Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on May 15, 2006.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–8115 Filed 5–25–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004–NM–36–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and EMB–145XR Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier supplemental notice of proposed rulemaking (NPRM), applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and Model EMB–145XR airplanes. The first supplemental NPRM would have required, for all airplanes, installation of an additional indication device to the clear-ice indication system. For certain airplanes, the first supplemental NPRM would also have required replacing the existing clear-ice indication lamp with a new, improved lamp. For certain other airplanes, the first supplemental NPRM would also have required modifying certain electrical connections to add an indication device to the clear-ice indication system; removing a certain placard; and re-activating the clear-ice additional indicator lamp. This new action revises the first supplemental NPRM by adding airplanes to the applicability. The actions specified by this new proposed supplemental NPRM are intended to prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 20, 2006.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2004–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2004–NM–36–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2004–NM–36–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–114, Attention: Rules Docket No. 2004–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ and Model EMB–145XR series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) (''the first supplemental NPRM'') in the **Federal Register** on June 22, 2005 (70 FR 36081). That first supplemental NPRM would have required installation of an additional indication device to the clear-ice indication system. For certain airplanes that first supplemental NPRM would also have required replacing the existing clear-ice indication lamp with a new, improved lamp. For certain other airplanes, that first supplemental NPRM would also have required modifying certain electrical connections to add an indication device to the clear-ice indication system; removing a certain placard; and re-activating the clear-ice additional indicator lamp. That first supplemental NPRM was prompted by new revisions of service information that expanded the scope of the originally proposed rule. We issued the first supplemental NPRM to prevent undetected build-up of clear ice on the wing surfaces, which could lead to reduced controllability of the airplane.

Actions Since Issuance of First Supplemental NPRM

EMBRAER has issued new service information, which adds airplanes to the applicability. We have reviewed EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 8, 2005, and have revised this second supplemental NPRM to refer to this new service information.

In addition, due consideration has been given to the comments received in response to the first supplemental NPRM:

Request To Revise Credit Paragraph

EMBRAER requests that we revise paragraph (c) of the first supplemental NPRM to remove references to EMBRAER Service Bulletin 145–30–0035, dated July 16, 2003, and Revision 01, dated September 2, 2003; and to EMBRAER Service Bulletin 145LEG–30–0002, dated September 2, 2004. EMBRAER states that it was notified of technical problems that operators experienced while accomplishing these service bulletins. These technical issues could lead to the system not operating as predicted. EMBRAER suggests that we revise paragraph (c) of the first supplemental NPRM to allow credit only for the accomplishment of EMBRAER Service Bulletin 145–30–0035, Revision 02, dated January 6, 2005.

We agree with EMBRAER for the reasons stated. We have revised paragraph (c) of the second supplemental NPRM to include a reference only to EMBRAER Service Bulletin 145–30–0035, Revision 02.

Request To List First Supplemental NPRM in Docket Management System (DMS)

Modification and Replacement Parts Association (MARPA) objects to the issuance of AD rulemaking without concurrent listing in the DMS at *http://dms.dot.gov.* MARPA requests that the first supplemental NPRM be reconfigured pursuant to the requirements for listing the action under the DMS system so that comments may be published on-line.

We disagree with the commenter. On May 17, 2004, we implemented new procedures for maintaining AD dockets electronically. As of that date new AD actions are posted on DMS and assigned a docket number. However, actions that were started before that date are not posted on the DMS system. In order to post them on DMS, we would have to assign a new docket number and break the continuity of comments and changes to the action. These changes are tracked by airplane operators. We have not changed the second supplemental NPRM in this regard.

Service Bulletin Availability

MARPA notes that the first supplemental NPRM specifies that the clear-ice indicator lamp be replaced in accordance with a manufacturer service bulletin. MARPA also states service bulletins are proprietary documents and are difficult to obtain for those who are not aircraft owners and/or operators. MARPA states that it is not possible without reference to the service bulletin to determine precisely the lamps that are approved replacement parts.

We infer that MARPA is requesting that we attach a copy of all service information to the relevant AD when we distribute it, or that we scan and post all service information on-line. As noted above, the contents of this second supplemental NPRM will not be posted on-line at DMS. However, paper copies of the service bulletins are available for anyone to review at the locations cited in the **ADDRESSES** paragraph of this second supplemental NPRM. No change has been made to this second supplemental NPRM in this regard.

Request To Reference Parts Manufacturing Approval (PMA) Parts

MARPA also requests that the ''new and improved'' indicator lamp be identified in the text of the action by the manufacturer and the part number; and that the wording of the action be adjusted to embrace the possibility that alternative parts may be used in place of those prescribed in the service document. To that end, MARPA suggested that the following wording may be appropriate: ''The requirements to remove or install certain part-numbered specific parts shall be interpreted broadly to include any parts approved under FAR 21.303 as replacements for the original equipment parts cited in this action. It is the responsibility of the operator to determine such extended applicability. Nothing in this action prevents or precludes the installation of alternatively approved parts.''

We infer that the commenter would like the first supplemental NPRM to permit installation of any equivalent PMA parts so that it is not necessary for an operator to request approval of an alternative method of compliance (AMOC) in order to install an ''alternative'' PMA part. Whether an alternative part is equivalent in adequately resolving the unsafe condition can only be determined on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition.

