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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-27508; Directorate Identifier 2006-NM-252-AD; Amendment 39-15117; AD 2007-13-13]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) ERJ 170 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) issued by an airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an obstruction at the cargo compartment fire extinguisher system drier metering unit (DMU) inlet, affecting the system effectiveness and, consequently, making the fire extinguishing capability at those compartments inadequate should a fire erupt. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective August 3, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 3, 2007.

ADDRESSES: You may examine the AD docket on the Internet at <http://dms.dot.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, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to allow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and Federal Register requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

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 March 12, 2007 (72 FR 10947). That NPRM proposed to require installation of a debris strainer at the drier metering unit (DMU) inlet. The MCAI states that it has been found the occurrence of one case of obstruction at the cargo compartment fire extinguisher system DMU inlet, affecting the system effectiveness and, consequently, making the fire extinguishing capability at those compartments inadequate should a fire erupt.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Revise Applicability

The airplane manufacturer, EMBRAER, requests that we change the proposed applicability to refer to certain Model ERJ 170 airplanes identified in EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005.

We agree to revise the applicability. The service bulletin identifies only those airplanes that have an affected DMU installed. We have revised paragraph (c) of this AD to reference the service bulletin. We have coordinated this change with Ag[ecirc]ncia Nacional de Avia[ccedil][atilde]o Civil (ANAC).

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 a U.S. court of law. 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 described in a separate paragraph of the AD. These requirements, if any, take precedence over the actions copied from the MCAI.

Costs of Compliance

We estimate that this AD will affect 75 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with this AD. The average labor rate is \$80 per work-hour. Required parts will cost about \$0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$24,000, or \$320 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 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.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.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:



2007-13-13 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39-15117.
Docket No. FAA-2007-27508; Directorate Identifier 2006-NM-252-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 3, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, as identified in EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005; certificated in any category.

Reason

(d) The MCAI states that it has been found the occurrence of one case of obstruction at the cargo compartment fire extinguisher system drier metering unit (DMU) inlet, affecting the system effectiveness and, consequently, making the fire extinguishing capability at those compartments inadequate should a fire erupt. The MCAI requires installation of a debris strainer at the DMU inlet.

Actions and Compliance

(e) Unless already done, do the following actions. Within 700 flight hours after the effective date of this AD, install a debris strainer at the DMU inlet, in accordance with the detailed instructions and procedures described in EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005.

FAA AD Differences

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

Other FAA AD Provisions

(f) 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, FAA, Transport Airplane Directorate, 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

appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(g) Refer to MCAI Brazilian Airworthiness Directive 2006-01-03, effective February 7, 2006; and EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005; for related information.

Material Incorporated by Reference

(h) You must use EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005, 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), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil.

(3) You may review copies 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 NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on June 18, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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