

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2004-19446; Directorate Identifier 2004-NM-130-AD; Amendment 39-13967; AD 2005-03-11]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 767 series airplanes. That AD currently requires repetitive detailed and eddy current inspections of the aft pressure bulkhead for damage and cracking, and repair if necessary. This new AD also requires one-time detailed and high frequency eddy current inspections of any "oil-can" located on the aft pressure bulkhead, and related corrective actions if necessary. An "oil-can" is an area on a pressure dome web that moves when pushed from the forward side. This AD is prompted by reports of cracking at "oil-can" boundaries on the aft pressure bulkhead. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead, which could result in rapid depressurization of the airplane and possible damage or interference with the airplane control systems that penetrate the bulkhead, and consequent loss of controllability of the airplane.

**DATES:** This AD becomes effective March 18, 2005.

On March 22, 2004 (69 FR 10321, March 5, 2004), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 767-53A0026, Revision 5, dated January 29, 2004.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. You can examine this information 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).

**DOCKET:** The AD docket contains the proposed AD, comments, and any final

disposition. You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Washington, DC. This docket number is FAA-2004-19446; the directorate identifier for this docket is 2004-NM-130-AD.

**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:** The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR Part 39) with an AD to supersede AD 2004-05-10, amendment 39-13505 (69 FR 10321, March 5, 2004). The existing AD applies to certain Boeing Model 767 series airplanes. The proposed AD was published in the **Federal Register** on October 26, 2004 (69 FR 62421), to continue to require repetitive detailed and eddy current inspections of the aft pressure bulkhead for damage and cracking, and repair if necessary, and to require one-time detailed and high frequency eddy current inspections of any "oil-can" located on the aft pressure bulkhead, and related corrective actions if necessary.

**Comments**

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

**Clarification of Alternative Methods of Compliance (AMOC) Language in the Proposed AD**

We have revised paragraph (l)(3) of the AD to clarify which portions of the AD the previously approved AMOC applies to. We have replaced "\* \* \*" with this AD." with "\* \* \*" for the corresponding requirements of this AD."

**Changes to Delegation Authority**

Boeing has received a Delegation Option Authorization (DOA). We have revised this final rule to delegate authority to approve an alternative method of compliance for any repair required by this AD to the Authorized Representative for the Boeing DOA

Organization rather than the Designated Engineering Representative (DER).

**Conclusion**

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

**Costs of Compliance**

There are about 162 airplanes worldwide of the affected design. This new AD affects about 99 airplanes of U.S. registry.

The actions that are required by AD 2004-05-10 and retained in this new AD take about 22 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the currently required actions is \$1,430 per airplane, per inspection cycle.

The new actions take about 2 work hours per "oil-can," at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the new actions specified in this new AD for U.S. operators is \$130 per "oil-can." The number of "oil cans" varies per airplane, so an estimate per airplane or for the U.S. registered fleet is not available.

**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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between

the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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

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

#### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39–13505 (69 FR 10321, March 5, 2004), and by adding the following new airworthiness directive (AD):

**2005–NM–03–11 Boeing:** Amendment 39–13967. Docket No. FAA–2004–19446; Directorate Identifier 2004–NM–130–AD.

#### Effective Date

(a) This AD becomes effective March 18, 2005.

#### Affected ADs

(b) This AD supersedes AD 2004–05–10, amendment 39–13505.

#### Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin (ASB) 767–53A0026, Revision 5, dated January 29, 2004.

#### Unsafe Condition

(d) This AD was prompted by reports of cracking at "oil-can" boundaries on a Boeing Model 747 series airplane's aft pressure bulkhead, which is similar to the aft pressure bulkheads on Boeing Model 767 series

airplanes. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead, which could result in rapid depressurization of the airplane and possible damage or interference with the airplane control systems that penetrate the bulkhead, and consequent loss of controllability of the airplane.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Requirements of AD 2004–05–10

##### Detailed Inspections and Eddy Current Inspections

(f) Perform a detailed inspection for damage and cracking of the aft side of the aft pressure bulkhead and perform high frequency and low frequency eddy current inspections for cracking of the aft pressure bulkhead, in accordance with the Accomplishment Instructions of Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004, at the later of the times specified in paragraph (f)(1) or (f)(2) of this AD. Thereafter, repeat these inspections at intervals not to exceed 1,800 flight cycles.

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

(1) Prior to the accumulation of 25,000 total flight cycles, or within 1,800 flight cycles after the most recent inspection done in accordance with AD 88–19–03 R1, amendment 39–6532, whichever occurs later; or

(2) Within 90 days after March 22, 2004 (the effective date of AD 2004–05–10).

#### Repair Requirements

(g) If any damage or cracking is detected during any inspections required by paragraph (f) of this AD: Before further flight accomplish the requirements of paragraph (g)(1) or (g)(2) of this AD, as applicable:

- (1) For repairs within the limits of the Accomplishment Instructions of Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004, repair in accordance with the ASB.
- (2) For any repairs outside the limits, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by an Authorized Representative (AR) for the Boeing Delegation Option Authorization (DOA) Organization who has been authorized by the FAA to make those findings. For a repair method to be approved, as required by this paragraph, the approval must specifically reference this AD.

#### New Requirements of This AD

##### "Oil-Can" Inspection and Repair

(h) Before the accumulation of 37,500 total flight cycles, or within 1,800 flight cycles after the effective date of this AD, whichever occurs later: Do a one-time detailed and surface high frequency eddy current inspections at all "oil-can" locations of the aft pressure bulkhead web for damage and cracks, in accordance with Figure 4 of the Accomplishment Instructions of the Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004. All "oil-cans" must meet the limits specified in the service bulletin.

