DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23818; Directorate Identifier 2005–NM–228–AD; Amendment 39–14616; AD 2006–11–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Boeing Model 767 airplanes. This AD requires repetitive measurements of the rudder and elevator freeplay, repetitive lubrication of rudder and elevator components, and related investigative/corrective actions if necessary. This AD results from reports of freeplay-induced vibration of the rudder and the elevator. The potential for vibration of the control surface should be avoided because the point of transition from vibration to divergent flutter is unknown. We are issuing this AD to prevent excessive vibration of the airframe during flight, which could result in loss of control of the airplane.

DATES: This AD becomes effective June 30, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 30, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6450; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all Boeing Model 767 airplanes. That NPRM was published in the **Federal Register** on February 8, 2006 (71 FR 6415). That NPRM proposed to require repetitive measurements of the rudder and elevator freeplay, repetitive lubrication of rudder and elevator components, and related investigative/corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Revise Initial Compliance Times

Boeing, the airplane manufacturer, requests that the initial compliance times be revised. The commenter recommends an allowance for the initial compliance intervals to start at airplane completion rather than after AD release.

The commenter states that for airplanes completed after the release of the AD, the initial compliance time for the freeplay inspection should be equal to the repeat interval of 36 months specified in the NPRM. The commenter explains that the initial compliance time of 18 months specified in Boeing Special Attention Service Bulletins 767–27–0197 and 767–27–0198 (which are referenced as the appropriate sources of service information for accomplishing the proposed actions in the NPRM) resulted partially from a need to address airplanes that may not have been maintained frequently enough and may have excessive freeplay. However, the commenter notes that when airplanes leave its production line, excessive freeplay is not yet an issue.

Therefore, the commenter suggests that the compliance time for paragraph (g) of the NPRM be revised to read ''Within 18 months after the effective date of this AD, or within 36 months after the date of issuance of the original standard certificate of airworthiness or original export certificate of airworthiness, whichever occurs later * * *.''

The commenter also states that the initial compliance time for the lubrication should be equal to the lowest of the repetitive intervals (9 months) specified in the NPRM because airplanes may be delivered with either type of grease. The commenter suggests that the compliance time for paragraph (i) of the NPRM be revised to read ''Within 9 months after the effective date of this AD or within 9 months after the date of issuance of the original standard certificate of airworthiness or original export certificate of airworthiness, whichever occurs later * * *.''

The commenter notes that it is planning to issue Revision 1 of the referenced service bulletins to address these changes.

We agree with the commenter to revise the initial compliance times. We have determined that extending the initial compliance times for certain airplanes, as recommended by the manufacturer, will not adversely affect safety. We have revised the compliance times in paragraphs (g) and (i) of this AD accordingly.

We acknowledge that the commenter is planning to issue Revision 1 of the referenced service bulletins. We may consider further rulemaking at that time or we may consider approving Revision 1 of the service bulletins as an alternative method of compliance (AMOC).

Request To Revise Applicability of Repetitive Compliance Times

Boeing requests that the wording of the applicability for the repetitive intervals specified in paragraphs (i)(1) and (i)(2) of the NPRM be revised. The commenter states that the intent of the wording in Boeing Special Attention Service Bulletins 767–27–0197 and 767–27–0198 was for the longer compliance time to be allowed only if BMS 3–33 grease is already in use at the time the lubrication task is being accomplished. The commenter states that an operator should not be allowed to take credit for planned future use of BMS 3–33 grease.

The commenter recommends that paragraph (i)(1) of the NPRM be revised to read ''* * * BMS 3–33 is not already being used * * *'' and paragraph (i)(2) of the NPRM be revised to read ''* * * BMS 3–33 is already being used * * *''

We agree with the commenter. For clarity, we have revised paragraphs (i)(1) and (i)(2) of this AD.

Request To Allow Maintenance Planning Document (MPD) Tasks as an AMOC

ABSA Cargo Airline requests that certain MPD tasks be considered an acceptable AMOC for the actions specified in the NPRM. The commenter states that Model 767 MPD D622T001,

Revision August 2005, Items 12–21–04–3A/–3B, 12–21–06–3A/–3B, and 27–02–00–6A/–6B, already contain the same lubrication and freeplay tasks on the elevator and rudder surfaces as those specified in Boeing Special Attention Service Bulletin 767–27–0197, with a 9-month interval for lubrication and a 2C interval (12,000 flight hours or 36 months) for freeplay check.

We do not agree to allow tasks done in accordance with the MPD as an AMOC. Compliance times have to be based on defined intervals to ensure that the required action in an AD will be done within an appropriate timeframe for safe operation of the airplane. Since operators' scheduled maintenance (letter) checks vary, it is possible that an operator's C-check could occur after the compliance time required in this AD. In addition, MPD tasks may be revised in the future and therefore may differ from the requirements in this AD. However, paragraph (l) of this AD provides operators the opportunity to request an AMOC if data are presented to substantiate the actions provide an equivalent level of safety.

