

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2010-0170; Directorate Identifier 2009-NM-127-AD; Amendment 39-16328; AD 2010-12-07]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135ER, -135KE, -135KL, and -135LR Airplanes; and EMBRAER 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:

Reassessment of the damage tolerance analysis resulted in threshold reduction for some Structure Significant Items (SSI) of the Maintenance Review Board Report (MRBR) Airworthiness Limitations Items (ALI). Failure to inspect these structural components, according to the new threshold, could prevent a timely detection of fatigue cracking. These cracks, if not properly addressed, could adversely affect the structural integrity of the airplane.

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

DATES: This AD becomes effective July 22, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 22, 2010.

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: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; 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 February 25, 2010 (75 FR 8557). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Reassessment of the damage tolerance analysis resulted in threshold reduction for some Structure Significant Items (SSI) of the Maintenance Review Board Report (MRBR) Airworthiness Limitations Items (ALI). Failure to inspect these structural components, according to the new threshold, could prevent a timely detection of fatigue cracking. These cracks, if not properly addressed, could adversely affect the structural integrity of the airplane.

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You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

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 711 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$60,435, or \$85 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:



2010-12-07 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-16328.
Docket No. FAA-2010-0170; Directorate Identifier 2009-NM-127-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective July 22, 2010.

Affected ADs

- (b) None.

Applicability

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

Subject

- (d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

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

Reassessment of the damage tolerance analysis resulted in threshold reduction for some Structure Significant Items (SSI) of the Maintenance Review Board Report (MRBR) Airworthiness Limitations Items (ALI). Failure to inspect these structural components, according to the new threshold, could prevent a timely detection of fatigue cracking. These cracks, if not properly addressed, could adversely affect the structural integrity of the airplane.

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Compliance

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

Actions

- (g) Within 90 days after the effective date of this AD, do the following actions, as applicable.

(1) For EMBRAER Model EMB-135ER, -135KE, -135KL, and -135LR airplanes, and Model EMB-145, -145EP, -145ER, -145LR, -145MP, and -145MR airplanes: Revise the Airworthiness Limitations (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate Tasks 54-50-00-230-802-A00 and 54-50-00-220-808-A01 specified in Appendix 2, Airworthiness Limitation

Requirements, of EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008 (the "MRBR"). The initial compliance times for the tasks start from the applicable threshold specified in Appendix 2 of the MRBR, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For EMBRAER Model EMB-145EP, -145ER, -145LR, -145MR, and -145MP airplanes: Revise the ALS of the ICA to incorporate Tasks 57-26-00-250-815-A00, 57-26-00-250-815-A01, 57-26-00-250-813-A00, and 57-26-00-250-813-A02, specified in Appendix 2, Airworthiness Limitation Requirements, of EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008 ("the MRBR"). The initial compliance times for the tasks start from the later of the times specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) At the later of the applicable thresholds specified in Appendix 2 of the MRBR or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(ii) At the applicable time specified in Section A2.3.2.3.1, "Fatigue Threshold Reduced," of Appendix 2, Airworthiness Limitation Requirements, of the MRBR.

(3) For all airplanes: Revise the ALS of the ICA to incorporate Tasks 57-10-00-250-801-A00 and 57-10-00-250-801-A01 specified in EMBRAER Temporary Revision 12-1, dated November 27, 2008, to the EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008. The initial compliance times for the tasks start at the times specified in paragraphs (g)(3)(i) and (g)(3)(ii) of this AD, as applicable.

(i) For Task 57-10-00-250-801-A00: Prior to the accumulation of 23,600 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For Task 57-10-00-250-801-A01: Within 24,000 flight cycles after accomplishing EMBRAER Service Bulletin 145-57-0047, dated October 18, 2008, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(h) After accomplishing the actions specified in paragraph (g) of this AD, no alternative inspections, inspection intervals, or airworthiness limitations may be used unless the inspections, inspection intervals, or airworthiness limitations are approved as alternative method of compliance in accordance with the procedures specified in paragraph (i) of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(i) 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. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; 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. 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 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 (44 U.S.C. 3501 et seq.), the Office of Management and Budget

(OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(j) Refer to MCAI Brazilian Airworthiness Directive 2009-05-02, effective June 1, 2009; EMBRAER Temporary Revision 12-1, dated November 27, 2008, to the EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008; and Tasks 54-50-00-230-802-A00, 54-50-00-220-808-A01, 57-26-00-250-815-A00, 57-26-00-250-815-A01, 57-26-00-250-813-A00, and 57-26-00-250-813-A02, specified in Appendix 2, Airworthiness Limitation Requirements, of EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008; for related information.

Material Incorporated by Reference

(k) You must use EMBRAER Temporary Revision 12-1, dated November 27, 2008, to the EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150; and the specified tasks in Appendix 2, Airworthiness Limitation Requirements, of EMBRAER EMB135/EMB145 Maintenance Review Board Report MRB-145/1150, Revision 12, dated September 19, 2008; to do the actions required by this AD, unless the AD specifies otherwise.

(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), 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; e-mail: distrib@embraer.com.br; Internet: <http://www.flyembraer.com>.

(3) You may review copies of the 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.

(4) You may also review copies of the 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/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on May 25, 2010.

Ali Bahrami,
Manager, Transport Airplane Directorate,
Aircraft Certification Service.