health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the Westinghouse Government Environmental Services Company. This company does not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

§ 72.214 [Amended]

2. In § 72.214, Certificate of Compliance 1001 is removed.

Dated at Rockville, Maryland, this 6th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–20993 Filed 8–20–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–401–AD; Amendment 39–12380; AD 2001–16–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD); applicable to certain Boeing Model 737–100, –200, and –200C series airplanes; that requires a one-time inspection of the carriage spindles on the outboard midflap for circumferential score marks; and rework of the carriage spindles or replacement with new or serviceable spindles, if necessary. This action is necessary to prevent severe flap asymmetry due to fractures of both carriage spindles at an outboard midflap, which could result in loss of controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 25, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 25, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Blilie, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2131; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, and –200C series airplanes was published in the **Federal Register** on April 12, 2001 (66 FR 18878). That action proposed to require a one-time detailed visual inspection of the carriage spindles on the outboard midflap for circumferential score marks; and rework of the carriage spindles or replacement with new or serviceable spindles, if necessary.

Comments

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

Inspection Methods

All of the commenters expressed concern about the proposed inspection methods.

Regarding the detailed visual inspection that is included as one acceptable method of inspection in Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999,

one of the commenters states that the proposed detailed visual inspection of the carriage spindle cannot be accomplished. The commenter states that surrounding airplane structure and a certain seal make it difficult to gain access to and properly clean the carriage spindle when the flap carriage assembly is installed on the airplane.

Regarding the borescopic inspection that is included in the service bulletin as another acceptable method of inspection, two of the commenters stated that the borescopic inspection specified in the service bulletin is not sufficient to detect circumferential score marks on the carriage spindles on the outboard midflap. The commenters state that routine applications of protective coatings such as primer or paint on the carriage spindles may obscure score marks.

One of the commenters, the airplane manufacturer, submitted this comment:

> The Boeing Company is of the opinion that the minimum acceptable inspection method to look for score marks on the carriage spindles (which the flap is attached to the flap t[r]acks) is the use of a borescope or equivalent method[;] otherwise[,] close visual inspection is acceptable provided the flaps are removed from the airplane for the purpose of inspecting the spindles for circumferential score marks.

The FAA infers that the commenters are requesting that we clarify what inspection methods are acceptable for compliance with this AD and what other actions must be accomplished on the airplane for these inspection methods to be used. We concur that some clarification is necessary. Our intent is that either the detailed visual or borescopic inspection methods described in the service bulletin are acceptable for compliance with this AD. For clarification, we have revised the summary of this final rule to remove the words ''detailed visual.''

With regard to the suitability of the borescopic inspection for finding score marks on the carriage spindle, we note that data in the Operator's Equipment Manual indicate that an inspection with a borescope is adequate to detect the score marks that are the subject of this AD. Accordingly, we have revised paragraph (a) of this AD to require either a detailed visual or borescopic inspection per the service bulletin.

With regard to accomplishing the detailed visual inspection without using a borescope, we note that the service bulletin clearly specifies that it is necessary to remove the outboard trailing edge flaps from the airplane before the detailed visual inspection of the carriage spindles can be carried out. However, to clarify this matter, and per the airplane manufacturer's comment stated above, we have added a new note, Note 3, to this final rule (and reordered subsequent notes accordingly). Note 3 states that removal of the outboard trailing edge flaps from the airplane is necessary for the detailed visual inspection, but an inspection using a borescope is acceptable if the flap carriages are not removed from the airplane.

Compliance Time

On behalf of one of its members, the Air Transport Association of America requests extension of the compliance time from 18 months to 36 months for accomplishment of the requirements of the proposed AD. The commenter states that this compliance time will allow accomplishment of the proposed actions during normal scheduled heavy maintenance visits and would provide ''a level of safety commensurate with the intent of the proposal.''

The FAA does not concur. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and the average utilization of the affected fleet. In light of these factors, the FAA finds an 18-month compliance time for completing the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. No change to the final rule is necessary in this regard. However, as noted in paragraph (c) of this AD, we will consider requests for approval of an alternative method of compliance or adjustment of the compliance time, provided that data are submitted which show that an acceptable level of safety will be maintained.

Removal and Destruction of Seal

One commenter expresses concern about cutting and removing a certain seal, which is necessary for accomplishing the inspection using a borescope, as specified in Figure 1 of the referenced service bulletin. The commenter is concerned that cutting the seal could allow fluids or debris to enter the area, resulting in long-term deleterious effects in the area previously protected by the seal. The commenter states that the airplane manufacturer responded to this concern by indicating that it is adequate to remove the seal to facilitate the proposed inspection and replace the seal only when the airplane is next overhauled after the inspection. The airplane manufacturer also indicated that replacement of a previously installed Teflon bearing with a new spherical bearing would result in no damage if small debris enters the area.

