

additional days. This will provide interested persons more time to review the proposed rule, perform a more complete analysis, and prepare information in writing to support their comments.

Accordingly, the period in which to file written comments is reopened until September 12, 2005. This notice is issued pursuant to the Agricultural Marketing Agreement Act of 1937.

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

Dated: August 17, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-16570 Filed 8-19-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-238-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 727, 727C, 727-100, and 727-100C Series Airplanes**

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

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

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 727-100 and -100C series airplanes, that would have required repetitive inspections of the frame inner chord, outer chord, and web of the forward and aft edge frames of the lower lobe forward cargo door (FCD) cutout, and corrective action if necessary. This new action revises the proposed rule by adding high frequency eddy current inspections and a detailed inspection for cracks of certain areas described above. This new action also removes one airplane from the applicability. The actions specified by this new proposed AD are intended to detect and correct fatigue cracking of the forward and aft edge frames of the lower lobe FCD cutout, which could result in the loss of the FCD and rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by September 16, 2005.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation

Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-238-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. 2003-NM-238-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 Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Daniel F. Kutz, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6456; fax (425) 917-6590.

#### **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 2003-NM-238-AD." The postcard will be date stamped and returned to the commenter.

#### **Availability of Notices of Proposed Rulemaking (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. 2003-NM-238-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 Boeing Model 727-100 and -100C series airplanes, was published as an NPRM in the **Federal Register** on June 23, 2004 (69 FR 34974). That NPRM would have required repetitive inspections of the frame inner chord, outer chord, and web of the forward and aft edge frames of the lower lobe forward cargo door (FCD) cutout, and corrective action, if necessary. That NPRM was prompted by reports indicating that fatigue cracks were found at the inner chord, outer chord, and web of the forward and aft edge frames of the lower lobe FCD cutout. That condition, if not corrected, could result in the loss of the FCD and rapid decompression of the airplane.

#### **Actions Since Issuance of Previous Proposal**

Since the issuance of that NPRM, Boeing has issued Alert Service Bulletin 727-53A0229, dated March 24, 2005, for all Model 727, 727C, 727-100, and 727-100C series airplanes. The service bulletin identifies Group 1 airplanes as airplanes having line number 1 through 695 inclusive and Group 2 airplanes as airplanes having line numbers 696 through 869 inclusive. The service bulletin describes procedures for detailed and high frequency eddy current inspections for cracks in the web and the inner and outer chord of the forward and aft frames of the forward cargo doorway.

The original NPRM referenced pages F.11.2, F.11.12, and F.11.22 of Boeing Document No. D6-48040-1, Volumes 1 and 2, "Supplemental Structural Inspection Document" (SSID), Revision H, dated June 1994, as the appropriate source of service information for accomplishing the inspections specified in the proposed AD. This supplemental NPRM references the alert service bulletin as the appropriate source of service information for doing the same inspections specified in the NPRM and also for doing high frequency eddy current inspections for cracks of additional areas and a detailed inspection of an additional area. We have revised paragraph (c) of the supplemental NPRM accordingly.

We have also added model designations, Model 727 and 727C series airplanes, to the applicability of the supplemental NPRM. The original NPRM inadvertently specified only Model 727-100 and -100C series airplanes.

#### Comments

Comments were submitted on the original NPRM. Due to the release of new service information, those comments are no longer applicable and are not addressed by this supplemental NPRM.

#### Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

#### Differences Between the Supplemental NPRM and the Service Bulletin

Although the service bulletin specifies an effectivity of all Model 727, 727C, 727-100, and 727-100C series airplanes, this supplemental NPRM specifies an applicability of Boeing Model 727, 727C, 727-100, and 727-100C series airplanes, line numbers 1 through 694 inclusive. After the release of the service bulletin, we received a report from Boeing that the Group 2 airplanes identified in the service bulletin are not affected by the unsafe condition. Boeing stated that the Group 2 airplanes have a different configuration (due to structural improvements during production) than the Group 1 airplanes and have not had any history of reported cracks. In addition, the Group 1 airplane having line number 695 also has a different configuration due to a modification. We agree with Boeing and have determined that only the Group 1 airplanes identified in the service bulletin, which

are those having line numbers 1 through 694, are subject to the identified unsafe condition. We have revised the applicability of the original NPRM accordingly. This difference has been coordinated with Boeing. Boeing is planning to issue a new revision of the service bulletin to address this change.

