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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-1231; Directorate Identifier 2009-NM-212-AD; Amendment 39-16261; AD 2010-08-06]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes; and Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW 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:

It has been found the possibility of missing points of sealant application on the vapor barrier assembly in the wing stub rear box. In the event of fuel tank leak in this region associated with an unsealed vapor barrier assembly, migration of flammable vapors and fluids to middle electronic bay may occur, which then could lead to an uncontained fire event if the flammable vapors finds an ignition source.

* * * * *

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

DATES: This AD becomes effective May 19, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; 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 January 5, 2010 (75 FR 260). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the possibility of missing points of sealant application on the vapor barrier assembly in the wing stub rear box. In the event of fuel tank leak in this region associated with an unsealed vapor barrier assembly, migration of flammable vapors and fluids to middle electronic bay may occur, which then could lead to an uncontained fire event if the flammable vapors finds an ignition source.

* * * * *

The required actions include a detailed inspection for gaps, voids, or holes in the sealant. Corrective actions include applying sealant into any gaps, voids, or holes. 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 considered the single comment received.

Request To Change Paragraph Reference

The manufacturer, EMBRAER, requests that we revise paragraph (g)(3) of the NPRM to refer to the inspection specified in paragraph (g)(1) of the NPRM rather than paragraph (f)(1) as stated in the NPRM, because the inspection is required by paragraph (g)(1) of the NPRM.

We agree to revise paragraph (g)(3) of the AD to refer to paragraph (g)(1) of the AD. Paragraph (f)(1) of this AD does not exist and paragraph (f) has no inspection requirement; paragraph (g)(1) of this AD contains the AD's only inspection requirement. We have changed paragraph (g)(3) of the AD accordingly.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We determined that this change will not increase the economic burden on any operator or increase the scope of the AD.

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.

Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from \$80 per work-hour to \$85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this AD will affect about 197 products of U.S. registry. We also estimate that it will take about 5 work-hours 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 \$83,725, or \$425 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:



2010-08-06 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-16261.
Docket No. FAA-2009-1231; Directorate Identifier 2009-NM-212-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD; certificated in any category.

(1) Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, serial numbers 17000002, 17000004 through 17000013 inclusive, and 17000015 through 17000235 inclusive.

(2) Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes, serial numbers 19000002, 19000004, 19000006 through 19000108 inclusive, 19000110 through 19000139 inclusive, 19000141 through 19000158 inclusive, 19000160 through 19000176 inclusive, 19000178 through 19000202 inclusive, 19000204 through 19000213 inclusive, and 19000215.

Subject

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

Reason

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

It has been found the possibility of missing points of sealant application on the vapor barrier assembly in the wing stub rear box. In the event of fuel tank leak in this region associated with an unsealed vapor barrier assembly, migration of flammable vapors and fluids to middle electronic bay may occur, which then could lead to an uncontained fire event if the flammable vapors finds an ignition source.

* * * * *

The required actions include a detailed inspection for gaps, voids, or holes in the sealant. Corrective actions include applying sealant into any gaps, voids, or holes.

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) Unless already done, do the following actions.

(1) Within 6,000 flight hours or 24 months after the effective date of this AD, whichever occurs first, do a detailed inspection of the vapor barrier assembly in the wing stub rear box for missing sealant which forms gaps, voids or holes, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-57-0036, dated March 13, 2009 (for Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes); or EMBRAER Service Bulletin 190-57-0027, dated March 18, 2009 (for Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes).

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate access procedures may be required."

(2) If the vapor barrier sealant is found to be correctly applied in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-57-0036, dated March 13, 2009 (for Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes); or EMBRAER Service Bulletin 190-57-0027, dated March 18, 2009 (for Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes); no further action is required by this AD.

(3) If any vapor barrier sealant is found missing (gaps, voids or holes) during the inspection required by paragraph (g)(1) of this AD, before further flight apply sealant into the applicable gaps, voids, and holes, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-57-0036, dated March 13, 2009 (for Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes); or EMBRAER Service Bulletin 190-57-0027, dated March 18, 2009 (for Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes).

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(h) 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; 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

(i) Refer to MCAI Brazilian Airworthiness Directives 2009-07-01 and 2009-07-02, both effective July 13, 2009; EMBRAER Service Bulletin 170-57-0036, dated March 13, 2009; and EMBRAER Service Bulletin 190-57-0027, dated March 18, 2009; for related information.

Material Incorporated by Reference

(j) You must use EMBRAER Service Bulletin 170-57-0036, dated March 13, 2009; or EMBRAER Service Bulletin 190-57-0027, dated March 18, 2009; as applicable; 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 April 1, 2010.

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