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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-22525; Directorate Identifier 2005-NM-149-AD; Amendment 39-14410; AD 2005-25-17]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -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: The FAA is adopting a new airworthiness directive (AD) for certain EMBRAER airplanes listed above. This AD requires modifying the drain system of the auxiliary power unit (APU) by installing a scavenge pump and, for certain airplanes, replacing the APU exhaust assembly. This AD results from a report of fuel leaking from the APU feeding line and accumulating inside the APU compartment because the drain system is inadequate when the APU is running. We are issuing this AD to prevent fuel accumulation and subsequent flammable fuel vapors in the APU cowling, which, combined with an ignition source, could result in a fire or explosion.

DATES: This AD becomes effective January 18, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 18, 2006.

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.

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.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 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-135BJ, -135ER, -135KE, -135KL, and -135LR airplanes; and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. That NPRM was published in the Federal Register on September 29, 2005 (70 FR 56858). That NPRM proposed to require modifying the drain system of the auxiliary power unit (APU) by installing a scavenge pump and, for certain airplanes, replacing the APU exhaust assembly.

Comments

We provided the public the opportunity to participate in the development of this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Changes to Proposed AD

Since we issued the proposed AD, EMBRAER has revised Service Bulletin 145-49-0029, which was cited in the proposed AD as the appropriate source of service information for the modification on all but Model EMB-135BJ airplanes. The procedures in Revision 02, dated October 14, 2005, are essentially the same as those described in the original version. We have revised paragraph (f) in this AD accordingly.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously.

Costs of Compliance

This AD affects about 800 airplanes of U.S. registry. The pump installation takes about 15 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts cost about \$1,768 or \$1,967 per airplane. Based on these figures, the estimated cost of this action for U.S. operators is \$2,194,400-\$2,353,600, or \$2,743 or \$2,942 per airplane.

The number of airplanes subject to the APU exhaust assembly replacement is unknown. If accomplished, this action would take about 6-7 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts would cost about \$9,828 or \$12,844 per airplane. Based on these figures, the estimated cost of this action for U.S. operators is \$10,218-\$13,299 per airplane.

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):

AIRWORTHINESS DIRECTIVE



Aircraft Certification Service
Washington, DC

U.S. Department
of Transportation
**Federal Aviation
Administration**

We post ADs on the internet at www.faa.gov/aircraft/safety/alerts/

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

2005-25-17 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-14410.
Docket No. FAA-2005-22525; Directorate Identifier 2005-NM-149-AD.

Effective Date

- (a) This AD becomes effective January 18, 2006.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB-135BJ, -135ER, -135KE, -135KL, and -135LR airplanes; and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes; certificated in any category; equipped with Model C-14 auxiliary power units (APUs); except those airplanes with serial numbers 14500927 and subsequent.

Unsafe Condition

(d) This AD results from a report of fuel leaking from the APU feeding line and accumulating inside the APU compartment because the drain system is inadequate when the APU is running. We are issuing this AD to prevent fuel accumulation and subsequent flammable fuel vapors in the APU cowling, which, combined with an ignition source, could result in a fire or explosion.

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.

Installation of Scavenge Pump Drain

(f) Within 5,000 flight hours after the effective date of this AD, modify the APU compartment drain system by installing a scavenge pump on it by doing all actions specified in the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-49-0006 (for Model EMB-135BJ airplanes), dated April 20, 2005; or 145-49-0029 (for all remaining airplanes), Revision 02, dated October 14, 2005. A modification before the effective date of this AD in accordance with EMBRAER Service Bulletin 145-49-0029, dated April 20, 2005; or Revision 01, dated July 13, 2005, is also acceptable for compliance with the requirements of this paragraph, as applicable.

Concurrent Requirements

(g) For airplanes with an APU cowling part number 145-52979-401 or 145-52979-403: Before or concurrently with the pump drain installation required by paragraph (f) of this AD, replace the APU exhaust assembly by doing all actions specified in the Accomplishment Instructions of EMBRAER Service Bulletin 145-49-0023, Revision 01, dated April 25, 2005. Replacement before the effective date of this AD in accordance with EMBRAER Service Bulletin 145-49-0023, dated November 23, 2004, is also acceptable for compliance with the requirements of this paragraph.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, 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.

Related Information

(i) Brazilian airworthiness directive 2005-08-05, effective September 6, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) To perform the actions that are required by this AD, unless the AD specifies otherwise, you must use the service bulletins identified in Table 1 of this AD, as applicable. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For a copy of this service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP 12.225, Sao Jose dos Campos-SP, Brazil. 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.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
EMBRAER Service Bulletin 14LEG-49-0006	Original	April 20, 2005.
EMBRAER Service Bulletin 145-49-0029	02	October 14, 2005.
EMBRAER Service Bulletin 145-49-0023	01	April 25, 2005.

Issued in Renton, Washington, on December 2, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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