Although the service bulletin recommends accomplishing the initial inspections within 24,000 total flight cycles, we have determined that this interval would not address the identified unsafe condition soon enough to ensure an adequate level of safety for the affected fleet. After the release of the service bulletin, we received a report of a crack found on an affected airplane at 23,400 flight cycles. In developing an appropriate compliance time for this supplemental NPRM, we considered Boeing's recommendation of using a revised threshold of 21,000 total flight cycles. We agree with Boeing and find that a 21,000 total-flight-cycle compliance time represents an appropriate interval for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with Boeing, and as stated previously, Boeing plans to issue a new revision of the service bulletin to account for these changes.

The service bulletin specifies that you may provide the manufacturer with crack information, and they will provide you instructions on how to repair certain conditions, but this supplemental NPRM would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Operators should note that, although the Accomplishment Instructions of the service bulletin describe procedures for reporting discrepancies, this supplemental NPRM would not require those actions. The FAA does not need this information from operators.

#### Interim Action

We consider this supplemental NPRM interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

#### Cost Impact

There are approximately 211 airplanes of the affected design in the worldwide fleet. The FAA estimates that 116 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 to 8 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between \$45,240 and \$60,320, or between \$390 and \$520 per airplane, per inspection cycle.

The cost impact figure discussed above is 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:

**Boeing:** Docket 2003–NM–238–AD.

*Applicability:* Boeing Model 727, 727C, 727–100, and 727–100C series airplanes, line numbers 1 through 694 inclusive; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the forward and aft edge frames of the lower lobe forward cargo door (FCD) cutout, which could result in the loss of the FCD and rapid decompression of the airplane, accomplish the following:

**Note 1:** This AD is related to AD 98–11–03 R1, amendment 39–10983 (64 FR 989, January 7, 1999), and affects Structural Significant Item (SSI) F–11B of the Boeing 727 Supplemental Structural Inspection Document (SSID) program, D6–48040–1, Revision H, dated June 1994.

#### Initial and Repetitive Inspections

(a) For airplanes on which the forward and aft edge frames of the lower lobe FCD cutout have not been inspected per AD 98–11–03 R1 as of the effective date of this AD: Prior to the accumulation of 21,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs

later, do the inspections specified in paragraph (c) of this AD.

(b) For airplanes on which the forward and aft edge frames of the lower lobe FCD cutout have been inspected per AD 98–11–03 R1 as of the effective date of this AD: Within the next scheduled inspection required by AD 98–11–03 R1, or within 3,000 flight cycles after the effective date of this AD, whichever occurs first, do the inspections specified in paragraph (c) of this AD.

(c) At the time specified in paragraph (a) or paragraph (b) of this AD, as applicable: Perform the detailed and high frequency eddy current inspections for cracks in the web and the inner and outer chords of the forward and aft frames of the forward cargo doorway in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0229, dated March 24, 2005. Repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles.

#### Corrective Action

(d) If any crack is found during any inspection required by paragraph (c) of this AD: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane 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 approval must meet the certification basis of the airplane, and the approval must specifically reference this AD.

#### Certain Actions Constitute Compliance With AD 98–11–03 R1

(e) Accomplishment of the inspections specified in paragraph (c) of this AD is terminating action for the inspections required by AD 98–11–03 R1 that pertain to SSI F–11B of Boeing Document No. D6–48040–1, Boeing 727 SSID, Revision H, dated June 1994, for the areas specified in paragraph (c) of this AD only. Accomplishment of the actions required by paragraph (c) of this AD does not terminate the inspections required by AD 98–11–03 R1 for the remaining areas of SSI F–11B and does not terminate the remaining requirements of AD 98–11–03 R1.

#### No Reporting Required

(f) Although the service bulletin referenced in this AD specifies to provide certain information to the manufacturer, this AD does not include that requirement.

#### Alternative Methods of Compliance

(g) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on August 11, 2005.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 05–16537 Filed 8–19–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2005–22147; Directorate Identifier 2005–NM–114–AD]

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:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt 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 proposed AD would require modification of the logic of the steering system of the nose landing gear (NLG) wheel. This proposed AD results from the reports of the loss of directional control of the airplane on the ground after an internal failure of the NLG wheel steering system. We are proposing this AD to prevent failure of the NLG wheel steering system, which could result in reduced controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by September 21, 2005.

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