

reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the reproduction machinery. For copies of records prepared by computer, such as tapes or printouts, the Authority, the General Counsel, the Panel or the IG shall charge the actual cost, including operator time, of production of the tape or printout.

(5) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(e) *Aggregating requests.* When the Authority, the General Counsel, the Panel or the IG reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Authority, the General Counsel, the Panel or the IG will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the 30th day following the billing date. Receipt of a fee by the Authority, the General Counsel, the Panel or the IG, whether processed or not, will stay the accrual of interest.

(g) *Advanced payments.* The Authority, the General Counsel, the Panel or the IG will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Authority, the General Counsel, the Panel or the IG estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. Then the Authority, the General Counsel, the Panel or the IG will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), in which case the Authority, the General Counsel, the Panel or the IG requires the requester to pay the full amount owed plus any applicable interest as provided of this section or demonstrate that the requester has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the Authority, the General

Counsel, the Panel or the IG acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel, the Panel or the IG has received fee payments described of this section.

(h) When a person other than a party to a proceeding before the agency makes a request for a copy of a transcript, diskette, or other recordation of the proceeding, the Authority, the General Counsel, the Panel or the IG, as appropriate, will handle the request under this part.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

#### **§ 2411.14 Record retention and preservation.**

The Authority, the General Counsel, the Panel, and the IG shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until such time as disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

#### **§ 2411.15 Annual report.**

On or before February 1 annually, the Chief FOIA Officer of the Authority shall submit a report of the activities of the Authority, the General Counsel, the Panel, and the IG with regard to public information requests during the preceding fiscal year to the Attorney General of the United States. The report shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically.

**Carol Waller Pope,**  
*Chairman.*

[FR Doc. E9-17242 Filed 7-21-09; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2009-0614; Directorate Identifier 2009-NM-045-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and Model ERJ 190 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed 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 occurrence of outboard slat skew sensor failure in open or closed position. The combination of an outboard slat skew sensor failed closed, an outboard slat actuator structural failure (rupture) and its adjacent actuator torque limiter failing high (allows higher loads to the panel structure) occurring in the same slat surface, under normal flight loads, may lead [the] slat surface to detach from the wing with the possibility of hitting and damaging the horizontal stabilizer and elevator, which may affect the airplane controllability.

\* \* \* \* \*

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by August 21, 2009.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed 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](mailto:distrib@embraer.com.br); Internet: <http://www.flyembraer.com>.

You may review copies of the referenced 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 or 425-227-1152.

#### 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 this proposed AD, 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.

**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:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0614; Directorate Identifier 2009-NM-045-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

#### Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2009-02-02 and 2009-02-03, both dated February

16, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of outboard slat skew sensor failure in open or closed position. The combination of an outboard slat skew sensor failed closed, an outboard slat actuator structural failure (rupture) and its adjacent actuator torque limiter failing high (allows higher loads to the panel structure) occurring in the same slat surface, under normal flight loads, may lead [the] slat surface to detach from the wing with the possibility of hitting and damaging the horizontal stabilizer and elevator, which may affect the airplane controllability.

\* \* \* \* \*

Corrective actions include repetitive operational tests of the outboard slat skew sensor, and replacement with a serviceable outboard slat skew sensor if necessary. You may obtain further information by examining the MCAI in the AD docket.

#### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI 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.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

#### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 223 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Based on

these figures, we estimate the cost of the proposed AD on U.S. operators to be \$35,680, or \$160 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 proposed regulation:

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 proposed AD and placed it in the AD docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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:

**Empresa Brasileira de Aeronautica S.A. (EMBRAER);** Docket No. FAA–2009–0614; Directorate Identifier 2009–NM–045–AD.

**Comments Due Date**

(a) We must receive comments by August 21, 2009.

**Affected ADs**

(b) None.

**Applicability**

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

(1) EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, equipped with outboard slat skew sensor part number (P/N) 1702286A or 1702288A.

(2) EMBRAER Model ERJ 190–100 ECJ, –100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW airplanes, equipped with outboard slat skew sensor P/N 1702286A or 1702288A.

**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 occurrence of outboard slat skew sensor failure in open or closed position. The combination of an outboard slat skew sensor failed closed, an outboard slat actuator structural failure (rupture) and its adjacent actuator torque limiter failing high (allows higher loads to the panel structure) occurring in the same slat surface, under normal flight loads, may lead [the] slat surface to detach from the wing with the possibility of hitting and damaging the horizontal stabilizer and elevator, which may affect the airplane controllability.

\* \* \* \* \*

Corrective actions include repetitive operational tests of the outboard slat skew sensor, and replacement with a serviceable outboard slat skew sensor if necessary.

**Actions and Compliance**

(f) Unless already done, do the following actions.

(1) At the applicable compliance time in paragraph (f)(1)(i) or (f)(1)(ii) of this AD: Perform an operational test (OPT) of any outboard slat skew sensor having P/N 1702286A or P/N 1702288A. If any outboard slat skew sensor fails the test, replace the sensor with a serviceable sensor before further flight. Do the actions using a method approved by either the Manager,

International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Agência Nacional de Aviação Civil (ANAC) (or its delegated agent).

(i) For Model ERJ 170 airplanes: Within 1,320 flight hours after the effective date of this AD.

(ii) For Model ERJ 190 airplanes: Within 1,320 flight hours or 12 months after the effective date of this AD, whichever occurs first.

**Note 1:** Guidance about performing the OPT required by paragraph (f)(1) of this AD can be found in Task 27–83–01–710–801–A, “Outboard Slat Skew Sensor—Operational Test,” dated October 28, 2008, of the Embraer 170/175 or 190 Aircraft Maintenance Manual (AMM).

**Note 2:** For the purpose of this AD, an OPT is “A task to determine if an item is fulfilling its intended purpose. Since it is a failure-finding task, it does not require quantitative tolerances.”

**Note 3:** For the purpose of this AD, a serviceable sensor is one that has passed the OPT required by paragraph (f)(1) of this AD.

(2) Repeat the OPT required by paragraph (f)(1) of this AD thereafter at intervals not to exceed 1,320 flight hours.

**FAA AD Differences**

**Note 4:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

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

**Related Information**

(h) Refer to MCAI Brazilian Airworthiness Directives 2009–02–02 and 2009–02–03, both dated February 16, 2009, for related information.

Issued in Renton, Washington, on July 2, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–17347 Filed 7–21–09; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF AGRICULTURE****Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100****RIN 1018–AU92****Subsistence Management Regulations for Public Lands in Alaska; Kenai Peninsula Subsistence Resource Region**

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We, the Federal Subsistence Board, are withdrawing the proposed rule to amend the regulations governing subsistence use of fish and wildlife in Alaska by creating an additional subsistence resource region for the Kenai Peninsula. We received significant adverse comments on our proposal, and we have decided not to pursue this action.

**DATES:** The proposed rule published at 71 FR 46427, August 14, 2006 and extended at 71 FR 56421, September 27, 2006 is withdrawn effective July 22, 2009.

**FOR FURTHER INFORMATION CONTACT:** For Forest Service questions, contact Calvin H. Casipit, Acting Regional Subsistence Program Leader, USDA–FS Alaska Region, at (907) 586–7918. For Fish and Wildlife Service questions, contact Peter J. Probasco at (907) 786–3888.

**SUPPLEMENTARY INFORMATION:****Background**

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This