

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent interference with venting during a rapid decompression in the bulk cargo compartment, which could cause damage to the floor structure as well as damage to certain control cables leading to the empennage, and could result in reduced controllability of the airplane, accomplish the following:

#### Modification

(a) Within 7 years after the effective date of this AD: Modify the installation of the aft pressure bulkhead-to-floor insulation blankets, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767-25A0300, Revision 1, dated May 2, 2002.

#### Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 767-25A0300, Revision 1, dated May 2, 2002. 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 Airplane Group, 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

(e) This amendment becomes effective on July 29, 2003.

Issued in Renton, Washington, on June 16, 2003.

**Kalene C. Yanamura,**

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

[FR Doc. 03-15596 Filed 6-23-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-143-AD; Amendment 39-13201; AD 2003-13-01]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 767 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 series airplanes, that requires an inspection to detect cracks and fractures of the outboard hinge fitting assemblies on the trailing edge of the inboard main flap, and follow-on and corrective actions if necessary. For certain airplanes, this amendment also requires a one-time inspection to determine if a tool runout procedure has been performed in the area. The actions specified by this AD are intended to prevent the inboard aft flap from separating from the wing and potentially striking the airplane, which could result in damage to the surrounding structure and potential personal injury. This action is intended to address the identified unsafe condition.

**DATES:** Effective July 29, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 29, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, 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 series airplanes was published in the **Federal Register** on January 6, 2003 (68 FR 518). That action proposed to require an inspection to detect cracks and fractures of the outboard hinge fitting assemblies on the trailing edge of the inboard main flap, and follow-on and corrective actions if necessary. For certain airplanes, that action also proposed to require a one-time inspection to determine if a tool runout procedure has been performed in the area.

#### 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. One commenter concurs with the contents of the proposed AD.

#### Request To Change Applicability

One commenter, the manufacturer, asks that the applicability specified in the proposed AD be changed. The commenter states that line number 870 is for a Model 767-300 airplane, and is outside the line number effectivity listed in Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001 (which was referenced in the proposed AD and specified line numbers 1 through 825 inclusive).

The FAA agrees with the commenter. Line number 870 is for a Model 767-300ER airplane, and was inadvertently added to the applicability specified in the proposed AD. The applicability in this final rule has been changed accordingly.

#### Request To Extend Compliance Time

One commenter states that a compliance time grace period of 90 days for the inspections specified in paragraph (a)(1) of the proposed AD would be extremely difficult. The commenter asks that the grace period be extended to 270 days. The commenter adds that this will allow sufficient time for affected operators to schedule and accomplish the inspections, and will provide time for Boeing to produce adequate spares.

We do not agree with the commenter, as insufficient supporting data were provided to us to substantiate the request. Boeing Service Bulletin 767-57A0076, Revision 1, was issued on March 29, 2001, and recommended a grace period of 90 days after release of the service bulletin. In addition, Boeing parts are not necessary unless discrepant parts are found during the inspections. The terminating action provided by paragraph (f) of this final

rule would require installing the new parts, but is not mandatory. Therefore, no extension is necessary in order to obtain parts.

In developing an appropriate compliance time for this action, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, and the practical aspect of accomplishing the required inspections within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. However, under the provisions of paragraph (i) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

#### **Parts Availability**

One commenter states a concern for the availability of improved fittings for replacement. The commenter notes that, due to warranty, it anticipates replacing any fittings that do not exhibit the tool runout option, regardless of the inspection results.

We have been assured by the parts manufacturer that a sufficient number of replacement parts is available. However, this may not cover all parts without the tool runout option, regardless of the condition of the parts. If the commenter expects to replace a large number of parts, ordering the parts in advance so the manufacturer has time to produce adequate replacement parts is recommended.

#### **Request To Provide a Method To Identify Certain Fittings**

One commenter states that the proposed AD specifies that certain part numbers may not be installed on any aircraft unless the requirements of the proposed AD have been accomplished. The commenter notes that neither the proposed AD nor the referenced service bulletins provide instructions on how to identify fittings that have met the requirements of the proposed AD.

Although the commenter does not make a specific request, we infer that the commenter wants the FAA to provide instructions in the final rule for identification of the fittings that meet the AD requirements. We do not agree that such additional instructions are necessary because it is the operator's responsibility to show documented compliance to the requirements of the AD. If a spare part is installed on an airplane, and the previous inspection history of the part is not documented, the applicable inspection must be done

and must be repeated at the intervals required by this AD. Paragraph (h) of the proposed AD identifies the part numbers for fittings that cannot be installed unless the applicable requirements of the AD have been accomplished for that fitting. Those requirements are specified in paragraphs (a) through (f) of the AD. No change is made to the final rule in this regard.

#### **Request To Change Cost Impact Section**

One commenter estimates that the detailed visual and eddy current inspections specified in the proposed AD take 15 work hours per airplane to do, at a cost of \$117,000 for the operator's fleet.

