

[Federal Register Volume 78, Number 214 (Tuesday, November 5, 2013)]
[Rules and Regulations]
[Pages 66258-66261]
From the Federal Register Online via the Government Printing Office [www.gpo.gov]
[FR Doc No: 2013-26323]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2013-0868; Directorate Identifier 2013-NM-194-AD; Amendment 39-17650; AD 2013-22-18]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes

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

ACTION: Final Rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain 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. This AD requires repetitive detailed inspections to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, and, if no discrepancy is found, a check to make sure the bolts are tight, and replacement of the attaching parts if necessary. This AD also provides an option to accomplish the replacement of the attaching parts, which terminates the repetitive inspections. This AD was prompted by reports of failure of the bolts that connect the lower eyelet fitting of the cockpit windshield center-post to the forward fuselage. We are issuing this AD to detect and correct failed bolts and attaching parts of the lower eyelet fitting of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

DATES: This AD becomes effective November 20, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 20, 2013.

We must receive comments on this AD by December 20, 2013.

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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227-901 São Jose dos Campos–SP–BRASIL; telephone +55 12 3927-5852 or +55 12 3309-0732; fax +55 12 3927-7546; email distrib@embraer.com.br; Internet <http://www.flyembraer.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

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 this AD, the Mandatory Continuing Airworthiness Information (MCAI), 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.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1175; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Emergency Airworthiness Directive 2013-10-01, effective October 3, 2013 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

This [Brazilian] EAD [emergency AD] was prompted by reports of failure of the bolts that connect the lower eyelet fitting of the cockpit windshield center-post to the forward fuselage. We are issuing this EAD to detect failed bolts and correct the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane. Required actions include repetitive detailed inspections to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, and if no discrepancy is found, a check to make sure the bolts are tight, and replacement of the attaching parts if necessary. This AD also provides an option to replace the attaching parts, which terminates the repetitive inspections. The replacement includes doing a general visual inspection for damage on the eyelet fitting if any discrepancy is found in any bolts and repair if necessary. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA-2013-0868.

Relevant Service Information

Embraer has issued Service Bulletin 145-53-0082, dated October 18, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

In many FAA transport ADs, when the service information specifies to contact the manufacturer for further instructions if certain discrepancies are found, we typically include in the AD a requirement to accomplish the action using a method approved by either the FAA or the State of Design Authority (or its delegated agent).

We have recently been notified that certain laws in other countries do not allow such delegation of authority, but some countries do recognize design approval organizations. In addition, we have become aware that some U.S. operators have used repair instructions that were previously approved by a State of Design Authority or a Design Approval Holder (DAH) as a method of compliance with this provision in FAA ADs. Frequently, in these cases, the previously approved repair instructions come from the airplane structural repair manual or the DAH repair approval statements that were not specifically developed to address the unsafe condition corrected by the AD. Using repair instructions that were not specifically approved for a particular AD creates the potential for doing repairs that were not developed to address the unsafe condition identified by the MCAI AD, the FAA AD, or the applicable service information, which could result in the unsafe condition not being fully corrected.

To prevent the use of repairs that were not specifically developed to correct the unsafe condition, this AD requires that the repair approval specifically refer to this FAA AD. This change is intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we use the phrase "its delegated agent, or by the DAH with State of Design Authority design organization approval, as applicable" in this AD to refer to an DAH authorized to approve required repairs for this AD.

Differences Between This AD and the MCAI or Service Information

The MCAI includes a requirement to replace the attaching parts of the lower eyelet fitting of the cockpit windshield center-post within 6,000 flight cycles. However, the planned compliance time for the replacement would allow enough time to provide notice and opportunity for prior public comment on the merits of the replacement. Therefore, we have included that action as an optional action in paragraph (i) of this AD, which will terminate the inspections required by this AD. We might propose further rulemaking to require the replacement.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failed bolts and attaching parts of the lower eyelet fitting of the cockpit windshield center-post could lead to loss of structural integrity of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the ADDRESSES section. Include "Docket No. FAA-2013-0868; Directorate Identifier 2013-NM-194-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

Costs of Compliance

We estimate that this AD affects 624 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

Estimated Costs

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections/Checks	3 work-hours × \$85 per hour = \$255 per inspection cycle	\$0	\$255 per inspection cycle	\$159,120 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspections/checks. We have no way of determining the number of aircraft that might need these replacements:

On-Condition Costs

Action	Labor cost	Parts cost	Cost per product
Replacement	34 work-hours × \$85 per hour = \$2,890	\$386	\$3,276

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 that 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);
3. Will not affect intrastate aviation in Alaska; and
4. 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.

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 airworthiness directive (AD):



2013-22-18 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-17650.
Docket No. FAA-2013-0868; Directorate Identifier 2013-NM-194-AD.

(a) Effective Date

This AD becomes effective November 20, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to 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, certificated in any category, as identified in EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013.

