

also specifies contacting Boeing for repair instructions if cracks are found.

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

### Differences Between Proposed Rule and Alert Service Bulletin

Although the alert service bulletin specifies that operators may contact the manufacturer for disposition of certain cracking conditions, this proposed AD would require operators to repair those conditions per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

### Cost Impact

There are approximately 78 airplanes of the affected design in the worldwide fleet. The FAA estimates that 15 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 18 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$17,550, or \$1,170 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2003–NM–208–AD.

**Applicability:** All Model 737–200C series airplanes; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent rapid decompression of the airplane, and possible separation of the forward entry door from the airplane, accomplish the following:

#### Initial and Repetitive Inspections

(a) Except as provided by paragraph (b) of this AD: Prior to the accumulation 46,000 total flight cycles, or within 2,250 flight cycles after the effective date of this AD, whichever occurs later, do detailed and eddy current inspections of the Station 348.2 frame for cracking under the stop fittings and intercostal flanges at Stringers 14L, 15L, and 16L by accomplishing paragraphs 3.A. and 3.B.1. through 3.B.7. of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1240, dated April 10, 2003. Do the actions per the service bulletin. Any applicable repair must be accomplished prior to further flight. Repeat the inspections thereafter at intervals not to exceed 4,500 flight cycles.

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

### Corrective Action

(b) If any crack is found during any inspection required by this AD, and the bulletin specifies to contact Boeing for appropriate action: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

### Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on February 9, 2004.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 04–3493 Filed 2–18–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003–NM–237–AD]

RIN 2120–AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and –145 series airplanes. This proposal would require repetitive detailed inspections of the oil in the air turbine starter (ATS) to determine the quantity of the oil and the amount of debris contamination in the oil. If the oil

quantity is incorrect or if excessive debris is found in the oil, this proposal would require replacement of the ATS with a new or serviceable ATS having the same part number, and continued repetitive detailed inspections. This proposal would also require eventual replacement of each ATS with a new improved ATS having a new part number, which would constitute terminating action for the repetitive detailed inspections. This action is necessary to prevent a flash fire in the nacelle, which could cause the engine to shut down in flight. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by March 22, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-237-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2003-NM-237-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**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:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications

received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2003-NM-237-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-237-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB-135 and -145 series airplanes. The DAC reports several cases of failure of the air turbine starter (ATS) unit. The failures resulted from an excessive oil temperature that may have been caused by either insufficient or excessive oil in the ATS. This condition, if not corrected, could result in failure of the ATS, and a possible flash fire in the nacelle and consequent shutdown of an engine in flight.

**Explanation of Relevant Service Information**

EMBRAER has issued EMBRAER Service Bulletin 145LEG-80-0001, Revision 01, dated April 10, 2003, for Model EMB-135 BJ series airplanes; and EMBRAER Service Bulletin 145-80-0005, Revision 02, dated September 16, 2003, for all other affected airplanes. These service bulletins describe procedures for repetitive detailed inspections of the oil in the ATS to determine the quantity of oil and to determine the amount of debris contamination in the oil. For any ATS that has an incorrect quantity of oil or excessive debris contamination in the oil, these service bulletins describe procedures for replacement of the ATS with a new or serviceable ATS having the same part number.

EMBRAER has also issued EMBRAER Service Bulletin 145-LEG-80-0002, dated October 2, 2003, for Model EMB-135 BJ series airplanes; and EMBRAER Service Bulletin 145-80-0006, dated October 2, 2003, for all other affected airplanes. These service bulletins describe procedures for rework of each ATS.

Accomplishment of the actions specified in the applicable service bulletins is intended to adequately address the identified unsafe condition.

The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 2003-07-01R1, dated December 23, 2003, to ensure the continued airworthiness of these airplanes in Brazil.

EMBRAER Service Bulletins 145-LEG-80-0002 and 145-80-0006 refer to Honeywell Service Bulletin 3505910-80-1789, dated August 19, 2003 as an additional source of service information for accomplishment of the replacement of the ATS with a new improved ATS.

**FAA's Conclusions**

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

### Difference Between the Proposed Rule, the Brazilian AD, and the Service Bulletins

Operators should note that although Brazilian Airworthiness Directive 2003-07-01R1 and the service bulletins allow for replacement of the ATS with the same part number at intervals of up to 50 flight hours, or continued operation of an ATS with excessive debris and fewer than 400 operating hours, this proposed AD would require the replacement prior to further flight.

Operators should also note that although the Honeywell service bulletin specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

### Cost Impact

The FAA estimates that 459 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be \$29,835, or \$65 per airplane, per inspection cycle.

We estimate that it would take approximately 2 work hours per airplane to accomplish the proposed replacement with a new, improved ATS, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be \$59,670, or \$130 per airplane. The manufacturer may cover the cost of replacement parts associated with this proposed replacement, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this proposed replacement.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific

actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption

### ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by adding the following new airworthiness directive:

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket 2003-NM-237-AD.

*Applicability:* Model EMB-135 and -145 series airplanes, with air turbine starter (ATS) units having part numbers (P/N) 3505910-4 or -5; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent a flash fire in the nacelle, which could cause the engine to shut down in flight, accomplish the following:

### Service Bulletin Reference

(a) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For the detailed inspection and replacements specified in paragraphs (b), (c) and (d) of this AD: For Model EMB-135 BJ series airplanes, EMBRAER Service Bulletin 145LEG-80-0001, Revision 01, dated April 10, 2003; and for all other affected airplanes, EMBRAER Service Bulletin 145-80-0005, Revision 02, dated September 16, 2003.

