

6456, by the 30th day after publication of this notice in the **Federal Register**.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would continue the current suspension of segments of the pool plant and producer milk definitions under the New Mexico-West Texas order. The provisions that are suspended limit the pooling of diverted milk. The proposed suspension would be in effect from October 1997 through September 1999. The current suspension will expire September 30, 1997.

The proposed suspension would continue the suspension of the following:

1. The requirement that milk diverted to a nonpool plant be considered a receipt at the distributing plant from which it was diverted;

2. The requirement that a cooperative must deliver at least 35 percent of its milk to pool distributing plants in order to pool a plant that the cooperative operates which is located in the marketing area and is neither a distributing plant nor a supply plant;

3. The requirement that a producer must deliver one day's production to a pool plant during the months of September through January to be eligible to be diverted to a nonpool plant;

4. The provision that limits a cooperative's diversions to nonpool plants to an amount equal to the milk it caused to be delivered to, and physically received at, pool plants during the month; and

5. The provision that excludes from the pool milk diverted from a pool plant to the extent that it would cause the plant to lose its status as a pool plant.

The continuation of the current suspension was requested by Associated Milk Producers, Inc., a cooperative association that represents a substantial number of dairy farmers who supply the New Mexico-West Texas market. The cooperative stated that marketing conditions have not changed since the provisions were suspended in 1993, and therefore should be continued until restructuring of the Federal order program is achieved as mandated in the 1996 Farm Bill.

The cooperative states that the continuation of the current suspension is necessary to ensure that dairy farmers who have historically supplied the New Mexico-West Texas market will continue to have their milk priced

under this order. In addition, they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions from October 1, 1997, through September 30, 1999.

List of Subjects in 7 CFR Part 1138

Milk marketing orders.

The authority citation for 7 CFR Part 1138 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Dated: May 7, 1997.

Richard M. McKee,

Director, Dairy Division.

[FR Doc. 97-12501 Filed 5-12-97; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-46-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB-120 series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the ice protection systems, and to add information regarding operation in icing conditions. This proposal also would require installing an ice detector system and revising the AFM to include procedures for testing system integrity. This proposal is prompted by reports indicating that flightcrews experienced difficulties controlling the airplane during (or following) flight in normal icing conditions, when the ice protection system either was not activated when ice began to accumulate on the airplane, or the ice protection system was never

activated. These difficulties may have occurred because the flightcrews did not recognize that a significant enough amount of ice had formed on the airplane to require activation of the deicing equipment. The actions specified by the proposed AD are intended to ensure that the flightcrew is able to recognize the formation of significant ice accretion and take appropriate action; such formation of ice could result in reduced controllability of the airplane in normal icing conditions.

DATES: Comments must be received by June 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-46-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Embraer, Empresa Brasileira De Aeronautica S/A, Sao Jose Dos Campos, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia.

FOR FURTHER INFORMATION CONTACT: Carla Worthey, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7364; fax (404) 305-7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-46-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-46-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports indicating that the flightcrews of EMBRAER Model EMB-120 series airplanes experienced difficulties controlling the airplane during (or following) flight in normal icing conditions, when the ice protection system either was not activated when ice began to accumulate on the airplane, or the ice protection system was never activated. These difficulties may have occurred because the visual cues available to the flightcrew were not sufficient for the crew to recognize that enough ice had formed on the airplane to require activation of the deicing equipment. If the flightcrew is unable to recognize the formation of significant ice accretion [i.e., 1/4- to 1/2-inch on the wing leading edges, as specified in the original FAA-approved Airplane Flight Manual (AFM) guidelines] on the airplane, appropriate action would not be taken to activate the deicing equipment. This condition, if not corrected, could result in reduced controllability of the airplane in normal icing conditions.

