

**Note 5 to paragraph (i) of this AD:** An additional source of guidance for the actions specified in paragraph (i) of this AD can be found in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-237, Revision 1, dated April 2, 2013.

**(j) New Requirement of This AD: No Alternative Actions, Intervals, and CDCCLs**

After accomplishment of the revision required by paragraph (i) of this AD, no alternative actions (e.g., inspections), intervals, and CDCCLs may be used, unless the actions, intervals, and CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

**(k) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, 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 International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone: 425-227-1175; fax: 425-227-1149. 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. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(l) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014-0071, dated March 19, 2014, for related information. This MCAI may be found in the AD docket on the Internet at

<http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-4220.

(2) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email [RApublications@baesystems.com](mailto:RApublications@baesystems.com); Internet <http://www.baesystems.com/Businesses/RegionalAircraft/index.htm>. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on February 29, 2016.

**Michael Kaszycki,**

*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-2016-4221; Directorate Identifier 2015-NM-167-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 all The Boeing Company Model 767-200 and -300 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead web to pressure chord joint is subject to widespread fatigue damage (WFD). This proposed AD would require repetitive high frequency eddy current (HFEC) inspections of the aft pressure bulkhead web, at fasteners common to the bulkhead web and pressure chord, around the entire circumference of the pressure chord for any crack, and repair of cracks. We are proposing this AD to detect and correct cracks in the aft pressure bulkhead web. Such cracking could result in the loss of structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by April 22, 2016.

**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 NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, WA 98124-2207; telephone: 206-544-5000, extension 1; fax: 206-766-5680; Internet: <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-4221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-4221; 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:** Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6447; fax: 425-917-6590; email: [wayne.lockett@faa.gov](mailto:wayne.lockett@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–2016–4221; Directorate Identifier 2015–NM–167–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

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as WFD. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA’s WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD

throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

The FAA has received a report indicating that an evaluation by the DAH has indicated that the aft pressure bulkhead web to pressure chord joint is subject to WFD. This condition, if not corrected could result in cracks from the aft pressure bulkhead web to pressure chord joint and possible loss of structural integrity of the airplane.

### Related Service Information Under 1 CFR part 51

We reviewed Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015. This service information describes procedures for repetitive high frequency eddy current (HFEC) inspections of all visible locations of the aft pressure bulkhead web, at fasteners common to the bulkhead web and pressure chord, and around the entire circumference of the pressure chord for any crack, and repair of cracks. This service information is reasonably available

because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

### FAA’s Determination

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

### Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under “Differences Between this Proposed AD and the Service Information.” For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2016–4221.

### Differences between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

The applicability in this proposed AD is not limited to airplanes identified in Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015. That service information does not contain a comprehensive list of the airplanes that are subject to the identified unsafe condition. This proposed AD would therefore apply to all Model 767–200 and –300 series airplanes.

### Costs of Compliance

We estimate that this proposed AD affects 296 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
Inspection .....	57 work-hours × \$85 per hour = \$4,845 per inspection cycle.	\$0	\$4,845	\$1,434,120 per inspection cycle.

The size of any repair area needs to be determined before material and work-hour costs can be calculated. We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

#### 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–2016–4221; Directorate Identifier 2015–NM–167–AD.

#### (a) Comments Due Date

We must receive comments by April 22, 2016.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to all The Boeing Company Model 767–200 and –300 series airplanes, certificated in any category.

#### (d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

#### (e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead web to pressure chord joint is subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracks in the aft pressure bulkhead web to pressure chord joint which could result in the loss of structural integrity of the airplane.

#### (f) Compliance

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

#### (g) Repetitive Inspections

Except as required by paragraph (h) of this AD, at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015, perform a surface high

frequency eddy current (HFEC) inspection for cracking of the aft pressure bulkhead web, at fasteners common to the bulkhead web and pressure chord, around the entire circumference of the pressure chord, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015. For this AD, Group 2, Configuration 2, as specified in Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015, includes airplanes with the aft pressure bulkhead replaced as specified in Boeing Alert Service Bulletin 767–53A0267. Repeat the inspection thereafter at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015.

#### (h) Service Information Exception

Where Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015, specifies a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

#### (i) Crack Repair

If any crack is found during any inspection required by paragraph (g) of this AD, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Although Boeing Alert Service Bulletin 767–53A0268, dated April 1, 2015, specifies to contact Boeing for repair instructions, and specifies that action as "RC" (Required for Compliance), this AD requires repair as specified in this paragraph. Installation of a repair terminates the inspections required by paragraph (g) of this AD in the area covered by the repair only.