(d) Subject

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

(e) Reason

This AD was prompted by reports of failure of the bolts that connect the lower eyelet fitting of the cockpit windshield center-post to the forward fuselage. We are issuing this AD to detect and correct failed bolts and attaching parts of the lower eyelet fitting of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Repetitive Inspections

(1) For Group 1 airplanes, as identified in EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013: At the applicable compliance time specified in paragraph (g)(1)(i), (g)(1)(ii), (g)(1)(iii), or (g)(1)(iv) of this AD, do a detailed inspection to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, and if no discrepancy is found, before further flight, do a check to make sure the bolts are tight, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013. Repeat the actions required by this paragraph thereafter at intervals not to exceed 500 flight cycles until the accomplishment of the replacement required by paragraph (h) of this AD or the optional terminating action specified in paragraph (i) of this AD.

(i) For airplanes with 11,000 total flight cycles or more as of the effective date of this AD: Do the inspection within 50 flight cycles after the effective date of this AD.

(ii) For airplanes with 10,000 total flight cycles or more but fewer than 11,000 total flight cycles as of the effective date of this AD: Do the inspection before the accumulation of 11,050 total flight cycles, or within 150 flight cycles after the effective date of this AD, whichever occurs first.

(iii) For airplanes with 7,500 total flight cycles or more but fewer than 10,000 total flight cycles as of the effective date of this AD: Do the inspection before the accumulation of 10,150 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs first.

(iv) For airplanes with fewer than 7,500 total flight cycles as of the effective date of this AD: Do the inspection before the accumulation of 8,000 total flight cycles, or within 5,000 flight cycles after the effective date of this AD, whichever occurs first.

(2) For Group 2 airplanes, as identified in EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013 (airplanes on which the actions specified in EMBRAER Service Bulletin 145-53-0058, dated December 23, 2004; or Revision 01, dated March 30, 2007; have been done): At the applicable compliance time specified in paragraph (g)(2)(i), (g)(2)(ii), (g)(2)(iii), or (g)(2)(iv) of this AD, do a detailed inspection to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, and if no discrepancy is found, before further flight, do a check to make sure the bolts are tight, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013. Repeat the actions required by this paragraph thereafter at intervals not to exceed 500 flight cycles until the accomplishment of the requirements of paragraph (h) of this AD or the optional terminating action specified in paragraph (i) of this AD.

(i) For airplanes that, as of the effective date of this AD, have accumulated 11,000 flight cycles or more since the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058: Do the inspection within 50 flight cycles after the effective date of this AD.

(ii) For airplanes that, as of the effective date of this AD, have accumulated 10,000 flight cycles or more but fewer than 11,000 flight cycles since the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058: Do the inspection within 11,050 flight cycles after the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058, or within 150 flight cycles after the effective date of this AD, whichever occurs first.

(iii) For airplanes that, as of the effective date of this AD, have accumulated 7,500 flight cycles or more but fewer than 10,000 flight cycles since the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058: Do the inspection within 10,150 flight cycles after the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058, or within 500 flight cycles after the effective date of this AD, whichever occurs first.

(iv) For airplanes that, as of the effective date of this AD, accumulated fewer than 7,500 flight cycles since the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058: Do the inspection within 8,000 flight cycles after the incorporation of the actions specified in EMBRAER Service Bulletin 145-53-0058, or within 5,000 flight cycles after the effective date of this AD, whichever occurs first.

(h) Corrective Actions

If, during any inspection required by paragraph (g) of this AD, any discrepancy is found or if, during any check required by paragraph (g) of this AD, any bolt is found that is not tight, before further flight, do the replacement of the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, including doing a general visual inspection for damage on the eyelet fitting; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013. If any damage to the eyelet fitting is found, before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or Agência Nacional de Aviação Civil (ANAC) (or its delegated agent, or by the Design Approval Holder (DAH) with ANAC design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD.

(i) Optional Terminating Action

For Group 1 airplanes, and Group 2 airplanes (airplanes on which the actions specified in EMBRAER Service Bulletin 145-53-0058, dated December 23, 2004; or Revision 01, dated March 30, 2007; have been done), as identified in EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013: Doing the replacement of the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, including doing a general visual inspection for damage on the eyelet fitting if any discrepancy is found in any bolts, terminates the inspections required by paragraph (g) of this AD. The replacement specified in this paragraph must be done in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013, except as required by paragraph (j) of this AD.

(j) Service Information Exception

Where EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013, specifies to contact Embraer if there are signs of damage on the eyelet fitting, before further flight, repair using a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or ANAC (or its delegated agent, or by the DAH with ANAC design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD.

(k) Credit for Previous Actions

This paragraph provides credit for actions specified in paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using EMBRAER Alert Service Bulletin 145-53-A082, dated September 22, 2013; or EMBRAER Alert Service Bulletin 145-53-A082, Revision 01, dated September 26, 2013; which are not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1175; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(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 were approved by the State of Design Authority (or its delegated agent, or the Design Approval Holder with a State of Design Authority's design organization approval, as applicable). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Emergency Airworthiness Directive 2013-10-01, effective October 3, 2013, for related information. You may

examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA-2013-0868.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(n) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) EMBRAER Service Bulletin 145-53-0082, dated October 18, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227-901 São Jose dos Campos–SP–BRASIL; telephone +55 12 3927-5852 or +55 12 3309-0732; fax +55 12 3927-7546; email distrib@embraer.com.br; Internet <http://www.flyembraer.com>.

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference 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 October 25, 2013.

Stephen P. Boyd,
Acting Manager, Transport Airplane Directorate,
Aircraft Certification Service.