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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-NM-34-AD; Amendment 39-13998; AD 2005-05-09]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes

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

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB-135 and -145 series airplanes. This AD requires modification of the mid, aft, and forward upper liners in the baggage compartment. The modification involves replacing the plastic lens protection grids on all upper liners with new, light metal lens protection grids. This AD is necessary to prevent the plastic lens protection grids from breaking away and exposing the lens as a source of fire, which could lead to fire damage to the aircraft systems and structure, and expose the passengers and crew to hazardous quantities of smoke. This action is intended to address the identified unsafe condition.

DATES: Effective April 14, 2005.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of April 14, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-135 and -145 series airplanes was published in the Federal Register on December 17, 2003 (68 FR 70204). That action proposed to require modification of the mid, aft, and

forward upper liners in the baggage compartment. The modification would involve replacing the plastic lens protection grids on all upper liners with new, light metal lens protection grids.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Supportive Comment

One commenter supports the proposed AD.

Request To Include Additional Service Information

One commenter notes that the proposed AD requires the installation of modified cargo liners in accordance with EMBRAER Service Bulletin 145-25-0168, Change 02, dated August 8, 2000. The commenter states that EMBRAER Service Bulletin 145-25-0133, Change 01 and subsequent, include similar instructions for installing those same modified cargo liners. The commenter suggests that the proposed AD be revised to indicate that actions accomplished previously in accordance with EMBRAER Service Bulletin 145-25-0133, Change 01 and subsequent, are acceptable for compliance with the corresponding requirement of the proposed AD.

The commenter points out that C&D Aerospace Service Bulletin 145-20216-25-03, Revision 2, dated June 9, 2000, which is included in EMBRAER Service Bulletin 145-25-0168, Change 02, includes a note stating that, for airplanes having S/Ns 004/0118 and 0120/0133, accomplishing C&D Service Bulletin 145-20216-25-03 is not required if an operator has accomplished the actions included in EMBRAER Service Bulletin 145-25-0133. The commenter recommends that paragraphs (a) and (b) of the proposed AD be revised to reference EMBRAER Service Bulletin 145-25-0133, Change 01 and subsequent, and C&D Aerospace Service Bulletin 145-20216-25-01. C&D Aerospace Service Bulletin 145-20216-25-01 is included in EMBRAER Service Bulletin 145-25-0133.

We do not agree to refer to "Change 01 and subsequent" of EMBRAER Service Bulletin 145-25-0133, or C&D Aerospace Service Bulletin 145-20216-25-01, in paragraphs (a) and (b) of this AD. We have reviewed EMBRAER Service Bulletin 145-25-0133, Change 06, dated October 20, 2003, and determined that additional actions are required for operators who have accomplished the actions specified in that service bulletin. (Change 06 is the current revision level of that service bulletin.) We have determined that EMBRAER Service Bulletin 145-25-0133 includes only procedures for removing existing baggage compartment liners, installing new baggage compartment liners, and installing the service bulletin incorporation placard. EMBRAER Service Bulletin 145-25-0168 includes procedures for modifying the existing baggage compartment liners and installing the service bulletin incorporation placard.

We also point out that the transmittal letter for EMBRAER Service Bulletin 145-25-0133, Change 06, includes the following statement: "Aircraft that have complied with previous issue of this Bulletin need additional action per SB 145-25-0168." Under the provisions of paragraph (d) of this AD, operators may request an alternative method of compliance for work accomplished in accordance with the Accomplishment Instructions of any change level of EMBRAER Service Bulletin 145-25-0133. We have not changed this AD regarding this issue.

Conclusion

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD as proposed.

Cost Impact

We estimate that 160 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 work hours per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Parts will be provided by the manufacturer at no charge. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$72,800, or \$455 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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 Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

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"

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).

2005-05-09 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-13998.
Docket 2003-NM-34-AD.

Applicability

Model EMB-135 and -145 series airplanes, certificated in any category, having serial numbers (S/Ns) 145004 through 145187 inclusive, S/Ns 145191 through 145196 inclusive, S/N 145200, and S/N 145204.

Compliance

Required as indicated, unless accomplished previously.

To prevent the plastic lens protection grids in the baggage compartment from breaking away and exposing the lens as a source of fire, which could lead to fire damage to the aircraft systems and structure, and expose the passengers and crew to hazardous quantities of smoke, accomplish the following:

Note 1: EMBRAER Service Bulletin 145-25-0168, Change 02, dated August 8, 2000, references C&D Aerospace Service Bulletin 145-20216-25-03, Revision 2, dated June 9, 2000, as an additional source of service information for accomplishment of the modification. The C&D Aerospace service bulletin is included within the EMBRAER service bulletin.

Modification

(a) Within 2,000 flight hours after the effective date of this AD: Modify the mid, aft, and forward, baggage compartment upper liners to replace the plastic lens protection grids on all upper liners with new, light metal lens protection grids, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-25-0168, Change 02, dated August 8, 2000.

Actions Accomplished Previously

(b) Modifications to the cargo liners accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 145-25-0168, Change 01, dated April 13, 2000, are considered acceptable for compliance with the corresponding actions specified in this AD.

Parts Installation

(c) As of the effective date of this AD, no person may install on any airplane a smoke detector cover having part number 7161119-507, or a ceiling panel having part number 7161011-507, 7161011-517, 7161011-519, 7161011-523, 7161011-525, 7161011-527, 7161011-529, 7161011-531, or 7161011-533.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with EMBRAER Service Bulletin 145-25-0168, Change 02, dated August 8, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. Copies may be inspected 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 the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2000-06-01, dated July 3, 2000.

Effective Date

(f) This amendment becomes effective on April 14, 2005.

Issued in Renton, Washington, on February 28, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-4551 Filed 3-9-05; 8:45 am]

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