#### (j) 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 paragraph (k)(1) 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, modification, or alteration 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 ACO 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.

(4) Except as required by paragraph (i) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

#### (k) Related Information

(1) For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6447; fax: 425-917-6590; email: [wayne.lockett@faa.gov](mailto:wayne.lockett@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, WA 98124-2207; telephone: 206-544-5000, extension 1; fax: 206-766-5680; Internet: <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on February 29, 2016.

**Michael Kaszycki,**

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

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF STATE

### 22 CFR Part 41

[Public Notice: 9458]

RIN 1400-AD30

#### Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

**AGENCY:** Department of State.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of State proposes to reinstate a temporarily suspended amendment to its visa

regulations to clarify procedures for waiver of documentary requirements due to an unforeseen emergency for nonimmigrants seeking admission to the United States.

**DATES:** Comments must be received on or before May 9, 2016.

**ADDRESSES:** Internet: You may view this proposed rule and submit your comments by visiting the Regulations.gov Web site at [www.regulations.gov](http://www.regulations.gov), and searching for docket number DOS-2016-0010.

#### FOR FURTHER INFORMATION CONTACT:

Lauren A. Boquin, Legislation and Regulations Division, Legal Affairs, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St NW., Washington, DC 20006 (202) 485-7638.

#### SUPPLEMENTARY INFORMATION:

##### Background

This rulemaking proposes to reinstate a 1999 regulatory amendment that was invalidated by court order in *United Airlines, Inc. v. Brien*, 588 F.3d 158 (2d Cir. 2009).

Pursuant to Section 212(a)(7)(B)(i) of the Immigration and Nationality Act (INA), a nonimmigrant is inadmissible to the United States if he or she does not present an unexpired passport and valid visa at the time of application for admission. 8 U.S.C. 1182(a)(7)(B)(i). Either or both of these requirements may be waived by the Secretary of Homeland Security and the Secretary of State, acting jointly, in specified situations, as provided in INA section 212(d)(4) (8 U.S.C. 1182(d)(4)). One circumstance in which this requirement may be waived is when a nonimmigrant is unable to present a valid visa or unexpired passport due to an unforeseen emergency. In accordance with INA section 212(d)(4) (8 U.S.C. 1182(d)(4)), the Department of State and the Department of Homeland Security have consulted and are acting jointly to propose amendments to 8 CFR 212.1 and 22 CFR 41.2.

##### Former Regulations

The Department of State and the former Immigration and Naturalization Service (INS) published parallel regulations in 1994 to consolidate and simplify procedures for processing waivers of documentary requirements in cases of emergency circumstances. INS amended its regulation in 1996, preserving its authority to impose fines on carriers for transporting nonimmigrants who did not present a valid visa and passport, even in cases where the INS granted a waiver. In 1999, the Department of State published

a regulation to accompany the INS amendment, also allowing the INS to fine carriers who transported individuals who later received waivers of the visa and passport requirement. In a 2009 decision, the U.S. Court of Appeals for the Second Circuit found the 1999 State Department amendment invalid as it lacked joint action and was not promulgated with a period for public notice and comment. Accordingly, the Department of State and DHS have consulted and are acting jointly to propose reinstating the amendments.

Because of the court's ruling, the 1994 rule is in effect until the Department of State issues a final rule. The 1994 version of the text, which is available to the public through the Government Printing Office, stipulated that in cases of unforeseen emergencies, a visa and passport are not required of an alien if, either prior to the alien's embarkation abroad or upon arrival at a port of entry, the responsible district director of the Immigration and Naturalization Service in charge of the port of entry concludes that the alien is unable to present the required documents because of an unforeseen emergency. The 1994 rule also stipulated that any waiver of the visa or passport requirement may be granted by the INS district director pursuant to INA 212(d)(4)(A) without the prior concurrence of the Department of State in each case in which the district director concludes that the alien's claim of emergency circumstances is legitimate and bona fide and that approval of the waiver would be appropriate under all of the attendant facts and circumstances.

The Department of Homeland Security is proposing a parallel Notice of Proposed Rulemaking to amend 8 CFR 212.1(g), published in today's **Federal Register**.

##### Regulatory Findings

###### A. Administrative Procedure Act

The Department is publishing this notice of proposed rulemaking with a 60-day period of notice and comment.

###### B. Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department of State has reviewed this regulation and certifies that this rule will not have a significant economic impact on a substantial number of small entities.

###### C. The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, 109 Stat. 48, 2 U.S.C. 1532,