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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-28987; Directorate Identifier 2007-NM-127-AD; Amendment 39-15269; AD 2007-24-03]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135ER, -135KE, -135KL, and -135LR 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: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found the development of cracks in the forward fuselage right hand (RH) side skin during full-scale fatigue tests. Those cracks may quickly reach their critical length, reducing the aircraft structural integrity, with possible rapid decompression of the aircraft.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective January 2, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 2, 2008.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the Federal Register on August 16, 2007 (72 FR 45963). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the development of cracks in the forward fuselage right hand (RH) side skin during full-scale fatigue tests. Those cracks may quickly reach their critical length, reducing the aircraft structural integrity, with possible rapid decompression of the aircraft.

The corrective action includes rework of the aircraft structure on the forward fuselage LH (left-hand) and RH sides. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued Service Bulletin 145-53-0067, Revision 02, dated August 28, 2007. We referred to EMBRAER Service Bulletin 145-53-0067, Revision 01, dated February 27, 2007, as the appropriate source of service information for doing the actions specified in the NPRM. The procedures in Revision 02 of the service bulletin are essentially the same as those procedures in Revision 01. Revision 02 revises the illustrations and makes editorial changes. We have revised paragraph (f)(1) and Table 1 of this AD to also refer to Revision 02 of the service bulletin.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Extend Grace Period

American Eagle Airlines requests that we extend the grace period specified in the NPRM. The commenter states that the compliance time of "prior to the accumulation of 22,000 total flight cycles or within 6 months after the effective date of this AD, whichever is later" would impose an excessive strain on the operator due to labor requirements and time out of service. The commenter notes that a number of its aircraft are near the 22,000 total flight cycle threshold and suggests that we change the grace period to within 2,000 flight cycles after the effective date of this AD.

We do not agree with the commenter's request to extend the grace period. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, the availability of required parts, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. However, according to the provisions of paragraph (g) of the final rule, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have not changed this final rule in this regard.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We determined that this change will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect 624 products of U.S. registry. We also estimate that it will take about 60 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Required parts will cost about \$1,210 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$3,750,240, or \$6,010 per product.

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 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 this AD:

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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

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 FAA amends § 39.13 by adding the following new AD:



2007-24-03 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-15269.
Docket No. FAA-2007-28987; Directorate Identifier 2007-NM-127-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective January 2, 2008.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB-135ER, -135KE, -135KL, and -135LR airplanes; and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes; certificated in any category.

Subject

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

Reason

- (e) The mandatory continuing airworthiness information (MCAI) states:

It has been found the development of cracks in the forward fuselage right-hand (RH) side skin during full-scale fatigue tests. Those cracks may quickly reach their critical length, reducing the aircraft structural integrity, with possible rapid decompression of the aircraft.

The corrective action includes rework of the aircraft structure on the forward fuselage LH (left-hand) and RH sides.

Actions and Compliance

(f) Prior to the accumulation of 22,000 total flight cycles, or within 6 months after the effective date of this AD, whichever is later, unless already done, do the following actions:

(1) Add two reinforcements to the forward fuselage skin on the LH and RH sides between frames 9 to 10 and 10 to 11, and stringers 12 to 15. Install supports to the reinforcements and stringers as well as new fasteners to the reinforcements and supports, and reroute the electrical wiring on the affected area. Do all actions in accordance with EMBRAER Service Bulletin 145-53-0067, Revision 01, dated February 27, 2007; or Revision 02, dated August 28, 2007.

(2) Accomplishing the detailed instructions and procedures described in the EMBRAER Service Bulletin 145-53-0051, dated July 15, 2004; or EMBRAER Service Bulletin 145-53-0051, Revision

01, dated February 7, 2006; is considered acceptable for compliance with the actions specified in this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, 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: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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 2007-05-01R1, effective July 4, 2007, and the service bulletins listed in Table 1 of this AD, for related information.

Table 1 – Service Bulletins

EMBRAER Service Bulletin	Revision Level	Date
145-53-0051	Original	July 15, 2004
145-53-0051	01	February 7, 2006
145-53-0067	01	February 27, 2007
145-53-0067	02	August 28, 2007

Material Incorporated by Reference

(i) You must use the service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

Table 2 – Material Incorporated by Reference

EMBRAER Service Bulletin	Revision Level	Date
145-53-0051	Original	July 15, 2004
145-53-0051	01	February 7, 2006
145-53-0067	01	February 27, 2007
145-53-0067	02	August 28, 2007

EMBRAER Service Bulletin 145-53-0051, Revision 01, dated February 7, 2006, has the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 2	01	February 7, 2006.
3-129	Original	July 15, 2004.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on November 13, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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