

broken barrel nuts that attach the vertical fin to body section 48, which could result in reduced structural integrity of the vertical fin attachment joint, loss of the vertical fin, and consequent loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 1, 2003.

The incorporation by reference of Boeing Service Bulletin 767-53A0085, Revision 2, dated May 2, 2002; and Boeing Service Bulletin 767-53A0085, Revision 3, dated November 21, 2002; as listed in the regulations; is approved by the Director of the Federal Register as of July 1, 2003.

The incorporation by reference of Boeing Service Bulletin 767-53-0085, dated May 14, 1998; and Boeing Alert Service Bulletin 767-53A0085, Revision 1, dated July 1, 1999; as listed in the regulations; was approved previously by the Director of the Federal Register as of October 9, 2001 (66 FR 48538, September 21, 2001).

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) by superseding AD 2001-19-04, amendment 39-12444 (66 FR 48538, September 21, 2001), which is applicable to certain Boeing Model 767-200 and -300 series airplanes, was published in the **Federal Register** on August 16, 2002 (67 FR 53529). The action proposed to continue to require repetitive inspections to find discrepancies of the barrel nuts that attach the vertical fin to body section 48, and follow-on actions. For certain airplanes, the action proposed to continue to require replacement of certain bolts with new bolts. The action also proposed to continue to provide for optional terminating actions for the repetitive inspections. The new action proposed to reduce the compliance time for the inspections; change the torque

specification; and mandate eventual replacement of all H-11 steel alloy barrel nuts and bolts with Inconel nuts and bolts, which would end the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Reference Revision 3 of the Service Bulletin

One commenter, the manufacturer, states that it is in the process of issuing Boeing Service Bulletin 767-53A0085, Revision 3 (Boeing Service Bulletin 767-53A0085, Revision 2, dated May 2, 2002, was referenced in the proposed AD as the source of service information for accomplishment of certain actions). The commenter would like the FAA to review Revision 3 and add it to the proposed AD. The commenter states that the changes in Revision 3 will correct the compliance statement specified in Revision 2 to align it with the proposed AD, and will also update the tooling information specified in Revision 2.

The FAA has reviewed and approved Boeing Service Bulletin 767-53A0085, Revision 3, dated November 21, 2002. We find that the changes incorporated in Revision 3 of the service bulletin are not substantive, meaning that airplanes modified per Boeing Service Bulletin 767-53-0085, dated May 14, 1998; Revision 1, dated July 1, 1999; or Revision 2, dated May 2, 2002; are not subject to any additional work under Revision 3 of the service bulletin. Revision 3 specifies a minor change to the compliance time recommended in Revision 2, but we have already extended the compliance time in this final rule, in order to avoid undue hardship on operators, per a comment we received (see discussion below). We have added Revision 3 of the service bulletin to this final rule as another source of service information for the accomplishment of certain actions.

Request To Add Credit Note for Terminating Action

Several commenters ask that a credit note be added for previous accomplishment of the replacements required by paragraph (e) of the proposed AD per Boeing Service Bulletin 767-53-0085, dated May 14, 1998; or Boeing Alert Service Bulletin 767-53A0085, Revision 1, dated July 1, 1999. One commenter would like credit to be given regardless of the revision level of the service bulletin, or any other

approved maintenance procedures used to do the replacements, including the use of the production drawing. One commenter asks that credit be given for the replacements (terminating action) required by paragraph (e) of the proposed AD that were done before the required inspections and before the effective date of the AD.

We partially agree with the commenters' requests, as follows.

We agree that there are no significant changes among Boeing Service Bulletin 767-53-0085, dated May 14, 1998; Boeing Alert Service Bulletin 767-53A0085, Revision 1, dated July 1, 1999; and Boeing Service Bulletin 767-53A0085, Revision 2, dated May 2, 2002; for the bolt and barrel nut installation method. Therefore, we have added the original issue and Revision 1 of the service bulletin as additional sources of service information for accomplishment of the terminating action required by paragraph (f) of this final rule (paragraph (e) of the proposed AD). In addition, credit is given as allowed by the phrase, "unless accomplished previously," and if the terminating action has already been accomplished per any of the service bulletin revisions specified in the final rule, this AD does not require that it be repeated.

We do not agree to give credit regardless of the revision level of the service bulletin, or any approved procedures including the production drawing because they are not FAA-approved. To use the phrase, "or later FAA-approved revisions," in an AD when referring to the service document, violates Office of the Federal Register (OFR) regulations regarding approval of materials "incorporated by reference" in rules. In general terms, these OFR regulations require that either the service document contents be published as part of the actual AD language; or the service document be submitted for approval by the OFR as "referenced" material, in which case it may be only referred to in the text of an AD. The AD may refer only to the service document that was submitted and approved by the OFR for "incorporation by reference." In order for operators to use later revisions of the referenced document (issued after the publication of the AD), either the AD must be revised to reference the specific later revisions, or operators must request the approval of the use of them as an alternative method of compliance with this AD under the provisions of paragraph (h)(1) of this final rule.