

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

[Docket No. FAA-2005-20357; Directorate Identifier 2004-NM-120-AD; Amendment 39-14377; AD 2005-23-19]

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 adopting a new airworthiness directive (AD) for certain Boeing Model 767-200 and -300 series airplanes. This AD requires replacing hinge assemblies with new hinge assemblies in the outboard overhead stowage bins and reworking hinge assemblies in the outboard overhead stowage bins that are adjacent to curtain tracks. This AD results from reports of hinge assemblies of outboard overhead stowage bins breaking or the stowage bin doors not latching properly. We are issuing this AD to prevent the outboard overhead stowage bins opening during flight and releasing baggage, and consequently injuring passengers and blocking the aisles during emergency egress.

DATES: Effective December 27, 2005.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 27, 2005.

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: Susan Rosanske, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6448; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

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 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 767-200 and -300 series airplanes. That NPRM was published in the **Federal Register** on February 15, 2005 (70 FR 7691). That NPRM proposed to require replacing hinge assemblies with new hinge assemblies in the outboard overhead stowage bins and reworking hinge assemblies in the outboard overhead stowage bins that are adjacent to curtain tracks.

Comments

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

Supportive Comments

Three commenters support the NPRM. One of the commenters also notes that it expects to complete the actions on all affected airplanes in its fleet within the proposed compliance time of 72 months.

Request To Reconsider Safety Risk

One commenter, an operator, requests that we provide sufficient data to support our decision that Boeing Special Attention Service Bulletin 767-25-0078, Revision 4, dated June 10, 2004, addresses a safety concern. Based on the explanation/data we gave in the NPRM, and compared with the explanation/data given in the service bulletin, the commenter concludes that the service bulletin only addresses a reliability issue, and is not an appropriate subject for an NPRM or an AD. The commenter believes that the service bulletin only addresses a reliability issue since the service bulletin does not discuss the potential for the overhead bins to open and possibly release luggage that could cause passenger or crew injuries. The commenter also states that it contacted the manufacturer for data on passenger/crew injuries and the reason behind the change of the service bulletin from 'normal' to 'Special Attention,' but the manufacturer did not provide further data on injuries or why the service bulletin changed status. In addition, the operator states that it has reviewed its records and found only one incident

resulting in injury (to a crew member), which occurred on a Model 767 airplane that is not affected by the applicability statement of this AD. The operator notes that internal data reveals a high replacement rate of the affected hinges, which in its opinion, suggests that the routine maintenance program is adequate.

We agree that we did not give sufficient explanation as to why we concluded that the hinges are affected by an unsafe condition instead of a reliability issue. However, we disagree that the service bulletin is an inappropriate subject for an AD. The service bulletin understates the failures and safety issue that it addresses and leads the reader to conclude that it is a reliability issue. However, tests performed on the overhead stowage bins revealed a negative margin of safety for the design, which is not related to reliability. The tests showed that when the bins are subjected to a 4.5g downward load condition, these bins were able to handle only 1.12g, 25 percent of the required load tolerance. The commenter's high replacement rate of hinges may be attributed, in part, to the related understrength condition. In addition, when the bins are loaded, the excessive threshold deflection can cause stowage bin doors to disengage from the latches, resulting in baggage falling out and consequently causing serious passenger injury during routine flight conditions and blockage of the aisles during an emergency evacuation. Several operators have reported cases of hinge breakage and improper latching of the bin door to us. We are also considering additional rulemaking actions to address related overhead stowage bin and hinge designs on other model airplanes. We have not changed this AD regarding this issue.

Request To Revise Applicability Statement

Another operator requests that the applicability be revised to exclude those airplanes without overhead stowage bins installed. The commenter states that it has airplanes that are included in the effectivity of the service bulletin, but have been modified from the original passenger configuration into a freighter/cargo configuration without overhead stowage bins installed per various supplemental type certificates. Since all of the overhead stowage bins have been removed, the freighter/cargo configuration would not be affected by the unsafe condition. The operator suggests that such a revision would reduce the number of requests submitted to the FAA for alternative

methods of compliance (AMOC), thus, reducing the use of FAA resources.

We agree that airplanes with all the overhead stowage bins removed are not affected by the unsafe condition and should not be subject to this AD. The applicability statement of this AD has been revised to apply to Boeing Model 767-200 and -300 series airplanes, certified in any category; as listed in Boeing Special Attention Service Bulletin 767-25-0078, Revision 4, dated June 10, 2004; equipped with overhead stowage bins.