FAA's Determinations

The FAA is aware that, based on previous procedures provided to flightcrews of many airplanes equipped with deicing boots, a historical precedent has been set for waiting to activate the deicing equipment. In light of this information, and based on reports received, the FAA finds that

certain procedures should be included in the Limitations and Normal Procedures Sections of the AFM for EMBRAER Model EMB-120 series airplanes. Additionally, an ice detector system should be installed on these airplanes to enable the flightcrew to more accurately determine the need to activate the ice protection systems on the airplane and to take appropriate action. The FAA has determined that such procedures must be included in the Limitations Section of the AFM for the affected airplanes to ensure that the flightcrew is aware of the potential hazard related to the formation of ice on the airplane, and of the procedures necessary to address it.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require revising the Limitations Section of the AFM to include requirements for activation of the ice protection systems, and for revising the Normal Procedures Section of the AFM to add information regarding operation in icing conditions. This proposal also would require installing an ice detector system and revising the Normal Procedures Section of the AFM to include procedures for testing system integrity. The installation would be required to be accomplished in accordance with a method approved by the FAA.

Explanation of Proposed Compliance Time for Installation

Operators should note that paragraph (b) of this AD proposes a compliance time of 6 months for installation of an ice detector system. In developing an appropriate compliance time for this installation, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the required installation within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The manufacturer has advised that an ample number of required parts will be available for installation of the ice detector systems on the U.S. fleet within the proposed compliance period.

Cost Impact

There are approximately 282 EMBRAER Model EMB-120 series airplanes of the affected design in the worldwide fleet. The FAA estimates that

220 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revisions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$13,200, or \$60 per airplane.

The FAA estimates that it would take approximately 60 work hours per airplane to accomplish the proposed installation, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$15,000 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$4,092,000, or \$18,600 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed

AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that 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); and (3) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Empresa Brasileira de Aeronautica, S.A. (Embraer): Docket 97-NM-46-AD.

Applicability: All Model EMB-120 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (c) 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 ensure that the flightcrew is able to recognize the formation of significant ice accretion, which could result in reduced controllability of the airplane in normal icing conditions, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"TURN ON ICE PROTECTION SYSTEM AND IGNITION SWITCHES AS FOLLOWS:

• AOA, TAT, SLIP, and IGNITION SWITCHES:

—When atmospheric or ground icing conditions exist.

• PROPELLER:

—When atmospheric or ground icing conditions exist, OR

—At the first sign of ice formation anywhere on the aircraft.

• WING and TAIL LEADING EDGES, ENGINE AIR INLET, and WINDSHIELD:

—At the first sign of ice formation anywhere on the aircraft.

Note: Atmospheric icing conditions exist when:

—Outside Air Temperature (OAT) during ground operations or Total Air Temperature (TAT) in flight is 10 degrees C or below; and

—Visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, or ice crystals).

Note: Ground icing conditions exist when:

—OAT during ground operations is 10 degrees C or below; and

—Surface snow, standing water, or slush is present on the ramps, taxiways, or runways.

Note: For Operation in Atmospheric Icing Conditions:

—Follow the procedures in the Normal Procedures Section under Operation in Icing Conditions."

(2) Revise the Normal Procedures Section of the AFM by removing any icing procedures that contradict the procedures specified in paragraphs (a)(1) and (a)(3) of this AD from that section of the AFM. Where differences exist between the icing procedures specified in the Limitations and Normal Procedures Sections of the AFM, the procedures specified in the Limitations Section prevail.

(3) Revise the Normal Procedures Section of the FAA-approved Airplane Flight Manual

(AFM) to include the following additional information regarding operation in icing conditions. This may be accomplished by inserting a copy of this AD in the AFM.

"Under DAILY CHECKS of the Ice Protection System, add the following:

Ice Detector System TEST Button (if installed)—PRESS Check normal test sequence.

Under OPERATION IN ICING CONDITIONS for FLYING INTO NORMAL ICING CONDITIONS, add the following:

—During flight, monitoring for icing conditions should start whenever the outside air temperature is near or below freezing or when operating into icing conditions, as specified in the Limitations Section of this manual.

