

amend part 274A of title 8 of the Code of Federal Regulations as follows:

8 CFR CHAPTER 1—DEPARTMENT OF HOMELAND SECURITY

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

1. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1624a, 8 CFR part 2, Public Law 101-410, 104 Stat. 890, as amended by Public Law 104-134, 110 Stat. 1321.

2. Section 274a.1 is proposed to be amended by revising paragraph (l) to read as follows:

§ 274a.1 Definitions.

* * * * *

(l)(1) The term *knowing* includes not only actual knowledge but also knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition. Constructive knowledge may include, but is not limited to, situations where an employer:

- (i) Fails to complete or improperly completes the Employment Eligibility Verification Form, I-9;
- (ii) Has information available to it that would indicate that the alien is not authorized to work, such as Labor Certification and/or an Application for Prospective Employer; or
- (iii) Acts with reckless and wanton disregard for the legal consequences of permitting another individual to introduce an unauthorized alien into its work force or to act on its behalf.

(2) Knowledge that an employee is unauthorized may not be inferred from an employee's foreign appearance or accent. Nothing in this definition should be interpreted as permitting an employer to request more or different documents than are required under section 274(b) of the Act or to refuse to honor documents tendered that on their face reasonably appear to be genuine and to relate to the individual.

Janet Napolitano,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0715; Directorate Identifier 2008-NM-211-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120, -120ER, -120FC, -120QC, and -120RT 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 corrosion on the Auxiliary Power Unit (APU) mounting rods that could cause the APU rod to break, affecting the APU support structure integrity.

APU support structure failure could result in undetectable fire in the tail cone and possible loss of control of the airplane. 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 September 18, 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; 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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; 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-2009-0715; Directorate Identifier 2008-NM-211-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 Agencia Nacional De Aviacao Civil—Brazil (ANAC), which is the airworthiness authority for Brazil, has issued Brazilian Airworthiness Directive 2008-08-01, dated October 21, 2008

(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 corrosion on the Auxiliary Power Unit (APU) mounting rods that could cause the APU rod to break, affecting the APU support structure integrity.

APU support structure failure could result in undetectable fire in the tail cone and possible loss of control of the airplane. Required actions include repetitive inspections for corrosion of the APU auxiliary and center mounting rods and rod ends, and corrective actions if necessary. Corrective actions include removing corrosion, applying anticorrosive treatment, and replacing mounting rods. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Embraer has issued Service Bulletin 120-49-0023, Revision 01, dated June 30, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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 and service information 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 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 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 90 products of U.S. registry. We also estimate that it would take about 8 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 \$57,600, or \$640 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, Incorporation by reference, 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-2009-0715; Directorate Identifier 2008-NM-211-AD.

Comments Due Date

(a) We must receive comments by September 18, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB-120, -120ER, -120FC, -120QC, and -120RT airplanes, certified in any category; as identified in Embraer Service Bulletin 120-49-0023, Revision 01, dated June 30, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 49: Airborne Auxiliary Power.

Reason

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

It has been found the occurrence of corrosion on the Auxiliary Power Unit (APU) mounting rods that could cause the APU rod to break, affecting the APU support structure integrity.

APU support structure failure could result in undetectable fire in the tail cone and possible loss of control of the airplane. Required actions include repetitive inspections for corrosion of the APU auxiliary and center mounting rods and rod ends, and corrective actions if necessary. Corrective actions include removing corrosion, applying anticorrosive treatment, and replacing mounting rods.

Actions and Compliance

(f) Unless already done do the following actions:

(1) Within 500 flight hours or two months after the effective date of this AD, whichever occurs first, do an external detailed inspection for corrosion of the APU, auxiliary and center mounting rods, and rod ends. Repeat the inspections thereafter at intervals not to exceed 1,500 flight hours or 6 months,

whichever occurs first. If any corrosion is found during any inspection, before further flight, do the actions required by paragraphs (f)(1)(i), (f)(1)(ii), and (f)(1)(iii) of this AD, as applicable. Do all actions required by this paragraph in accordance with the Accomplishment Instructions of Embraer Service Bulletin 120-49-0023, Revision 01, dated June 30, 2008.