Request To Withdraw NPRM

Air Transport Association (ATA), on behalf of its member American Airlines (AAL), does not agree with the provisions of the NPRM or with the use of an AD to mandate changes to the maintenance programs.

AAL states that maintenance should be governed and dictated through the Maintenance Review Board Report (MRBR), FAA Aircraft Evaluation Group (AEG), with program oversight by FAA Flight Standards, and should not be required via an AD. AAL also states that implementation and oversight of an AD is costly to airlines, especially ADs that do not contain terminating action. AAL proposes that the NPRM be withdrawn and that the maintenance be implemented through proper channels, *i.e.,* the MRBR. AAL concludes that when the FAA does not communicate well between branches, excessive costs may be driven into an operator's budget, in this case due to additional oversight required for an AD.

ATA also concludes that comments by its members indicate that the provisions of the NPRM would be best implemented through the existing maintenance review board. ATA summarizes its members' comments as follows:

- ATA notes that AAL's comments illustrate the impact of using an AD rather than existing programs for implementing necessary maintenance changes.
- ATA states that Delta Air Lines' (DAL) comments illustrate inefficient disparities among the proposed repetitive intervals. DAL's comments are described in the ''Request to Revise Repetitive Interval'' paragraph in the preamble of this AD.
- ATA states that U.S. Airways' (USA) comments illustrate that there are alternative streamlined methods for accomplishing the intent of the NPRM. USA's comments are described in the ''Request for an AMOC for the Rudder Freeplay Inspection'' paragraph in the preamble of this AD.

We do not agree with the commenter's request to withdraw this AD, or that an AD is not the proper vehicle for addressing the identified unsafe condition. According to the Federal Aviation Regulations (14 CFR 39.1), the issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. The responsibilities placed on us by the Federal Aviation Act do not prohibit us from making any unsafe condition—whether resulting from maintenance, design defect, or otherwise—the proper subject of an AD. Therefore, regardless of the cause or the source of an unsafe condition, we have the authority to issue an AD when an unsafe condition is found that is likely to exist or develop on other products of the same type design. We consider issuance of an AD necessary because ADs are the means to mandate accomplishment of procedures and adherence to specific compliance times.

We acknowledge that some operators may currently have their own maintenance programs to address an unsafe condition. If a program contained all the requirements of an AD, an operator would already be in compliance with the AD, or would be in a position to obtain approval for an AMOC with the AD (i.e., to follow the operator's current program rather than revise it to comply with the AD). However, our obligation to issue the AD and address an unsafe condition remains. We have not changed this AD in this regard. However, if an operator wishes to request an AMOC, a provision has been specified in paragraph (l) of this AD.

Request To Revise Repetitive Interval

DAL requests that the repetitive lubrication interval for rudder and elevator components be the same for all airplanes, regardless of the type of grease that is used. The commenter states that it does not have any negative experiences using non-BMS 3–33 grease, and therefore the 18-month/6,000-flight-hour interval is appropriate for all greases. The commenter contends that a unified interval reduces the risk of non-compliance when an airplane must receive non-routine, non-scheduled servicing. The commenter also states that if all approved greases cannot support the 18-month/6,000-flight-hour interval, then it requests that as many greases as possible be added to the allowable greases for the longer interval.

We acknowledge the commenter's concern; however, we do not agree. The lubrication is required at intervals not to exceed the earlier of 3,000 flight hours or 9 months for airplanes on which BMS 3–33 grease is not used; and the earlier of 6,000 flight hours or 18 months for airplanes on which BMS 3–33 grease is used. The compliance times are consistent with the manufacturer's recommendations. In addition, the commenter did not provide technical substantiation allowing the calendar time to exceed 9 months or 18 months, depending on the type of grease used. We have determined that the compliance times in the AD represent the maximum interval of time allowable for the affected airplanes to continue to safely operate before the actions are done. However, according to the provisions of paragraph (l) of this AD, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have not revised this AD in this regard.

Request for an AMOC for the Rudder Freeplay Inspection

USA requests that an AMOC be included for completing the rudder and elevator freeplay inspection. The commenter suggests a method for the rudder freeplay inspection, which is the same as the elevator freeplay inspection and which uses only one measurement. The commenter states this is an easier method that will ensure less possibility of error by completing only one measurement.

We do not agree with this request. The commenter did not provide data substantiating that this alternative method for the rudder freeplay inspection would provide an acceptable level of safety. We have determined that the inspection must be accomplished according to the manufacturer's procedures. However, an operator may apply for an AMOC under the provisions of paragraph (l) of this AD, if data are submitted to substantiate that the procedure would provide an acceptable level of safety.