—When operating in icing conditions, the front windshield corners (unheated areas), propeller spinners, and wing leading edges will provide good visual cues of ice accretion.

—For airplanes equipped with an ice detection system, icing conditions also will be indicated by the illumination of the ICE CONDITION light on the multiple alarm panel.

—When flying into known or forecast icing conditions, proceed as follows:

IGNITION Switches—ON

Airspeed—160 KIAS MINIMUM

If buffet onset occurs, increase airspeed.

Holding configuration:

Landing Gear Lever—UP

Flap Selector Lever—UP

N_P—85% MINIMUM

Increase N_P as required to eliminate propeller vibrations.

Approach procedure:

Increase approach speeds (according to the flap setting) by 10 KIAS until landing is assured.

Note: For airplanes equipped with an ice detection system, ice formation will be indicated by the ICE CONDITION light illumination on the multiple alarm panel.

CAUTION: The ice protection systems must be turned on immediately when the ICE CONDITION light illuminates on the multiple alarm panel or when any ice accretion is detected by visual observation or other cues.

CAUTION: Do not interrupt the automatic sequence of operation of the leading edge deice boots once it is turned ON. The system should be turned OFF only after leaving the icing conditions."

(b) Within 6 months after the effective date of this AD, install an ice detector in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(c) 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, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with sections 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.

Issued in Renton, Washington, on May 7, 1997.

Neil D. Schalekamp,

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

[FR Doc. 97-12519 Filed 5-12-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-CE-05-AD]

RIN 2120-AA64

Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 90, 100, 200 and 300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 90, 100, 200 and 300 series airplanes. The proposed action would require inspecting gray, blue or clear Ethylene Vinyl Acetate (EVA) tubing near the co-pilot's foot warmer for collapse or deformity. If the tubing is collapsed or deformed, the proposed action would require replacing and re-routing the tubing. This EVA tubing is used on the pneumatic de-ice indicator lines and the pressurization control system pneumatic lines that provide vacuum to the outflow safety valves that depressurize the airplane. Several reports of collapsed EVA tubing prompted the proposed action. The actions specified by the proposed AD are intended to prevent a loss of vacuum to depressurize the airplane cabin, which could result in personal injury to the door operator; and to prevent malfunction of the de-ice indicator system, which could cause the pilot to immediately exit icing conditions.

DATES: Comments must be received on or before July 18, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97-CE-05-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mike Imbler, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4147, facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97-CE-05-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97-CE-05-AD, Room

1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received field reports on the following incidents:

- A pilot was having difficulty with "pressure bumps" while on the ground in a Raytheon Model 200 airplane,
- A door operator was opening a cabin door on a Raytheon Model C90A airplane and was thrown out of the airplane, and
- A passenger on a Raytheon Model B300 was attempting to open the cabin door and cabin pressure forced the door outward, damaging the door, door hinge, and door snubber.

In all of these incidents, further investigation revealed the EVA vacuum tubes for the pneumatic pressurization control system had collapsed. These pressurized control system vacuum tubes are routed adjacent to the de-ice indicator pneumatic tubes. The tubes are collapsing because they are located near the co-pilot's foot warmer outlet and associated plumbing.

This foot warmer is generating sufficient heat to deform and collapse the EVA tubing. Should the de-ice indicator pneumatic tube collapse or rupture from this heat source, the de-ice indicator will read zero. A zero reading from the de-ice indicator could cause the pilot to exit icing conditions unnecessarily.

Relevant Service Information

Raytheon Aircraft Company has issued Mandatory Service Bulletin No. 2676, Issued: January 1997, which specifies procedures for inspecting the affected airplanes for the condition of the pneumatic tubing and replacing the tubing if it is deformed or collapsed and re-routing the tubing. If the tubing is in good condition, then the service bulletin specifies re-routing the tubing away from the heat source.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent a loss of vacuum to depressurize the airplane cabin, which could result in personal injury to the door operator; and to prevent malfunction of the de-ice indicator system, which could cause the pilot to unnecessarily exit icing conditions.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or