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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2005-22256; Directorate Identifier 2005-NM-113-AD; Amendment 39-14378; AD 2005-23-20]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 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 Model EMB-135 airplanes, and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. This AD requires modification of the upper frame of the firewall for the auxiliary power unit (APU). This AD results from the discovery of a hole in the upper frame of the firewall for the APU. We are issuing this AD to ensure that the APU compartment is isolated from the rest of the airplane in the event of an APU fire. If the APU compartment is not isolated, smoke could enter the passenger cabin in the event of an APU fire.

DATES: This AD becomes effective December 27, 2005.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of December 27, 2005.

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.

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

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:

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-135 airplanes, and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. That NPRM was published in the Federal Register on September 1, 2005 (70 FR 52040). That NPRM proposed to require modification of the upper frame of the firewall for the auxiliary power unit (APU).

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Reference Latest Revision of EMBRAER Service Bulletins

One commenter, the manufacturer, requests that the NPRM be revised to reference EMBRAER Service Bulletin 145LEG-53-0020, Revision 01, dated September 21, 2005; and EMBRAER Service Bulletin 145-53-0057, Revision 01, dated September 20, 2005 (EMBRAER Service Bulletin 145LEG-53-0020, dated November 30, 2004; and EMBRAER Service Bulletin 145-53-0057, dated November 30, 2004; are referenced as the appropriate sources of service information for doing the actions specified in the NPRM). The same commenter also requests that EMBRAER Service Bulletin 145LEG-53-0020, dated November 30, 2004; and EMBRAER Service Bulletin 145-53-0057, dated November 30, 2004; be considered acceptable for compliance with the NPRM if done before the effective date of the AD.

We agree with the commenter. The procedures in Revision 01 of EMBRAER Service Bulletin 145LEG-53-0020 are essentially the same as those in the original issue of the service bulletin. Revision 01 was issued to revise the rivet installation figure. The procedures in Revision 01 of EMBRAER Service Bulletin 145-53-0057 are essentially the same as those in the original issue of that service bulletin. Revision 01 was issued to revise the rivet installation figure. Revision 01 was also issued to revise the effectivity of the service bulletin by removing 15 airplanes. These airplanes have an APU bleed valve support that covers the hole in the upper frame of the firewall for the APU; therefore these airplanes are not affected by the unsafe condition addressed by this AD.

We have revised the final rule to reference EMBRAER Service Bulletin 145LEG-53-0020, Revision 01, dated September 21, 2005; and EMBRAER Service Bulletin 145-53-0057, Revision 01, dated September 20, 2005. We have also added a new paragraph (g) to this AD to state that actions accomplished before the effective date of the AD according to the previous issues of the service bulletins are acceptable for compliance with the corresponding requirements of this AD.

Request To Revise Paragraph (d)

The same commenter requests that we revise the unsafe condition specified in paragraph (d) of the NPRM. The commenter states that "the modification intends to isolate APU compartment from the remaining of the aircraft and comply with the firewall sealing requirement, not only prevent smoke from entering the passenger cabin in consequence of a fire in the APU compartment." The commenter suggests using the following wording: "We are issuing this AD to rework the APU firewall and ensure it will perform adequately its intended function of isolate [sic] the APU compartment from the remaining of the aircraft in the event of a fire in the APU compartment."

We agree with the commenter that this AD is intended to ensure that the APU compartment is isolated from the rest of the airplane in the event of an APU fire. If the APU compartment is not isolated, smoke could enter the passenger cabin. We have revised the unsafe condition specified in the Summary section and paragraph (d) of this AD.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD will affect about 620 airplanes of U.S. registry. The actions will take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of this AD for U.S. operators is \$40,300, or \$65 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).

2005-23-20 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39-14378.
Docket No. FAA-2005-22256; Directorate Identifier 2005-NM-113-AD.

Effective Date

- (a) This AD becomes effective December 27, 2005.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB-135BJ airplanes, as identified in EMBRAER Service Bulletin 145LEG-53-0020, Revision 01, dated September 21, 2005; and Model EMB-135ER, -135KE, -135KL, and -135LR airplanes, and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes, as identified in EMBRAER Service Bulletin 145-53-0057, Revision 01, dated September 20, 2005; certificated in any category.

Unsafe Condition

(d) This AD results from the discovery of a hole in the upper frame of the firewall for the auxiliary power unit (APU). We are issuing this AD to ensure that the APU compartment is isolated from the rest of the airplane in the event of an APU fire. If the APU compartment is not isolated, smoke could enter the passenger cabin in the event of an APU fire.

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.

Modification

(f) Within 2,500 flight hours or 365 days after the effective date of this AD, whichever occurs later, modify the APU firewall upper frame, part number 145-51249-001 or 120-10731-001, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-53-0020, Revision 01, dated September 21, 2005 (for Model EMB-135BJ airplanes); or EMBRAER Service Bulletin 145-53-0057, Revision 01, dated September 20, 2005 (for Model EMB-135ER, -135KE, -

135KL, and -135LR airplanes; and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes); as applicable.

Modifications Accomplished According to Previous Issue of Service Bulletins

(g) Modifications accomplished before the effective date of this AD according to EMBRAER Service Bulletin 145LEG-53-0020, dated November 30, 2004; and EMBRAER Service Bulletin 145-53-0057, dated November 30, 2004; are considered acceptable for compliance with the corresponding action specified in this AD.

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 2005-04-03, dated April 30, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use EMBRAER Service Bulletin 145LEG-53-0020, Revision 01, dated September 21, 2005; or EMBRAER Service Bulletin 145-53-0057, Revision 01, dated September 20, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. 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. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos-SP, Brazil, for a copy of this service information. 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.

Issued in Renton, Washington, on November 9, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-22792 Filed 11-18-05; 8:45 am]

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