *Requests To Add Certain Repair Approvals*

Two commenters request that paragraphs (b)(6), (d)(6), (f)(6), and (h)(6) of the proposed AD be revised to add an additional method of repair. The proposed AD specifies that, for a pin found corroded in an area that is not threaded or in a thread relief radius, operators must repair, before further flight, per a method approved by the Manager, Seattle Aircraft Certification Office (ACO). Both commenters request that a method of repair, such as pin replacement, be provided as an additional repair approval prior to releasing the AD. The commenters request such an additional method of repair approval in order to preclude the possibility of long delays in obtaining approval of a repair from the Manager, Seattle ACO.

Another commenter requests that the same paragraphs discussed in the previous paragraph be revised to allow operators to obtain repair approval from a Boeing Company Designated Engineering Representative (DER), who has been authorized by the Manager, Seattle ACO, to make such findings.

The FAA agrees with the commenters that those additional methods of repair approval may be provided for in this AD. Therefore, we have revised paragraphs (b)(6), (d)(6), (f)(6), and (h)(6) of the final rule accordingly.

##### *Requests To Clarify Certain Inspections*

One commenter requests that we revise paragraphs (b) and (f) of the proposed rule to specify that the inspections required by those paragraphs can be accomplished per either Part 2 or Part 3 of the service bulletin. The commenter states that the hinge pin (outer) and pin insert (inner) can be removed at the same time from the airplane as an assembly. The commenter concludes that, in the case of the Model 737–200 series airplanes, the only difference is whether to perform the magnetic particle inspection of the outer pin when the outer pin is already out. Additionally, the commenter states that, although the Part 3 inspection is more comprehensive than the Part 2 inspection, it implicitly satisfies the requirement. Another commenter requests that the FAA clarify if operators are given the choice of using either Part 2 or Part 3, and if so, are both inspections still required at the same compliance times specified in the proposed AD.

We agree with the commenters that clarification for paragraphs (b) and (f) is necessary. We have revised those paragraphs to specify that the required inspections may be accomplished per the procedures specified in either Part 2 or Part 3 of the Accomplishment Instruction of the specified service bulletin. We point out, however, that the repetitive inspection intervals specified for paragraphs (c) and (g) of the AD remain the same as specified in the proposed rule, regardless of whether the inspections are performed per Part 2 or Part 3 of the Accomplishment Instructions of the service bulletin.

#### **Comments That Resulted in No Change to the Proposed AD**

##### *Requests To Extend the Compliance Time*

One commenter requests that the initial compliance time of “within 90 days after the effective date of this AD” for the detailed inspection specified by paragraph (a) of the proposed AD be extended to 180 days. The commenter states that the additional time is necessary to obtain spare parts. The commenter notes that revising the initial inspection compliance time to 180 days would be consistent with the 180-day interval for the repetitive inspections.

Another commenter requests that the compliance times for the inspections per Part 3 be extended to 15,000 flight hours or 96 months for Model 737–200 series airplanes and 18,000 flight hours or 96 months for the Model 737–400 series airplanes. The commenter states that those compliance times would coincide with its “D” check and “SI” check intervals.

Two commenters request that the compliance times specified in the proposed AD be adjusted to allow for anticipated part shortages. The commenters both note that replacement hinge pins that may have to be replaced are “under management control by Boeing.” One commenter explains that “under management control” means there is a very limited supply of spare hinge pins to support industry inspections.

Another commenter requests that the flight-hour intervals specified in paragraphs (d) and (h) of the proposed AD be increased from 12,000 flight hours and 16,000 flight hours, respectively, to 15,000 flight hours and 18,000 flight hours, respectively. The commenter specifies that such an extension would coincide with its normal schedule for heavy maintenance. The commenter provided no further justification for such extension of the repetitive inspection intervals.

We do not agree with the commenters’ requests. We have determined that the identified unsafe condition warrants a compliance time of “within 90 days after the effective date of the AD.” We note that the manufacturer recommends a compliance time of “within 90 days of the release of the service bulletin release date,” which was December 6, 2001. We have been informed by Boeing that parts should be available. If a shortage of the supply of hinge pins does occur, paragraph (j) of this AD provides affected operators the opportunity to apply for an alternative method of compliance (AMOC) and to present data to justify the adjustment of compliance times.

We also do not agree with the commenters’ request to extend the threshold compliance times for accomplishment of the requirements of Part 3 of the Boeing alert service bulletin. No technical justification was provided to substantiate this request.

##### *Request To Delay Issuance of the Final Rule*

One commenter notes that Boeing Alert Service Bulletin 737–55A1077 Information Notice (IN) 01, dated September 11, 2003, was not referenced in the proposed AD. The commenter states that the IN has revised wording of

the original service bulletin to correct certain errors. The commenter points out that having such differences between the proposed AD and the new service information could create confusion and potential compliance problems. The commenter requests revision of Boeing Service Bulletin 737-55A1077 by the manufacturer and approval by the FAA prior to the release of the AD.