Conclusion

We have carefully reviewed the available data, including the comments that have been received, and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

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

Costs of Compliance

There are about 172 airplanes of the affected design in the worldwide fleet. This AD will affect about 75 airplanes of U.S. registry. The required actions will take about 20 work hours (.33 work hours per stowage bins; there are about 60 bins on an airplane) per airplane, at an average labor rate of \$65 per work hour. Required parts will cost about \$154,560 per airplane (\$2,576 per bin). Based on these figures, the estimated cost of the AD for U.S. operators is \$11,689,500, or \$155,860 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the actions required by this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. However, we have been advised that the terminating modification has already been installed on some affected overhead stowage bins on some airplanes. Therefore, the future economic cost impact of this rule on U.S. operators is expected to be less than the cost impact figure indicated above.

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):

2005-23-19 Boeing: Amendment 39-14377. Docket No. FAA-2005-20357; Directorate Identifier 2004-NM-120-AD.

Effective Date

(a) This AD becomes effective December 27, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 767-200 and -300 series airplanes, certified in any category; as listed in Boeing Special Attention Service Bulletin 767-25-0078, Revision 4, dated June 10, 2004; equipped with overhead stowage bins.

Unsafe Condition

(d) This AD was prompted by reports of hinge assemblies of outboard overhead stowage bins breaking or the stowage bin doors not latching properly. We are issuing this AD to prevent the outboard overhead stowage bins opening during flight and releasing baggage, and consequently injuring passengers and blocking the aisles during emergency egress.

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.

Replacement

(f) Within 72 months after the effective date of this AD, do paragraphs (f)(1) and (f)(2) of this AD.

(1) Replace both hinge assemblies in the outboard overhead stowage bins with new hinge assemblies, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767-25-0078, Revision 4, dated June 10, 2004. If, during the replacement, any hinge does not close within the limits specified in the service bulletin, before further flight, repair the hinge according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(2) Rework hinges that are in stowage bins located adjacent to a curtain track in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767-25-0078, Revision 4, dated June 10, 2004.

Previously Accomplished Actions

(g) Replacement of the hinge assemblies with new hinge assemblies accomplished before the effective date of this AD in accordance with a Boeing service bulletin listed in Table 1 of this AD is acceptable for compliance with the requirements of paragraph (f) of this AD, except as specified in paragraph (h) of this AD.

TABLE 1.—ACCEPTABLE BOEING SERVICE BULLETINS

Boeing—	Revision level—	Dated—
Service Bulletin 767–25–0078	Original	June 25, 1987.
Service Bulletin 767–25–0078	1	May 19, 1988.
Service Bulletin 767–25–0078 (see paragraph (h) of this AD)	2	March 16, 1989.
Special Attention Service Bulletin 767–25–0078	3	July 12, 2001.

(h) Boeing Special Attention Service Bulletin 767–25–0078, Revision 2, dated March 16, 1989, allows for replacement of the hinge assemblies on an attrition basis (replacing the existing hinge assembly when it is broken or worn beyond functionality with a new hinge assembly). For this reason, airplanes that have been modified in accordance with Boeing Special Attention Service Bulletin 767–25–0078, Revision 2, dated March 16, 1989, may still have some hinge assemblies that have not been replaced or reworked per the service bulletin. In such cases, this AD requires that all applicable hinge assemblies be replaced and reworked within the compliance time specified in paragraph (f) of this AD.

Parts Installation

(i) As of the effective date of this AD, no one may install a hinge assembly in the outboard overhead stowage bins, having part number 413T1017-() on any airplane to which this AD applies.

Alternative Methods of Compliance (AMOCs)

(j)(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) 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.

Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 767–25–0078, Revision 4, dated June 10, 2004, 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 this document 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 October 20, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22791 Filed 11–18–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22256; Directorate Identifier 2005–NM–113–AD; Amendment 39–14378; AD 2005–23–20]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP 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 EMBRAER Model EMB–135 airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This AD requires modification of the upper frame of the firewall for the auxiliary power unit (APU). This AD results from the discovery of a hole in the upper frame of the firewall for the APU. We are issuing this AD to ensure that the APU compartment is isolated from the rest of the airplane in the event of an APU fire. If the APU compartment is not isolated, smoke could enter the passenger cabin in the event of an APU fire.

DATES: This AD becomes effective December 27, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of December 27, 2005.

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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

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:

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 EMBRAER Model EMB–135 airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That NPRM was published in the **Federal Register** on September 1, 2005 (70 FR 52040). That NPRM proposed to require modification of the upper frame of the firewall for the auxiliary power unit (APU).

Comments

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

Request To Reference Latest Revision of EMBRAER Service Bulletins

One commenter, the manufacturer, requests that the NPRM be revised to reference EMBRAER Service Bulletin 145LEG–53–0020, Revision 01, dated September 21, 2005; and EMBRAER Service Bulletin 145–53–0057, Revision 01, dated September 20, 2005