Although the commenter does not make a specific request, we infer that the commenter wants the work hours and cost for the detailed visual and eddy current inspections specified in the Cost Impact section to be changed. We do not agree to change the number of estimated work hours for the inspections. The number of work hours necessary to accomplish the inspections, specified as 5 in the cost impact information, is consistent with the service bulletin. This number represents the time necessary to perform only the inspections actually required by this AD. Therefore, no change is made to the final rule in this regard.

#### **Request To Clarify Applicability**

One commenter would like to obtain clarification of the applicability specified in the proposed AD relative to airplanes in the Model 767-400 fleet having fuselage numbers 875 (variable number VQ085) and 877 (variable number VQ086), which are not listed in the applicability section. The commenter states that, according to the effectivity in the original issue of Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002, only an airplane having fuselage number 877 is not affected by the proposed AD.

The terminology "fuselage numbers" actually refers to airplane line numbers, rather than the terminology used by the commenter for tracking its airplanes. Boeing Airplane Information Report dated October 2, 2002, shows Model 767 line number 875 as having variable number VS701, line number 876 having variable number VQ085, line number 877 having variable number VS721, and line number 878 having variable number VQ086; these figures do not match the variable numbers provided by the commenter. Regardless, the line numbers specified in the proposed AD and the referenced service bulletin are

correct. No change is made to the final rule in this regard.

#### **Request To Clarify Certain Wording in Paragraph (c)**

One commenter asks that the last sentence in paragraph (c) of the proposed AD be changed for clarification from "This AD requires that the terminating action, if required, be accomplished before further flight" to "This AD requires that the terminating action, if required because cracks have been found, be accomplished before further flight." The commenter states that it is not explicit in paragraph (c) that the terminating action is required only if cracks are found. The commenter adds that specifying the need to accomplish terminating action before further flight, without explicitly referencing cracks, may confuse the operator.

We do not agree with the commenter. Paragraph (c) of the proposed AD merely clarifies that, if the referenced service bulletins specify corrective action (i.e., if cracked or fractured fittings are found, do Part 3—Terminating Action), such action is required before further flight. No change is made to the final rule 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 with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

#### **Cost Impact**

There are approximately 783 airplanes of the affected design in the worldwide fleet. The FAA estimates that 354 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the detailed inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of this action is estimated to be \$42,480, or \$120 per airplane, per inspection cycle.

It will take approximately 5 work hours per airplane to accomplish the detailed visual and eddy current inspections, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of these actions is estimated to be \$106,200, or \$300 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.

The terminating action, if accomplished, will take approximately 24 work hours per airplane, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of this action is estimated to be \$1,440 per airplane.

### 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:

**2003-13-01 Boeing:** Amendment 39-13201. Docket 2002-NM-143-AD.

**Applicability:** Model 767 series airplanes, certificated in any category; line numbers 1 through 826 inclusive, 830, 842, 855, 856, 859, 862, 864 through 866 inclusive, 868, 869, 871 through 874 inclusive, and 876.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent the inboard aft flap from separating from the wing and potentially striking the airplane, which could result in damage to the surrounding structure and potential personal injury, accomplish the following:

#### Inspection

(a) Perform either a detailed inspection, or a detailed inspection plus an eddy current inspection, of the outboard hinge fitting assemblies on the trailing edge of the inboard main flap to detect cracks and fractures and evidence of a tool runoff procedure, as applicable.

(1) For Model 767-200, -300, and -300F series airplanes: Inspect before the airplane accumulates 2,700 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later, in accordance with Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001.

(2) For Model 767-400ER series airplanes: Inspect before the airplane accumulates 12,000 total flight cycles, in accordance with Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002.

**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."

#### Follow-On/Corrective Actions

(b) Following the initial inspection(s) required by paragraph (a) of this AD: Perform applicable follow-on and corrective actions at

the time(s) specified in Figure 1 of Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001 (for Model 767-200, -300, and -300F series airplanes); or Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002 (for Model 767-400ER series airplanes). Do the follow-on and corrective actions (including repetitive inspections and replacement of the fittings with new fittings) in accordance with Part 1 or Part 2 of the service bulletin, as applicable, except as required by paragraph (d) of this AD. For Model 767-200, -300, and -300F series airplanes: If the fitting has the tool runoff, and no cracking or fracture is found during the inspection, this AD requires no further action for that hinge fitting.

#### Exceptions to Service Bulletin Procedures

(c) Where the terminating action in Part 3 of the service bulletin is specified as corrective action in Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001; and Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002: This AD requires that the terminating action, if required, be accomplished before further flight.

(d) Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001, specifies to contact Boeing before the terminating action is done as corrective action for any cracking or fracture found on a Model 767-200, -300, or -300F series airplane with the tool runoff. This AD requires that any such crack or fracture on those airplanes be reported to the FAA in accordance with paragraph (e) of this AD and repaired in accordance with Part 3 of the service bulletin.

