

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–65–AD.

Applicability: Model EMB–120 series airplanes, serial numbers 120003, 120004, and 120006 through 120358 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent fuel transfer in flight due to fuel service personnel not repositioning the defuel valve switch control to the closed position after utilization on the ground, which could cause in-flight fuel starvation, accomplish the following:

Inspection of Existing Ramp and Corrective Actions

(a) For airplanes that have a ramp on the access door of the fueling control panel: Within 1,200 flight hours or 8 months from the effective date of this AD, whichever occurs first, perform a general visual inspection of the access door ramp for damage or deformation; and do all applicable corrective actions by accomplishing all the actions in accordance with paragraph 2.2.3 of the Accomplishment Instructions of EMBRAER Service Bulletin 120–57–0038, dated June 26, 2002. Do the actions per the service bulletin. Accomplish any applicable corrective actions before further flight.

Note 1: For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an interior or exterior

area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

Modification

(b) For airplanes that do not have a ramp on the access door of the fueling control panel: Within 1,200 flight hours or 8 months from the effective date of this AD, whichever occurs first, modify the access door by accomplishing all the actions in paragraph 2.1.3 of the Accomplishment Instructions of EMBRAER Service Bulletin 120–57–0038, dated June 26, 2002. Do the actions per the service bulletin. Accomplish any applicable corrective actions before further flight.

Alternative Methods of Compliance

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

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2002–12–02, effective January 6, 2003.

Issued in Renton, Washington, on March 30, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–7711 Filed 4–5–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–96–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 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–120 series airplanes. This proposal would require installing three new vertical cargo nets in cargo-configured cabins. This action is necessary to prevent

significant movement of cargo during operation, which could result in loss of control of the airplane or injury to the flightcrew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 6, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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*. Comments sent via fax or the Internet must contain “Docket No. 2003–NM–96–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-96-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-96-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Departamento de Aviação Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB-120 series airplanes that have cargo-configured cabins. The DAC advises that load displacement is possible if the cargo is not properly distributed and retained along the cargo compartment. This condition, if not corrected, could result in significant movement of the cargo during operation, which could cause loss of control of the airplane or injury to the flightcrew.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 120-25-0255, dated March 5, 2002, and Service Bulletin 120-25-0257, dated April 30, 2002. These service bulletins describe procedures for installing three new vertical cargo nets in the cargo-configured cabins. The installation includes installing new complementary tracks; reworking certain floor panels and carpeting; installing new placards that define the new cargo limits; testing the cargo nets to ensure that they can be installed when the airplane is carrying

cargo; and installing track covers to be used when the airplane is carrying passengers. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 2001-02-02R1, dated April 22, 2003, to ensure the continued airworthiness of these airplanes in Brazil.

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 applicable service bulletin described previously, except as discussed below.

Difference Between the Proposed AD and the Brazilian Airworthiness Directive

The Brazilian airworthiness directive references EMBRAER Service Bulletin 120-25-0254, dated January 29, 2001 (applicable to certain Model EMB-120ER series airplanes). The airplanes listed in this service bulletin are not of U.S. registry, and the action in this service bulletin will be part of the pre-certification requirements should these airplanes be imported into the U.S. Therefore, the installation of a placard that is described in this service bulletin, and referenced in Part I of the Brazilian airworthiness directive, would not be required by this proposed AD. However, this proposed AD would require the actions in Part II of the Brazilian airworthiness directive, at the compliance time listed under Part I of the Brazilian airworthiness directive. The Brazilian airworthiness directive gives no specific compliance time for the actions in Part II, but we find that

a 30-day compliance time represents an appropriate interval for the affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 153 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 5 work hours per airplane to accomplish the proposed installation. The average labor rate is \$65 per work hour. Required parts would cost between \$2,250 and \$4,570, depending on the configuration of the airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between \$393,975 and \$748,935, or between \$2,575 and \$4,895 per airplane.

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 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.

Currently, there are no affected "CTA Version" airplanes on the U.S. Register (as listed in the applicability of EMBRAER Service Bulletin 120-25-0257, dated April 30, 2002). However, if an affected airplane is imported and placed on the U.S. Register in the future, the required actions would take about 9 work hours, at an average labor rate of \$65 per work hour. Required parts would cost about \$6,663 per airplane. Based on these figures, we estimate the cost of this AD to be \$7,248 per airplane.

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–96–AD.

Applicability: Model EMB–120 series airplanes, as listed in EMBRAER Service Bulletin 120–25–0255, dated March 5, 2002; and EMBRAER Service bulletin 120–25–0257, dated April 30, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent significant movement of cargo during operations, which could result in loss of control of the airplane or injury to the flightcrew, accomplish the following:

Installation

(a) Within 30 days after the effective date of this AD: Install three new vertical cargo nets by doing all the actions in and per the Accomplishment Instructions of EMBRAER Service Bulletin 120–25–0255, dated March 5, 2002; or EMBRAER Service Bulletin 120–25–0257, dated April 30, 2002; as applicable.

Alternative Methods of Compliance

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

Note 1: The subject of this AD is addressed in Brazilian airworthiness directive 2001–02–02R1, dated April 22, 2003.

Issued in Renton, Washington, on March 30, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–7710 Filed 4–5–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–346–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 superseding of an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and –145 series airplanes, that currently requires determining whether a defective auxiliary power unit (APU) exhaust silencer is installed on the airplane; and corrective actions if necessary. For certain airplanes, this action would require modification of the APU exhaust silencer, and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. For certain other airplanes, this action would require repetitive inspections to determine the structural integrity of the APU exhaust silencer; corrective actions, if necessary; eventual modification of the APU exhaust silencer, which terminates the repetitive inspections; and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. This action would also add airplanes to the applicability of the existing AD. The actions specified by the proposed AD are intended to prevent separation of the aft baffle assembly from the APU exhaust silencer and consequent separation of the assembly from the airplane, which could cause damage to other airplanes during takeoff and landing operations, or injury to people on the ground. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 6, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–346–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 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*. Comments sent via fax or the Internet must contain “Docket No. 2002–NM–346–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:

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SUPPLEMENTARY INFORMATION:

Comments Invited

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- 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