

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0361; Directorate Identifier 2007-NM-279-AD; Amendment 39-15681; AD 2008-20-02]

RIN 2120-AA64

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

A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

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

DATES: This AD becomes effective November 3, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 3, 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: 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:

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 March 28, 2008 (73 FR 16575). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

The corrective action includes replacing tube attachment clamps having certain part numbers with new tube attachment clamps. 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 comments received.

Request To Add Revised Service Information

EMBRAER states that Service Bulletin 170-29-0006 was revised to include additional airplanes in the effectivity. Therefore, EMBRAER recommends that the AD applicability refers to Service Bulletin 170-29-0006, Revision 01, dated February 22, 2008. The original issue, dated October 4, 2006, was referred to in the NPRM as the source of service information for accomplishing certain actions. EMBRAER adds that the original issue should be kept as an acceptable means of compliance.

We agree that the applicability in the NPRM should be changed. Revision 01 of the service bulletin includes a reference to "EMBRAER 175 () model aircraft," which is the marketing designation for a certain version of the Model ERJ 170 airplane. However, no additional airplanes have been added to the service bulletin effectivity. We have changed the service bulletin reference in paragraph (c) of this AD from the original issue to Revision 01.

In addition, we agree to change paragraph (f) of the AD to refer to Revision 01 of the referenced service bulletin. Revision 01 specifies that there is no additional action for airplanes on which the actions in the original issue of the service bulletin have been done. We have also added a new paragraph (f)(3) to this AD to give operators credit for doing the actions in the original issue of the service bulletin.

Request To Change Paragraph (e)

EMBRAER also recommends changing paragraph (e) of the NPRM to add the phrase, "in conjunction with a lightning strike" following the words "multiple clamps" as specified in that paragraph. EMBRAER did not provide a justification for this change.

We do not agree that paragraph (e) of the NPRM should be changed. Paragraph (e) of this AD quotes the requirements in the MCAI verbatim; therefore, no change to the AD is necessary in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also 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 88 products of U.S. registry. We also estimate that it will take 18 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Required parts will cost about \$269 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$150,392, or about \$1,709 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:



2008-20-02 Empresa Brasileira de Aeronautica S.A. (EMBRAER: Amendment 39-15681. Docket No. FAA-2008-0361; Directorate Identifier 2007-NM-279-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective November 3, 2008.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes; as identified in EMBRAER Service Bulletin 170-29-0006, Revision 01, dated February 22, 2008; and Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes; as identified in EMBRAER Service Bulletin 190-29-0003, dated October 4, 2006; certificated in any category.

Subject

- (d) Air Transport Association (ATA) of America Code 29: Hydraulic Power.

Reason

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

A few hydraulic system tube clamps located inside the wing fuel tanks were found damaged. Further analysis has shown that damage to multiple clamps may cause sparks inside the tanks, which in turn may lead to ignition of flammable vapors inside the fuel tanks.

The corrective action includes replacing tube attachment clamps having certain part numbers with new tube attachment clamps.

Actions and Compliance

(f) Unless already done: Within 8,000 flight hours after the effective date of this AD, replace the clamps which attach the hydraulic tubes inside the wing fuel tanks with new clamps, as specified in paragraph (f)(1) or (f)(2) of this AD, as applicable; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-29-0006, Revision 01, dated February 22, 2008; or 190-29-0003, dated October 4, 2006; as applicable.

(1) For Model ERJ 170 airplanes: Replace any clamp having part number (P/N) PE27019RF4E with a new clamp having P/N PE27019FS4E; and any clamp having P/N PE27019RF8E with a new clamp having P/N PE27019FS8E.

(2) For Model ERJ 190 airplanes: Replace any clamp having P/N PE27019RF4E with a new clamp having P/N PE27019FS4E; and any clamp having P/N PE27019RF6E with a new clamp having P/N PE27019FS6E.

(3) Actions accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 170-29-0006, dated October 4, 2006, are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD.

FAA AD Differences

Note 1: 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 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.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2007-04-01R1 and 2007-04-02R1 (including Errata, effective December 21, 2007), both effective December 21, 2007; and EMBRAER Service Bulletins 170-29-0006, Revision 01, dated February 22, 2008; and 190-29-0003, dated October 4, 2006; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 170-29-0006, Revision 01, dated February 22, 2008; or EMBRAER Service Bulletin 190-29-0003, dated October 4, 2006; as applicable, 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 September 12, 2008.
Michael Kaszycki,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
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