**Note 2:** An "oil-can" is an area on a pressure dome web that moves when pushed from the forward side.

(1) If no damage and no crack are found, no further action is required by this paragraph.

(2) If any damage or crack is found, before further flight, repair in accordance with the service bulletin, except as required by paragraph (i) of this AD.

(3) If any "oil can" does not meet the limits specified in the service bulletin, before further flight, repair the "oil can" in accordance with the service bulletin, except as required by paragraph (i) of this AD.

(i) Where the service bulletin specifies to contact Boeing for repair data, before further flight, repair the damage or crack in accordance with a method approved by the Manager, Seattle ACO, FAA; or in accordance with data meeting the type certification basis of the airplane approved by an AR for the Boeing DOA Organization who has been authorized by the FAA to make those findings. For a repair method to be approved, as required by this paragraph, the approval must specifically reference this AD.

(j) Inspections and repairs accomplished before the effective date of this AD in accordance with Boeing ASB 767–53A0026, Revision 4, dated March 27, 2003, are considered acceptable for compliance with paragraph (h) of this AD.

#### Determining the Number of Flight Cycles for Compliance Time

(k) For the purposes of calculating the compliance threshold for the actions required by paragraph (f) and (h) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less must be counted when determining the number of flight cycles that have occurred on the airplane. Where the service bulletins and this AD differ, the AD prevails.

#### Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(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 an AR for the Boeing DOA Organization who has been authorized by the FAA to make those findings.

(3) Alternative methods of compliance, approved previously in accordance with AD

2004–05–10, are approved as alternative methods of compliance for the corresponding requirements of this AD.

#### Material Incorporated by Reference

(m) You must use Boeing Alert Service Bulletin 767–53A0026, Revision 5, dated January 29, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register previously approved the incorporation by reference of this document on March 22, 2004 (69 FR 10321, March 5, 2004). For copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (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). You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on January 31, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 05–2578 Filed 2–10–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9177]

RIN 1545–BC04

#### Return of Partnership Income

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that authorize the Commissioner to provide exceptions to the requirements of section 6031(a) of the Internal Revenue Code for certain partnerships by guidance published in the Internal Revenue Bulletin. The regulations adopt the rules of the temporary regulations without any changes.

**DATES:** *Effective Date:* These regulations are effective November 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** David A. Shulman, (202) 622–3070 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

On November 10, 2003, the IRS and Treasury published a notice of proposed

rulemaking by cross reference to temporary regulations (REG–115472–03) in the **Federal Register**, and temporary regulations in TD 9094 (68 FR 63733), under section 6031 of the Internal Revenue Code (Code). Written comments and requests for a public hearing were solicited. No public hearing was requested, and no comments were received. Therefore, the proposed regulations under section 6031 are adopted as final regulations without any changes. The temporary regulations are removed.

#### Explanation of Provisions

The following is a general explanation of the provisions in the final regulations, which are the same as the provisions in the temporary regulations.

The Commissioner may, in published guidance, provide an exception to the reporting requirements of section 6031(a) for partnerships in situations in which all or substantially all of the partnership's income is derived from the holding or disposition of tax-exempt obligations (as defined in section 1275(a)(3) and § 1.1275–1(e)) or shares in a RIC that pays exempt-interest dividends (as defined in section 852(b)(5)). The exception may be conditioned on substitute reporting and eligibility and other requirements. In conjunction with issuance of the temporary regulations, the Commissioner published Rev. Proc. 2003–84 (2003–48 I.R.B. 1159), which provides for an exception to section 6031 for specified eligible partnerships.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. These regulations impose no new collection of information on small entities; therefore a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of these regulations is David A. Shulman of the Office of the Associate Chief Counsel (Passthroughs & Special Industries), IRS. However, other personnel from the IRS

and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.6031(a)–1T, and revising the entry for § 1.6031(a)–1 to read, in part, as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*

Section 1.6031(a)–1 also issued under section 404 of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248; 96 Stat. 324, 669) (TEFRA). \* \* \*

■ **Par. 2.** Section 1.6031(a)–1 is amended as follows:

■ **1.** In paragraph (a)(1), the first sentence is amended by removing the language “and § 1.6031(a)–1T” immediately following the language “of this section”.

■ **2.** Paragraphs (a)(3)(ii) and (f) are revised to read as follows:

#### § 1.6031(a)–1 Return of partnership income.

(a) \* \* \*

(3) \* \* \*

(ii) The Commissioner may, in guidance published in the Internal Revenue Bulletin (*see* § 601.601(d)(2)(ii)(b) of this chapter), provide for an exception to partnership reporting under section 6031 and for conditions for the exception, if all or substantially all of a partnership's income is derived from the holding or disposition of tax-exempt obligations (as defined in section 1275(a)(3) and § 1.1275–1(e)) or shares in a regulated investment company (as defined in section 851(a)) that pays exempt-interest dividends (as defined in section 852(b)(5)).

\* \* \* \* \*

(f) *Effective dates.* This section applies to taxable years of a partnership beginning after December 31, 1999, except that—

(1) Paragraph (b)(3) of this section applies to taxable years of a foreign partnership beginning after December 31, 2000; and

(2) Paragraph (a)(3)(ii) of this section applies to taxable years of a partnership beginning on or after November 5, 2003.