(i) If light corrosion (characterized by discoloration or pitting) is found on a mounting rod, remove the corrosion and apply an anticorrosive treatment.

(ii) If moderate corrosion (characterized by surface blistering or evidence of scaling and flaking), or heavy corrosion (characterized by severe blistering exfoliation, scaling and flaking) is found, replace the affected mounting rod with a new mounting rod having the same part number.

(iii) If any corrosion is detected on the rod ends, remove the corrosion and apply an anticorrosive treatment.

(2) Accomplishing of the inspection and corrective actions required by paragraph (f)(1) of this AD before the effective date of this AD in accordance with Embraer Service Bulletin 120-49-0023, dated April 18, 2008, is acceptable for compliance with the corresponding requirements of paragraph (f)(1) of this AD.

(3) Submit a report of the positive findings (including level of corrosion such as Light, Moderate, or Heavy as identified in Embraer Corrosion Prevention Manual (CPM) 51-11-01, on the external surface of the rods as well as the rod ends) of the inspection required by paragraph (f)(1) of this AD to Mr. Antonio Claret—Customer Support Group, Embraer Aircraft Holding, Inc, 276 S.W. 34th Street Fort Lauderdale, FL 33315—USA; telephone (954) 359-3826, at the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Brazilian Airworthiness Directive 2008-08-01, dated October 21, 2008, requires only a one-time inspection with a compliance time of 1,500 flight hours or 6 months after the effective date of the Brazilian AD, whichever occurs first. However, we have determined that, since the exterior surface of the mounting rods is cadmium-plated and corrosion propagates from inside out, a one-time inspection may not identify the corroded rods if corrosion did not become evident through the cadmium-plated exterior surface. This one-time inspection will not reveal the extent of damage to these rods on the existing fleet and may require subsequent non-destructive inspections (NDI) to determine the final action. This AD instead

requires an initial inspection within the next 500 flight hours or 2 months after the effective date of this AD, whichever occurs first; and repetitive inspections at intervals not to exceed 1,500 flight hours or 6 months, whichever occurs first. This difference has been coordinated with the Agencia Nacional De Aviacao Civil—Brazil (ANAC).

(2) Although Brazilian Airworthiness Directive 2008-08-01, dated October 21, 2008, does not include a reporting requirement, the service bulletin identified in paragraph (f)(1) of this AD does specify reporting findings to Embraer. This AD requires that operators report the results of the inspections to Embraer because the required inspection report will help determine the extent of the corrosion in the affected fleet, from which we will determine if further corrective action is warranted. This difference has been coordinated with ANAC.

(3) Brazilian Airworthiness Directive 2008-08-01, dated October 21, 2008, allows replacement of the affected APU mounting rods by “new ones bearing a new P/N [part number] approved by ANAC [Agência Nacional de Aviação Civil].” However, paragraph (f)(1)(ii) of this AD requires replacing the affected mounting rod only with a new mounting rod having the same part number. Operators may request approval of an alternative method of compliance in order to install a new part number in accordance with the procedures specified in paragraph (g)(1) of this AD. This difference has been coordinated with ANAC.

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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; 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.

(4) *Special Flight Permits:* Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal

Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), except if two or more center mounting rods or rod ends are heavily corroded or broken, a special flight permit is not permitted.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2008-08-01, dated October 21, 2008, and Embraer Service Bulletin 120-49-0023, Revision 01, dated June 30, 2008, for related information.

Issued in Renton, Washington, on August 7, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0716; Directorate Identifier 2008-NM-212-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes; and Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP 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 corrosion on the Auxiliary Power Unit (APU) mounting rods that could cause the APU rod to break, affecting the APU support structure integrity.

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