

[Federal Register: September 12, 2008 (Volume 73, Number 178)]
[Rules and Regulations]
[Page 52914-52916]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr12se08-5]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0416; Directorate Identifier 2007-NM-297-AD; Amendment 39-15656; AD 2008-17-18]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ 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 occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

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

DATES: This AD becomes effective October 17, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 17, 2008.

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: 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:

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 April 29, 2008 (73 FR 23132). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

The corrective actions include inspecting for possible absence of the cable guard pins in the aileron control system inside the wings, and installing new ones bearing the same part number. 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 Withdraw the NPRM

EMBRAER requests that the NPRM be withdrawn. The commenter states that the missing aileron cable guard was discovered during a normal C-check and that there is no field report of any event caused by the missing pin. EMBRAER states that it tested the system on ground under severe conditions and it operated normally. The commenter states that it is not clear that the lack of guard pins leads directly to the aileron jamming, and if the aileron system jammed on one side, then the aircraft can be safely operated by disconnecting the aileron system and using the free side; if both sides jammed, the aircraft can be controlled using rudder and differential thrust. For these reasons, EMBRAER proposes that the NPRM be withdrawn.

We do not agree with the commenter's request to withdraw the NPRM. The cable guard is an airworthiness requirement for transport category airplanes (reference section 25.689(b) of the Federal Aviation Regulations). We have determined that an unsafe condition exists due to risk associated with jamming of both ailerons at the same time. We have coordinated this action with the Agência Nacional de Aviação Civil (ANAC), the airworthiness authority for Brazil, which issued Brazilian airworthiness directive 2006-07-01, effective July 31, 2006, (the "MCAI") to address the subject condition. The actions in the AD are necessary to address the unsafe condition; therefore, we have not changed the final rule in this regard.

Change to Format of This Final Rule

We changed the format of paragraph (f) of this AD and its subparagraphs to comply with formatting guidelines from the Office of the Federal Register.

We have also added a reference to EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006, to paragraph (f) of this AD and clarified that all actions required by this AD are to be done in accordance with the Accomplishment Instructions of the service bulletin.

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 changes described previously. We determined that these changes 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.

Costs of Compliance

We estimate that this AD will affect about 13 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$2,080, 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 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:



2008-17-18 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-15656.
Docket No. FAA-2008-0416; Directorate Identifier 2007-NM-297-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective October 17, 2008.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB-135BJ airplanes, certificated in any category, serial numbers 145363, 145412, 145462, 145484, 145495, 145505, 145516, 145528, 145540, 145549, 145555, 145586, 145591, 145625, 145637, 145642, 145644, 145678, 145686, 145699, 145706, 145711, 145717, 145730, 145770, 145775, 145780, 145789, 145796, 14500802, and 14500809.

Subject

- (d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

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

It has been found the occurrence of cable guard pins not installed in the aileron control system, which may lead to jamming of the aileron control cables, reducing the aircraft controllability.

The corrective actions include inspecting for possible absence of the cable guard pins in the aileron control system inside the wings, and installing new ones bearing the same part number.

Actions and Compliance

(f) Unless already done: Within 270 calendar days after the effective date of this AD, do a detailed inspection with the aid of a borescope for possible absence of the cable guard pins in the aileron control system inside the wings, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006.

(1) If any cable guard pin having part number (P/N) NAS427K8, NAS427K28, or NAS427K36 is missing in the internal part of the left and right halfwing spar boxes, before further flight, install a new one bearing the same part number, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006.

(2) If any cable guard pin P/N NAS427K26 is missing in the aileron control cable pulleys in the internal part of the wing leading edge III, before further flight, remove the corresponding leading edge and install a new cable guard pin bearing the same part number, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006.

FAA AD Differences

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

The MCAI includes airplanes in addition to those specified in the applicability of this AD. Those airplanes are not included in this AD because they are modified by Supplemental Type Certificates (STCs) that are not FAA-approved. This AD includes only the U.S. certified airplanes identified in the referenced service information.

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 ensure 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 Directive 2006-07-01, effective July 31, 2006; and EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 145LEG-27-0023, dated January 24, 2006, 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 August 12, 2008.
Michael J. Kaszycki,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. E8-19384 Filed 9-11-08; 8:45 am]