approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2007–07–02, effective August 21, 2007, and the service information listed in Table 1 of this AD, for related information.

Issued in Renton, Washington, on January 30, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–3399 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0135; Directorate Identifier 2008–NM–170–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 and 747–400D Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747–400 and 747–400D series airplanes. This proposed AD would require repetitive inspections to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and related investigative and corrective actions if necessary. This proposed AD results from reports of cracks found in the Section 41 upper deck floor beam upper chords. We are proposing this AD to detect and correct cracks in these chords, which could become large and cause the floor beams to become severed and result in rapid decompression or reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 6, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0135; Directorate Identifier 2008–NM–170–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of cracks found in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords on three different Boeing Model 747–400D series airplanes, which had accumulated 24,053, 24,783, and 25,631 total flight cycles. Similar cracks were also found on the Model 747–400 fatigue test airplane. Cracks in these chords that are not found and repaired could become large and cause the floor beams to become severed. This can lead to large deflection of the upper deck floor; and cause damage to the adjacent body skin, frames, and stringers. Because flight-critical wire bundles and control cables are routed through cutouts in the upper deck floor beams, a large deflection of the upper deck floor could result in damage to wire bundles and unintended inputs to the flight control cables, which could result in reduced controllability of the airplane. If multiple adjacent floor beams are severed, the result could be rapid decompression or reduced controllability.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–53A2688, datedAugust 21, 2008. The service bulletin describes procedures for repetitive inspections for fatigue cracks of the floor panel attachment fastener holes in the Section 41 upper deck floor beam upper chords. The inspection type depends on the means of access (whether gained from above or below) and repair/modification condition. The inspection procedures described are (1) open-hole high frequency eddy current (HFEC) inspections of the floor panel

attachment fastener holes in the upper chords, or (2) surface HFEC inspections of the forward and aft horizontal flanges of the upper chords at floor panel attachment fastener holes, preceded by modification of the clipnuts for the floor panel attachment fasteners.

For airplanes with no crack, the service bulletin provides optional procedures for modifying (by oversizing) the floor panel attachment holes, which would extend the compliance time for the initiation of the repetitive inspections.

The service bulletin specifies repairing cracks per the service bulletin or contacting Boeing for repair instructions. For certain conditions, the repair procedures provided in the service bulletin include oversizing affected holes, doing an open-hole HFEC inspection for cracks, and repeating the oversizing and inspection procedures until no crack indications are found. The service bulletin also provides procedures for installing repair straps and clips for certain other conditions.

The compliance time for the initial inspection is before 20,000 total flight cycles on the floor beam upper chords, within 1,000 flight cycles after the effective date of the service bulletin, or within 2,000 or 6,000 flight cycles (depending on the inspection type used) since the last Supplemental Structural Inspection Document (SSID) inspection (the SSID inspections are required by AD 2004–07–22 R1, amendment 39–15326 (73 FR 1052, January 7, 2008), whichever occurs latest. Cracks must be repaired before further flight. The threshold for the initiation of the repetitive inspection depends on the most recent inspection type used and repair/modification status, and ranges from 2,000 to 15,000 flight cycles. The intervals for the repetitive inspections depend on the inspection type and repair/modification status, and range from 2,000 to 6,000 flight cycles.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions to repair certain conditions, but this proposed AD would require repairing 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.

Costs of Compliance

We estimate that this proposed AD would affect 53 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection	48 or 50	$80	None	$3,840 or $4,000 per inspection cycle.	53	Up to $212,000 per inspection cycle.

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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify 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. 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 FAA amends § 39.13 by adding the following new AD:

Boeing: Docket No. FAA–2009–0135; Directorate Identifier 2008–NM–170–AD.

Comments Due Date

(a) We must receive comments by April 6, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–400 and 747–400D series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2688, dated August 21, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reports of cracks found in the Section 41 upper deck floor beam upper chords. We are issuing this AD to detect and correct cracks in these chords, which could become large and cause the floor beams to become severed and result in rapid decompression or reduced controllability of the airplane.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Inspections and Corrective Actions

(g) Except as required by paragraphs (h) and (i) of this AD: At the applicable times in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2688, dated August 21, 2008, do an inspection (open-hole or surface high frequency eddy current), to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and do applicable related investigative and corrective actions, by accomplishing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of the service bulletin.

(h) If any crack is found during any inspection required by paragraph (g) of this AD, and Boeing Alert Service Bulletin 747–53A2688, dated August 21, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Where Boeing Alert Service Bulletin 747–53A2688, dated August 21, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is 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 repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on February 5, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–3386 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–148326–05]

RIN 1545–BF50

Further Guidance on the Application of Section 409A to Nonqualified Deferred Compensation Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (REG–148326–05) that was published in the **Federal Register** on Monday, December 8, 2008 (73 FR 74380) providing guidance on the calculation of amounts includible in income under section 409A(a) and the additional taxes imposed by such section with respect to service providers participating in certain nonqualified deferred compensation plans. The regulations would affect such service providers and the service recipients for whom the service providers provide services.

FOR FURTHER INFORMATION CONTACT: Stephen Tackney, (202) 927–9639 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 409A of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–148326–05) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–148326–05), which was the subject of FR Doc. E8–28894, is corrected as follows:

On page 74380, column 3, in the preamble, under the caption **FOR FURTHER INFORMATION CONTACT:**, lines 1 and 2 from the bottom of the paragraph, the language ''hearing, Funmi Taylor at (202) 622–7190 (not toll-free numbers).'' is corrected to read ''hearing, Funmi Taylor at (202) 622–3628 (not toll-free numbers)''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E9–3323 Filed 2–17–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2008–0027]

RIN 1625–AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rule concerning the revision of boundaries of three anchorage grounds adjacent to Ellis and Liberty Islands in Upper New York Bay. The proposed rule is being withdrawn due to the decision not to expand two security zones around Ellis and Liberty Islands. The decision not to expand the security zones removes the need to revise the anchorage ground boundaries.

DATES: The proposed rule published at 73 FR 27775, May 14, 2008, is withdrawn, effective February 18, 2009.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m.