In response to the commenter's statement regarding a conflict with 14 CFR 21.303, under which the FAA issues PMAs, this statement appears to reflect a misunderstanding of the relationship between ADs and the certification procedural regulations of part 21 of the Federal Aviation Regulations (14 CFR part 21). Those regulations, including section 21.303 of the Federal Aviation Regulations (14 CFR 21.203), are intended to ensure that aeronautical products comply with the applicable airworthiness standards. But ADs are issued when, notwithstanding those procedures, we become aware of unsafe conditions in these products or parts. Therefore, an AD takes precedence over design approvals when we identify an unsafe condition, and mandating installation of a certain part number in an AD is not at variance with section § 21.303.

An AD provides a means of compliance for operators to ensure that the identified unsafe condition is addressed appropriately. For an unsafe condition attributable to a part, an AD normally identifies the replacement parts necessary to obtain that compliance. As stated in section 39.7 of the Federal Aviation Regulations (14 CFR 39.7), ''Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section.'' Unless an operator obtains approval for an AMOC, replacing a part with one not specified by an AD would make the operator subject to an enforcement action and result in a civil penalty. No change to the second supplemental NPRM is necessary in this regard.

Request To Address Defective PMA Parts

MARPA also requests that the first supplemental NPRM be revised to identify the defective indicator lamp by manufacturer and part number. MARPA states that it is not possible for interested parties to determine if the affected indicator lamp has an approved replacement part qualified under 14 CFR 21.303. If such a part does exist then it may suffer the same deficiencies as the original equipment manufacturer (OEM) part and should also be replaced. MARPA states that because PMA parts

usually carry different part numbers than OEM parts, the possibility exists that a defective PMA part may escape the regulatory force of the AD, thereby compromising safety.

We concur with the commenter's general request that, if we know that an unsafe condition also exists in PMA parts, an AD should address those parts, as well as the OEM parts. For this second supplemental NPRM, we are not aware of other PMA parts that have a different part number. The commenter's remarks are timely in that the Transport Airplane Directorate currently is in the process of reviewing this issue as it applies to transport category airplanes. We acknowledge that there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We consider that to delay action would be inappropriate, since we have determined that an unsafe condition exists, and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the second supplemental NPRM in this regard.

Clarification of AMOC Paragraph

We have revised this second supplemental NPRM to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Explanation of Change to Cost Estimate

After the first supplemental NPRM was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $65 per work hour to $80 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Explanation of Change to Applicability

We have revised the applicability of this second supplemental NPRM to identify the model designations as published in the most recent type certificate data sheet for the affected models.

Conclusion

Since certain changes expand the scope of the first supplemental NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that about 49 airplanes of U.S. registry would be affected by this proposed AD. The average labor rate is $80 per work hour.

For 41 Model EMB–145XR airplanes, it would take 16 work hours per airplane to accomplish the proposed actions. Required parts would cost between $242 and $817 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model EMB–145XR airplanes is estimated to be between $62,402 and $85,977, or between $1,522 and $2,097 per airplane.

For 8 Model EMB–135BJ airplanes, it would take 16 work hours per airplane to accomplish the proposed actions. Required parts would cost between $240 and $820 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model EMB–135BJ airplanes is estimated to be between $12,160 and $16,800, or between $1,520 and $2,100 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 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.

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 Impact

The regulations proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

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 2004–NM–36–AD.

Applicability: Model EMB–145XR airplanes, as listed in EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 8, 2005; and Model EMB–135BJ airplanes, as listed in EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected build-up of clear ice on the wing surfaces, which could lead to

reduced controllability of the airplane, accomplish the following:

Modification of Clear-Ice Indication System

(a) For Model EMB–145XR airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–30–0035, Revision 03, dated March 3, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part I.

(2) Replace the existing clear-ice indication lamp with a new lamp having a new part number, as specified in the Accomplishment Instructions, Part II.

(b) For Model EMB–135BJ airplanes: Within 24 months or 5,000 flight hours after the effective date of this AD, whichever comes first, perform the actions of paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–30–0002, Revision 01, dated January 4, 2005.

(1) Install complete electrical connections and provisions to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part I.

(2) Modify the electrical connections of factory-provisioned airplanes to add an additional indication device to the clear-ice indication system, as specified in the Accomplishment Instructions, Part II.

(3) Remove the ''Clear-Ice Inoperative'' placard and reactivate the clear-ice additional indicator lamp, as specified in the Accomplishment Instructions, Part III.

(4) Replace the existing clear-ice indicator lamp with a new, improved lamp having a new part number, as specified in the Accomplishment Instructions, Part IV or Part V.

Actions Accomplished Per Previous Issues of Service Bulletins

(c) Actions accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 145–30–0035, Revision 02, dated January 06, 2005, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(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.

Note 1: The subject of this AD is addressed in Brazilian airworthiness directive 2004–01–01, dated January 27, 2004.

Issued in Renton, Washington, on May 15, 2006.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–8117 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–2006–24891; Directorate Identifier 2006–NM–080–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 777–200, –300, and –300ER series airplanes. This proposed AD would require replacement of the gimbal plates of the left and right outboard trailing edge flaps with improved gimbal plates and other specified actions. This proposed AD results from a broken pivot link found on the inboard support for the outboard trailing edge flap. We are proposing this AD to prevent disconnection of the drive arm from its drive gimbal, due to a broken pivot link on an outboard flap support, which could result in unexpected roll of the airplane and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by July 10, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24891; Directorate Identifier 2006–NM–080–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may 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 DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.