#### Reporting Requirement

(e) For any Model 767-200, -300, or -300F series airplane with the tool runoff, on which any cracking or fracture is found during the inspection(s) required by paragraph (a) of this AD: Submit a report of the inspection findings to the Manager, Seattle Aircraft Certification Office (ACO), FAA, at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) For airplanes on which the initial inspection is done after the effective date of this AD: Submit the report within 30 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the initial inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

#### Terminating Action

(f) Unless required to do so by paragraph (b) of this AD: Operators may choose to accomplish the terminating action (including replacement of the fittings with new fittings,

and reinstallation of existing upper skin access panels and fairing midsections on the trailing edge of the main flap) in accordance with Part 3 of the Work Instructions of Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001; or Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002; as applicable.

Accomplishment of the terminating action terminates the repetitive inspection requirements of paragraph (b) of this AD.

#### Credit for Prior Accomplishment Per Earlier Service Information

(g) Accomplishment before the effective date of this AD of an inspection, associated follow-on and corrective actions, and terminating action in accordance with Boeing Alert Service Bulletin 767-57A0076, dated October 26, 2000, is acceptable for compliance with the corresponding requirements of this AD for applicable airplanes.

#### Part Installation

(h) As of the effective date of this AD, no person may install on any airplane a hinge fitting assembly that has any part number listed in Table 1 of this AD, unless the applicable requirements of this AD have been accomplished for that fitting. Table 1 follows:

TABLE 1.—HINGE FITTING ASSEMBLY PART NUMBERS

113T2271-13 .....	113T2271-14
113T2271-23 .....	113T2271-24
113T2271-29 .....	113T2271-30
113T2271-33 .....	113T2271-34
113T2271-401 .....	113T2271-402

#### Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(j) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(k) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 767-57A0076, Revision 1, dated March 29, 2001; and Boeing Alert Service Bulletin 767-57A0079, dated June 20, 2002; as applicable. 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 Airplane Group, 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

(l) This amendment becomes effective on July 29, 2003.

Issued in Renton, Washington, on June 16, 2003.

**Kalene C. Yanamura,**

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

[FR Doc. 03-15594 Filed 6-23-03; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Parts 1300, 1301, 1304, 1305 and 1306

[Docket No. DEA-208F]

RIN 1117-AA58

#### Allowing Central Fill Pharmacies and Retail Pharmacies To Fill Prescriptions for Controlled Substances on Behalf of Retail Pharmacies

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Final rule.

**SUMMARY:** DEA is finalizing a Notice of Proposed Rulemaking (NPRM) defining central fill pharmacy activities and permitting central fill pharmacies to prepare controlled substances prescriptions on behalf of retail pharmacies with which the central fill pharmacies have a contractual agreement to provide such services or with which the pharmacies share a common owner. When one retail pharmacy receives a prescription and a second pharmacy prepares and subsequently delivers the controlled substance medication to the first retail pharmacy for dispensing to the patient, the second pharmacy is engaging in a "central fill activity". Records must be maintained by both the central fill pharmacy and the retail pharmacy that completely and accurately reflect the disposition of all controlled substance prescriptions dispensed. With respect to security, central fill pharmacies would be required to comply with the same security requirements applicable to retail pharmacies including the general requirement to maintain effective controls and procedures to guard against theft and diversion of controlled substances. DEA is creating an

allowance for retail pharmacies that also perform central fill activities to do so without separate DEA registration, separate inventories, or separate records. This rulemaking is sought by the regulated industry and will allow for more efficient delivery of controlled substance prescriptions to patients.

**EFFECTIVE DATE:** July 24, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307-7297.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 6, 2001, DEA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (66 FR 46567) proposing to allow central fill pharmacies to fill prescriptions for controlled substances on behalf of retail pharmacies. The NPRM was published in response to significant changes taking place in the pharmacy industry. Increased demands are being placed on traditional pharmacy systems by the rapid growth in the number of prescriptions written and dispensed.

At present, there is no provision in DEA's regulations for central fill pharmacy operations. Retail pharmacies, including those which utilize the mail service and the Internet, are registered by DEA to dispense prescriptions for controlled substances directly to the patient. "Dispensing" is defined in the Controlled Substances Act as delivering a controlled substance "to an ultimate user" (21 U.S.C. 802(10)). DEA regulations do not currently provide for central fill pharmacy operations which fill prescriptions for delivery to a traditional retail pharmacy. Current DEA regulations do not permit a prescription for controlled substances to be brought to one pharmacy, filled at a second pharmacy, and then returned to the first pharmacy for dispensing to the patient. Allowing central fill pharmacies to fill prescriptions on behalf of retail pharmacies for subsequent dispensing to the ultimate user is a legitimate extension of current practice.

Therefore, the regulations are being amended to allow for central fill pharmacies to fill prescriptions on behalf of retail pharmacies and to allow retail pharmacies to perform central fill activities without separate DEA registration and separate inventories.