We do not agree with the commenter's request. The IN was a minor clarification that has already been addressed by this AD as noted in the "Differences" section in the preamble of the notice of proposed rulemaking (NPRM). Delaying this action until after the release and approval of the manufacturer's planned service bulletin is not warranted. We have determined that the inspections must be conducted to ensure continued operational safety. When a new revision of the service bulletin has been developed, we will review that revision and consider approving it as an alternative method of compliance with the requirements of this AD.

#### 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 with the changes previously described. 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

There are approximately 3,132 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,250 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the detailed inspection specified in paragraph (a) of this AD, and that the average labor rate is \$65 per work hour. Since the requirements of paragraph (a) of this AD apply to the total affected fleet, the cost impact of the inspections required by paragraph (a) of this AD on U.S. operators is estimated to be \$81,250, or \$65 per airplane, per inspection cycle.

It will take approximately 6 work hours per airplane, per inspection, to accomplish the detailed and magnetic particle inspections described in Part 2 of the Accomplishment Instructions of the specified alert service bulletin. We estimate that if all airplanes were required to accomplish those inspections, the estimated cost impact of the affected airplanes will be

\$487,500 or \$390 airplane, per inspection cycle.

It will take approximately 12 work hours per airplane, per inspection, to accomplish the detailed and magnetic particle inspections described in Part 3 of the Accomplishment Instructions of the specified alert service bulletin. We estimate that if all airplanes were required to accomplish those inspections, the estimated cost impact of the affected airplanes will be \$975,000, or \$780 per airplane, per inspection cycle.

The cost impact figures discussed above are 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:

**Boeing:** Amendment 39-13804. Docket 2003-NM-90-AD.

**Applicability:** Model 737-100, -200, -200C, -300, -400, and -500 series airplanes having line numbers 1 through 3132 inclusive; certificated in any category.

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

To prevent failure of the outer and inner hinge pins due to corrosion or cracking, which could allow the pins to migrate out of the joint and result in intermittent movement of the horizontal stabilizer structure and consequent loss of controllability of the airplane, accomplish the following:

(a) For all airplanes: Within 90 days after the effective date of this AD, perform a detailed inspection of the pivot hinge pin joints for corrosion and, with hand pressure, check for movement of the hinge pins within the joints of the horizontal stabilizer, per Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin (ASB) 737-55A1077, dated December 6, 2001. Repeat the detailed inspections and check at intervals not to exceed 180 days until the initial inspection specified in paragraph (b), (d), (f), or (h) of this AD, as applicable, is performed.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: "An intensive 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."

(1) If no corrosion is found, and if the hinge pins cannot be moved with hand pressure, the hinge pins are serviceable.

(2) If any pin can be moved with hand pressure, before further flight, remove and inspect both pins on the left and right sides and perform follow-on corrective actions per Part 3 of the Accomplishment Instructions of the ASB.

(3) If any corrosion is found, before further flight, remove and perform a detailed inspection of the pin(s) per Figure 2 (inner pin) or Figure 3 (inner and outer pins), as applicable, of the Accomplishment Instructions of the ASB; and perform follow-on corrective actions, per the Accomplishment Instructions of the ASB.

(b) For Models 737-100, -200, and 200C series airplanes: Within 3,000 flight hours or

24 months after the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 2 or Part 3 of the Accomplishment Instructions of Boeing ASB 737-55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (b)(3) and (b)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the requirements of paragraph (b)(6)(i) or (b)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) 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 FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(c) For Models 737-100, -200, -200C series airplanes: Thereafter, repeat the inspections required by paragraph (b) of this AD at the times specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If BMS 3-27 grease (Mastinox 6856K) is used, repeat the inspection at intervals not to exceed 6,000 flight hours or 48 months, whichever occurs first.

(2) If BMS 3-33 grease is used as a substitute for BMS 3-27 grease (Mastinox 6856K), repeat the inspections at intervals not to exceed 3,000 flight hours or 24 months, whichever occurs first.

(d) For Models 737-100, -200, and -200C series airplanes: Within 12,000 flight hours or 96 months after the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 3 of the Accomplishment Instructions of Boeing ASB 737-55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (d)(3) and (d)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank and the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions specified in paragraph (d)(6)(i) or (d)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) 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 FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(e) For Models 737-100, -200, -200C series airplanes: Thereafter, repeat the inspections required by paragraph (d) of this AD at the times specified in paragraph (e)(1) or (e)(2) of this AD, as applicable.

(1) If BMS 3-27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 12,000 flight hours or 96 months, whichever occurs first.

(2) If BMS 3-33 grease is used as a substitute for BMS 3-27 grease (Mastinox 6856K), thereafter, repeat the inspections at intervals not to exceed 6,000 flight hours or 48 months, whichever occurs first.