The FAA acknowledges that it is necessary to cut and remove the identified seal to perform the inspection with a borescope. For those operators who choose to use the borescope method of inspection, we find that the risk of damage associated with the missing segment of seal is low, as long as the seal is replaced at the next maintenance interval. We note, however, that it is not necessary to cut the seal in order to do the detailed visual inspection described in the service bulletin because the service bulletin provides an alternative method of gaining access to do this inspection. If the commenter is sufficiently concerned with the risk associated with the missing seal, the alternative method may be used, as specified in the service bulletin. No change to the final rule is necessary in this regard.

Cost Estimate

One commenter states that the FAA's estimate of 12 work hours does not reflect the true number of work hours necessary for the proposed inspection. The commenter states that the compliance time will necessitate that the proposed work be accomplished on the vast majority of airplanes at maintenance visits other than overhauls, which is the only maintenance visit in which access to the subject area would be readily available. The commenter notes that the referenced service bulletin estimates that 21 work hours would be necessary for the borescopic inspection or 68 work hours would be necessary for the detailed visual inspection. The commenter asks that the FAA revise the proposed rule to provide a more accurate cost estimate.

The FAA does not concur. The estimates of 21 and 68 work hours provided in the referenced service bulletin include time for gaining access, closing up, and testing. The cost impact analysis in AD rulemaking actions typically includes only the ''direct'' costs of the specific actions required by the AD, and does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 870 Model 737-100, -200, and -200C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 320 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $230,400, or $720 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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.

Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

32001–16–11 Boeing: Amendment 39–12380. Docket 2000–NM–401–AD.

Applicability: Model 737–100, –200, and –200C airplanes without high gross weight flaps installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 prevent severe flap asymmetry due to fractures of both carriage spindles at an outboard midflap, which could result in loss of controllability of the airplane, accomplish the following:

One-Time Detailed Visual Inspection

(a) Within 18 months after the effective date of this AD, do a one-time detailed visual or borescopic inspection of the outboard midflap carriage spindles for circumferential score marks per Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: As specified in Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999, removal of the outboard trailing edge flaps from the airplane is necessary for the detailed visual inspection method to be used. A borescopic inspection according to the service bulletin is acceptable if the flap carriages are not removed from the airplane.

(1) If no scoring is found on any carriage spindle, no further action is required by this paragraph.

(2) If any scoring is found on any carriage spindle, before further flight, rework the carriage spindle, or replace it with a new or serviceable spindle per the service bulletin.

Spares

(b) As of the effective date of this AD, no person shall install any outboard midflap carriage spindle having a part number identified in paragraph 2.E. of Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999, on any airplane, unless the spindle has been inspected for score marks and reworked, as necessary, per the service bulletin.

Alternative Methods of Compliance

(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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(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.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–57A1256, dated September 30, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on September 25, 2001.

Issued in Renton, Washington, on August 13, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–20803 Filed 8–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–248–AD; Amendment 39–12394; AD 2001–17–03]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–135 and –145 series airplanes. This action requires repetitive inspections of the engine thrust reverser stow/transit switches, and corrective action, if necessary. This action is necessary to prevent erroneous signals in the Engine Indicating and Crew Alerting System (EICAS) caused by internal corrosion of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground. This action is intended to address the identified unsafe condition.

DATES: Effective September 5, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 5, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 20, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–248–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-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–248–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 for Windows or ASCII text.

The service information referenced in this AD 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; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Geddie, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6068; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC) , which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 series airplanes. The DAC advises that cases of internal corrosion have been found on the stow/transit switches installed in the engine thrust reversers of EMBRAER Model EMB–145 series airplanes. Erroneous messages of ''ENG ( ) REV DISAGREE'' or ''ENG ( ) REV FAIL'' have been displayed in the Engine Indicating and Crew Alerting System (EICAS) because of this corrosion. In one case, a transit switch severely contaminated by corrosion resulted in an uncommanded engine rollback to idle in flight. Several cases of aborted takeoffs have also been reported due to ''ENG ( ) REV DISAGREE'' messages during takeoff. This internal corrosion condition, if not corrected, could result in erroneous signals of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–78–0029, dated February 2, 2001, which describes procedures for repetitive inspections of the stow/transit switches for possible internal corrosion by means of a field check with a megohmmeter for insulation resistance; and corrective action, if applicable. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 2001–05–03, dated June 8, 2001, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent erroneous signals from being displayed on the EICAS, caused by internal corrosion of the thrust reverser stow/transit switches, which could result in uncommanded loss of engine power in flight, or unnecessary aborted takeoffs on the ground. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Interim Action

This is considered to be an interim action until final action is identified, at which time the FAA may consider further rulemaking.

Differences Between Proposed Rule and Foreign Airworthiness Directive

This AD differs from the parallel Brazilian airworthiness directive in that it requires repetitive inspections every 1,200 flight hours after the initial inspection, as recommended by EMBRAER Service Bulletin 145–78–0029, dated February 2, 2001. The parallel Brazilian airworthiness directive contains only a note that makes reference to a future revision of the airplane Maintenance Review Board (MRB) that will include periodic re-inspection.