(2) For the replacement specified in paragraph (e) of this AD: For Model EMB-135 BJ series airplanes, EMBRAER Service Bulletin 145-LEG-80-0002, dated October 2, 2003; and for all other affected airplanes, EMBRAER Service Bulletin 145-80-0006, dated October 2, 2003.

**Note 1:** These service bulletins refer to Honeywell Service Bulletin 3505910-80-1789, dated August 19, 2003, as an additional source of service information. The Honeywell service bulletin is attached to the EMBRAER service bulletins. Although this Honeywell service bulletin specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

### Repetitive Detailed Inspection

(b) Within 200 flight hours or 90 days after the effective date of this AD, whichever occurs first: Perform a detailed inspection of the oil in the air turbine starter (ATS) to determine the quantity of oil and to determine the amount of debris contamination in the oil in accordance with the applicable service bulletin. Repeat the inspection at intervals not to exceed 500 flight hours or 180 days, whichever occurs first.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

### Oil Replacement if Oil Quantity Is Correct and No Excessive Debris Is Found

(c) If, during the inspection required by paragraph (b) of this AD, no oil debris contamination is found that is in excess of the limits allowed by the applicable service bulletin; and if the amount of oil in the ATS is correct: Prior to further flight, replace the oil in the ATS with new oil, in accordance with the applicable service bulletin.

### Replacement if Oil Quantity Is Incorrect or if Excessive Debris Is Found

(d) If, during the inspection required by paragraph (b) of this AD, the oil quantity is found to be incorrect; or if oil debris contamination is found that is in excess of

the limits allowed by the applicable service bulletin: Prior to further flight, replace the ATS with a new or serviceable ATS having part number (P/N) 3505910-4 or P/N 3505910-5, in accordance with the applicable service bulletin. Where the service bulletins allow for continued operation of an ATS with excess debris and fewer than 400 operating hours, or replacement within 50 flight hours, replace the ATS prior to further flight.

#### Terminating Action

(e) Within 26 months after the effective date of this AD, replace any ATS having P/N 3505910-4 or -5 with a new ATS having P/N 3505910-6 in accordance with the applicable service bulletin. This replacement constitutes terminating action for the repetitive detailed inspections required by paragraph (b) of this AD.

#### Actions Accomplished Per Previous Issue of Service Bulletin 145-80-0005

(f) Actions accomplished before the effective date of this AD per EMBRAER Service Bulletin 145-80-0005, Revision 01, dated April 10, 2003, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### Alternative Methods of Compliance

(g) In accordance with 14 CFR 39.19, the International Branch, ANM-116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

**Note 3:** The subject of this AD is addressed in Brazilian airworthiness directive 2003-07-01R1, dated December 23, 2003.

Issued in Renton, Washington, on February 9, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-3494 Filed 2-18-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-SW-25-AD]

RIN 2120-AA64

#### Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A-1, 269B, 269C, and TH-55A Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes to revise an existing airworthiness directive (AD) for Schweizer Aircraft Corporation (Schweizer) Model 269A, 269A-1, 269B, 269C, and TH-55A

helicopters. That AD currently requires inspecting the lugs on certain aft cluster fittings and each aluminum end fitting on certain tailboom struts. Modifying or replacing each strut assembly within a specified time period and serializing certain strut assemblies is also required. Additionally, a one-time inspection and repair, if necessary, of certain additional cluster fittings, and replacement and modification of certain cluster fittings within 150 hours time-in-service (TIS) or 6 months, whichever occurs first, is required. This action would require the same actions as the existing AD, but would revise the Applicability section of the AD. This proposal is prompted by the discovery of an error in the Applicability section of the existing AD. The actions specified by the proposed AD are intended to prevent failure of a tailboom support strut or a cluster fitting, which could cause rotation of a tailboom into the main rotor blades, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received by April 19, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002-SW-25-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: [9-asw-adcomments@faa.gov](mailto:9-asw-adcomments@faa.gov). Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** George Duckett, Aviation Safety Engineer, FAA, New York Aircraft Certification Office, Airframe and Propulsion Branch, 10 Fifth Street, 3rd Floor, Valley Stream, New York, telephone (516) 256-7525, fax (516) 568-2716.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2002-SW-25-AD." The postcard will be date stamped and returned to the commenter.

#### Discussion

On June 24, 2003, the FAA issued AD 2003-13-15, Amendment 39-13217 (68 FR 40478, July 8, 2003), to require owners and operators of the affected helicopters to:

- Within 10 hours TIS and thereafter at intervals not to exceed 50 hours TIS, dye-penetrant inspect the lugs and replace any cracked cluster fitting;
- Within 150 hours TIS or 6 months, whichever occurs first, replace or modify, using kit, part number (P/N) SA-269K-106-1, each cluster fitting, P/N 269A2234 and P/N 269A2235;
- For strut assemblies, P/N 269A2015 or P/N 269A2015-5, at intervals not to exceed 50 hours TIS, visually inspect the strut aluminum end fittings for deformation or damage, dye-penetrant inspect the strut aluminum end fittings for a crack, and replace deformed, damaged, or cracked parts. Within 500 hours TIS or one year, whichever occurs first, modify or replace certain part-numbered strut assemblies;
- Within 100 hours TIS, for Model 269C helicopters, serialize each strut assembly, P/N 269A2015-5 and 269A2015-11;
- Within 25 hours TIS or 60 days, whichever occurs first, inspect and repair cluster fittings, P/N 269A2234-3 and P/N 269A2235-3; and
- Before further flight, replace any cluster fitting that is cracked or has a surface defect beyond rework limits.

That action was prompted by the need to expand the applicability to include certain Hughes-manufactured cluster fittings and to provide a terminating action for the repetitive dye-penetrant inspections of the cluster fittings. That condition, if not corrected, could result