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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-18752; Directorate Identifier 2004-NM-107-AD; Amendment 39-13929; AD 2005-01-05]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain EMBRAER Model EMB-135 and EMB-145 series airplanes. That AD currently requires replacing the nose landing gear wheel nuts and associated inner and outer seals, and reidentifying the landing gear strut. This new AD adds an airplane to the applicability and revises a part number for a replacement part. This AD is prompted by a report of an invalid part number for the new nose landing gear wheel nut. We are issuing this AD to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing.

DATES: This AD becomes effective February 9, 2005.

On June 9, 2004 (69 FR 24940, May 5, 2004), the Director of the Federal Register approved the incorporation by reference of EMBRAER Service Bulletin 145-32-0068, Change 04, dated January 20, 2003; and EMBRAER Service Bulletin 145LEG-32-0006, Change 01, dated January 20, 2003.

ADDRESSES: 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.

You can examine this information 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/code_of_federal_regulations/ibr_locations.html

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW, room PL-401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Technical information: 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.

Plain language information: Marcia Walters, marcia.walters@faa.gov.

Examining the Docket

The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the ADDRESSES section.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR Part 39) with an AD to supersede AD 2004-09-15, amendment 39-13604, (69 FR 24940, May 5, 2004). The existing AD applies to certain EMBRAER Model EMB-135 and EMB-145 series airplanes. The proposed AD was published in the Federal Register on August 4, 2004 (69 FR 47038), and continued to require replacing the nose landing gear wheel nuts and associated inner and outer seals, and reidentifying the landing gear strut. The proposed AD also added an airplane to the applicability and revised a part number for a replacement part.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been submitted on the proposed AD.

Request to Add an Alternative Method of Compliance (AMOC)

The commenter requests that a reference to replacement seal assembly part number (P/N) AEC-68-1498, which was approved as an AMOC for AD 2004-09-15, be included in the proposed AD. The commenter notes that P/N AEC-68-1498 has a parts manufacturer approval and is an FAA-approved replacement assembly for the P/N 68-1498 seal assembly. The commenter contends that P/N AEC-68-1498 should be included in the proposed AD as an approved seal assembly.

The FAA does not agree to include a reference to replacement seal assembly P/N AEC-68-1498 in this final rule. However, we do agree that AMOCs approved previously for AD 2004-09-15, amendment 39-13604, are acceptable as AMOCs for this final rule. We have revised paragraph (i) of this final rule to include the following statement: "AMOCs, approved previously in accordance with AD 2004-09-15, amendment 39-13604, are approved as AMOCs for this AD."

Conclusion

We have carefully reviewed the available data, including the comment that was submitted, and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 365 airplanes of U.S. registry.

The actions that are required by AD 2004-09-15, and retained in this AD, take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Required parts will be provided free of

charge by the airplane manufacturer. Based on these figures, the estimated cost of the currently required actions for U.S. operators is \$23,725, or \$65 per airplane.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, the FAA is charged 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 AD.

Regulatory Findings

We have 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 that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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. See the ADDRESSES section for a location to examine the regulatory evaluation.

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 removing amendment 39-13604 (69 FR 24940, May 5, 2004), and by adding the following new airworthiness directive:

AIRWORTHINESS DIRECTIVE



Aircraft Certification Service
Washington, DC

U.S. Department
of Transportation
**Federal Aviation
Administration**

We post ADs on the internet at "www.faa.gov"

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

2005-01-05 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-13929.
Docket No. FAA-2004-18752; Directorate Identifier 2004-NM-107-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective February 9, 2005.

Affected ADs

- (b) This AD supersedes AD 2004-09-15, amendment 39-13604.

Applicability

- (c) This AD applies to Model EMB-135 and EMB-145 series airplanes having serial numbers (S/N) 145003 through 145373 inclusive, 145375, 145377 through 145391 inclusive, and 145393 through 145408 inclusive; certificated in any category; equipped with nose landing gear struts, part number (P/N) 1170C0000-01 (including all modifications), P/N 1170C0000-02, or P/N 1170C0000-03.

Unsafe Condition

- (d) This AD was prompted by a report of an invalid part number for the new nose landing gear wheel nut. We are issuing this AD to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing.

Compliance

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement and Reidentification

- (f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD, replace the nose landing gear wheel nuts, P/N 1170-0007, with new wheel nuts, P/N 1170-0082; replace the associated inner and outer seals, P/N 68-1157 or P/N 72-290, with new seals, P/N 68-1498; and reidentify the struts. Do the actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-32-0068, Change 04, dated January 20, 2003; or EMBRAER Service Bulletin 145LEG-32-0006, Change 01, dated January 20, 2003; as applicable.

(1) For Model EMB-135 and EMB-145 series airplanes having S/N 145003 through 145373 inclusive, 145377 through 145391 inclusive, and 145393 through 145408 inclusive: Within 12 months after June 9, 2004 (the effective date of AD 2004-09-15).

(2) For Model EMB-145 series airplane having S/N 145375: Within 12 months after the effective date of this AD.

(g) Actions accomplished before the effective date of this AD per the EMBRAER Service Bulletins listed in Table 1 of this AD are considered acceptable for compliance with the corresponding actions specified in this AD:

TABLE 1.—SERVICE BULLETINS CONSIDERED
ACCEPTABLE FOR COMPLIANCE

**TABLE 1.—SERVICE BULLETINS CONSIDERED
ACCEPTABLE FOR COMPLIANCE**

EMBRAER service bulletin	Change level	Date
145-32-0068	Original	May 4, 2001.
145-32-0068	01	Jan. 14, 2002.
145-32-0068	02	Apr. 16, 2002.
145-32-0068	03	Nov. 25, 2002.
145LEG-32- 0006.	Original	Nov. 26, 2002.

Parts Installation

(h) As of the effective date of this AD, no person may install nose landing gear wheel nuts, P/N 1170-0007, or the associated inner and outer seals, P/N 68-1157 or P/N 72-290, on any airplane.

Alternative Methods of Compliance (AMOC)

(i)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) AMOCs approved previously in accordance with AD 2004-09-15, amendment 39-13604, are approved as AMOCs for this AD.

Related Information

(j) Brazilian airworthiness directive 2002-03-01R2, effective April 22, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use EMBRAER Service Bulletin 145-32-0068, Change 04, dated January 20, 2003; or EMBRAER Service Bulletin 145LEG-32-0006, Change 01, dated January 20, 2003; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register previously approved the incorporation by reference of these documents as of June 9, 2004 (69 FR 24940, May 5, 2004). For copies of the service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

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Issued in Renton, Washington, on December 27, 2004.
Kevin M. Mullin,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 05-164 Filed 1-4-05; 8:45 am]
BILLING CODE 4910-13-P