(f) For Model 737-300, -400, and -500 series airplanes: Within 4,000 flight hours or 24 months from the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion and cracking of the horizontal stabilizer hinge pins, per Part 2 or Part 3 of the Accomplishment Instructions of Boeing ASB 737-55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (f)(3) and (f)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent

thread relief radius, or the threaded end, but the inner pin is free of damage, before further flight, replace the outer pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pins with new or serviceable pins, per the Accomplishment Instructions of the ASB.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin, per the Accomplishment Instructions of the ASB.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions of paragraph (f)(6)(i) or (f)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) 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 FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(g) For Model 737-300, -400, and -500 series airplanes: Thereafter, repeat the inspections required by paragraph (f) of this AD at the times specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) If BMS 3-27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 8,000 flight hours or 48 months, whichever occurs first.

(2) If BMS 3-33 grease is used as a substitute for BMS 3-27 (Mastinox 6856K), repeat the inspections at intervals not to exceed 4,000 flight hours or 24 months, whichever occurs first.

(h) For Model 737-300, -400, and -500 series airplanes: Within 16,000 flight hours or 96 months from the effective date of this AD, whichever occurs first, perform a detailed inspection and magnetic particle inspection for corrosion or cracking of the horizontal stabilizer hinge pins per Part 3 of the Accomplishment Instructions of Boeing ASB 737-55A1077, dated December 6, 2001.

(1) If no corrosion or cracking is found, before further flight, reinstall the pin unless the condition of the other pin in that joint requires that both pins be replaced. (See paragraphs (h)(3) and (h)(4) of this AD.)

(2) If an outer pin is cracked in the area that includes the tapered shank, the adjacent thread relief radius, or the threaded end, but the inner pin is damage free, before further flight, replace the outer pin with a new or serviceable pin.

(3) If an outer pin is cracked in the area that includes the straight shank or the head, before further flight, replace both the inner and outer pin with new or serviceable pins.

(4) If any cracks are found on an inner pin, before further flight, replace both the inner and outer pin with new or serviceable pins.

(5) On any pin, if corrosion is found on a threaded area or in the thread relief radius adjacent to the threads, before further flight, replace the pin with a new or serviceable pin.

(6) If any corrosion is found on an area of the pin that is not threaded or in a thread relief radius adjacent to threads, before further flight, accomplish the actions specified in paragraph (h)(6)(i) or (h)(6)(ii) of this AD.

(i) Replace the pin with a new or serviceable pin, per the ASB.

(ii) 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 FAA to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

(i) For Model 737-300, -400, and -500 series airplanes: Thereafter, repeat the inspections required by paragraph (h) of this AD at the times specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) If BMS 3-27 grease (Mastinox 6856K) is used, thereafter, repeat the inspections at intervals not to exceed 16,000 flight hours or 96 months, whichever occurs first.

(2) If BMS 3-33 grease is used as a substitute for BMS 3-27 (Mastinox 6856K), thereafter, repeat the inspections at intervals not to exceed 8,000 flight hours or 48 months, whichever occurs first.

#### Alternative Methods of Compliance

(j)(1) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically reference this AD.

#### Incorporation by Reference

(k) The actions shall be done in accordance with Boeing Alert Service Bulletin 737-55A1077, dated December 6, 2001. 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 National Archives and Records Administration (NARA). For information on the availability of this material at 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).

#### Effective Date

(l) This amendment becomes effective on November 1, 2004.

Issued in Renton, Washington, on September 15, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-21271 Filed 9-24-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-263-AD; Amendment 39-13800; AD 2004-19-06]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767-200, -300, and -300F series airplanes, that requires inspections to detect cracking or corrosion of the fail-safe straps between the side fitting of the rear spar bulkhead at body station 955 and the skin; and follow-on/corrective actions. This action is necessary to detect and correct fatigue cracking or corrosion of the fail-safe straps, which could result in cracking of adjacent structure and consequent reduced structural integrity of the fuselage. This action is intended to address the identified unsafe condition.

**DATES:** Effective November 1, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 1, 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 National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/](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).

#### 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 all Boeing Model 767-200, -300, and -300F series airplanes was published in the **Federal Register** on March 5, 2004 (69 FR 10364). That action proposed to require inspections to detect cracking or corrosion of the fail-safe straps between the side fitting of the rear spar bulkhead at body station 955 and the skin; and follow-on/corrective actions.

#### 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 Notice of Proposed Rulemaking (NPRM)

One commenter requests that the NPRM be withdrawn. The commenter states that none of the reported incidents described in the Discussion section of the NPRM can be attributed completely to fatigue. The commenter also states that all data to date that suggest this is a fatigue issue are flawed by the fact that there have been three separate contributing factors—corrosion, surface damage, and fretting/small gouging.

The commenter has inspected 43 airplanes and found only one case of cracking, which was the result of surface damage during installation of the fail-safe strap in the factory. The commenter discovered the damage during normal routine maintenance, using an item currently in the maintenance program, and believes that these standard inspections are sufficient to maintain the continued safety of the airplanes. The commenter also points out that this airplane and the second airplane referred to in the Background section of Boeing Alert Service Bulletin 767-53A0100, dated September 26, 2002 (referenced in the AD as the appropriate source of service bulletin for the required actions), have early line numbers and “were [essentially] hand built.” The commenter contends that if this is truly a fatigue issue, there would have been at least one other occurrence