Conclusion

We have carefully reviewed the available data, including the comments received, 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 979 airplanes of the affected design in the worldwide fleet and 423 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD. No parts are necessary to accomplish either action.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Freeplay measurement	8	$65	$520, per measurement cycle	423	$219,960, per measurement cycle.
Lubrication	27	$65	$1,755, per lubrication cycle	423	$742,365, per lubrication cycle.

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 and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–11–12 Boeing: Amendment 39–14616. Docket No. FAA–2006–23818; Directorate Identifier 2005–NM–228–AD.

Effective Date

(a) This AD becomes effective June 30, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of freeplay-induced vibration of the rudder and the elevator. The potential for vibration of the control surface should be avoided because the point of transition from vibration to divergent flutter is unknown. We are issuing this AD to prevent excessive vibration of the airframe during flight, which could result in loss of control 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.

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For Model 767–200, –300, and –300F series airplanes: Boeing Special Attention Service Bulletin 767–27–0197, dated October 27, 2005; and

(2) For Model 767–400ER series airplanes: Boeing Special Attention Service Bulletin 767–27–0198, dated October 27, 2005.

Repetitive Measurements

(g) Within 18 months after the effective date of this AD; or within 36 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness; whichever occurs later: Measure the rudder and elevator freeplay. Repeat the measurement thereafter at intervals not to exceed 12,000 flight hours or 36 months, whichever occurs first. Do all actions required by this paragraph in accordance with the applicable service bulletin.

Related Investigative and Corrective Actions

(h) If any measurement found in paragraph (g) of this AD exceeds any applicable limit specified in the service bulletin: Before further flight, do the applicable related investigative and corrective actions in accordance with the applicable service bulletin.

Repetitive Lubrication

(i) Within 9 months after the effective date of this AD; or within 9 months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness; whichever occurs later: Lubricate the rudder and elevator components specified in the service bulletin.

Repeat the lubrication thereafter at the applicable interval in paragraph (i)(1) or (i)(2) of this AD. Do all actions required by this paragraph in accordance with the applicable service bulletin.

(1) For airplanes on which BMS 3–33 grease is not already in use prior to the time the lubrication task is being accomplished: At intervals not to exceed 3,000 flight hours or 9 months, whichever occurs first.

(2) For airplanes on which BMS 3–33 grease is already in use prior to the time the lubrication task is being accomplished: At intervals not to exceed 6,000 flight hours or 18 months, whichever occurs first.

Concurrent Repetitive Cycles

(j) If a freeplay measurement required by paragraph (g) of this AD and a lubrication cycle required by paragraph (i) of this AD are due at the same time or will be accomplished during the same maintenance visit, the freeplay measurement and applicable related investigative and corrective actions must be done before the lubrication is accomplished.

No Reporting Required

(k) Although the service bulletins referenced in this AD specify to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office (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) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) 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 Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(m) You must use Boeing Special Attention Service Bulletin 767–27–0197, dated October 27, 2005; or Boeing Special Attention Service Bulletin 767–27–0198, dated October 27, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on May 17, 2006.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–4846 Filed 5–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20732; Directorate Identifier 2004–NM–278–AD; Amendment 39–14617; AD 2006–11–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and –300 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 777–200 and –300 series airplanes. This AD requires replacing the battery packs of the emergency power assist system (EPAS) of the left and right non-overwing exit doors with new or modified battery packs. This AD results from intermittent failures of the EPAS battery pack found during testing, which are due to switch contamination, cam alignment problems, and inadequate self-test capability. We are issuing this AD to prevent failure of the EPAS, which could result in the inability to open the exit door during an emergency evacuation.

DATES: This AD becomes effective June 30, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 30, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6482; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (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 street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 777–200 and –300 series airplanes. That NPRM was published in the **Federal Register** on March 31, 2005 (70 FR 16449). That NPRM proposed to require replacing the battery packs of the emergency power assist system (EPAS) of the left and right non-overwing exit doors with new or modified battery packs.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Supportive Comment

Boeing concurs with the contents of the NPRM.

Request To Include Reporting Requirement/Return Defective Components

Radiant Power Corporation states that, after working with the airplane manufacturer, it identified and tested a replacement switch produced by a different manufacturer and incorporated the switch into a new design which was approved by the airplane manufacturer. Radiant Power Corporation adds that the existing suspect part number (S283W203–1) is the current airplane manufacturer's part number, and both part numbers BPAS10–1 and S283W203–1 are incorporated into each battery pack Radiant Power Corporation produces. Radiant Power Corporation has replaced 510 (approximately 50 percent) of the defective EPAS battery packs identified in the NPRM with these new, improved units; 795 of the new units have been delivered to its