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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19767; Directorate Identifier 2004-NM-139-AD; Amendment 39-13900; AD 2004-25-12]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all EMBRAER Model EMB-135 and -145 series airplanes. This AD requires a one-time inspection of each passenger service unit (PSU) to determine the serial number of the printed circuit board (PCB) installed in each PSU, replacement of the PCB if necessary, related investigative actions, and other specified actions. This AD is prompted by reports that PSUs on two airplanes emitted smoke. We are issuing this AD to prevent failure of a PSU, which could result in smoke or fire in the airplane's passenger cabin.

DATES: This AD becomes effective January 13, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of January 13, 2005.

ADDRESSES: For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO 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 14 CFR Part 39 with an AD for all EMBRAER Model EMB-135 and -145 series airplanes. The proposed AD was published in the **Federal Register** on September 9, 2004 (69 FR 54596), to require a one-time inspection of each passenger service unit (PSU) to determine the serial number of the printed circuit board (PCB) installed in each PSU, replacement of the PCB if necessary, related investigative actions, and other specified actions.

Comments

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

Request To Limit Applicability

The commenter requests that we limit the applicability to airplanes having

serial numbers (S/Ns) up to and including 828. The commenter states that it has received information from the airplane manufacturer that the PSUs on airplanes having S/N 829 and subsequent will be inspected during production.

We partially agree with the commenter's request. We do not agree to revise the applicability statement of paragraph (a) of this AD. We note that paragraph (h) of this AD prohibits the installation of an affected part with an affected S/N. This prohibition should apply to all airplanes, including those with S/Ns 829 and subsequent, which will have been inspected in production. Therefore, the applicability statement of this AD continues to identify all EMBRAER Model EMB-135 and -145 series airplanes, so that paragraph (h) will prohibit installing an affected part on all of these airplanes. However, we agree that airplanes that have been inspected during production do not need to be inspected as required by paragraph (f) of this AD. Therefore, we have revised paragraph (f) of this AD to apply only to airplanes having S/Ns 001 through 828 inclusive.

Conclusion

We have carefully reviewed the available data, including the comment that has been 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 539 airplanes of U.S. registry. The required actions take about 3 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is \$105,105, or \$195 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 adding the following new airworthiness directive:

2004-25-12 Empresa Brasileira De Aeronautica S.A. (EMBRAER): Amendment 39-13900. Docket No. FAA-2004-19767; Directorate Identifier 2004-NM-139-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 13, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB-135 and -145 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports that passenger service units (PSUs) on two airplanes emitted smoke. We are issuing this AD to prevent failure of a PSU, which could result in smoke or fire in the airplane's passenger cabin.

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.

One-Time Inspection

(f) For airplanes having serial numbers (S/Ns) 001 through 828 inclusive: Within 90 days after the effective date of this AD, inspect each PSU in the passenger cabin and lavatory to determine the part number (P/N) and S/N of the printed circuit board (PCB) installed in the PSU, is in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004.

(1) If the PCB is not P/N 7277220-501 with S/N 2108 through 6008 inclusive: Before further flight, do the applicable related investigative actions and other specified actions in accordance with the Accomplishment Instructions of the service bulletin. No further action is required by this paragraph.

(2) If the PCB is P/N 7277220-501 with S/N 2108 through 6008 inclusive: Before further flight, replace the PCB with a new or serviceable PCB having a S/N that is not within the range of 2108 through 6008 inclusive, and do the applicable related investigative actions and other specified actions, in accordance with the Accomplishment Instructions of the service bulletin.

Note 1: EMBRAER Service Bulletin 145-25-0277, Change 02, refers to C&D Aerospace Service Bulletin 7130000-25-79, Revision 2, dated June 17, 2004, as an additional source of service information for doing the required inspection, replacement, and related investigative actions, as applicable. The EMBRAER service bulletin includes the C&D Aerospace service bulletin.

Actions Done Previously

(g) Inspections, replacements, and related investigative actions done before the effective date of this AD in accordance with EMBRAER Service Bulletin 145-25-0277, dated October 22, 2003; or Change 01, dated November 28, 2003; are acceptable for compliance with the corresponding action required by this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install a PCB having P/N 7277220-501 with S/N 2108 through 6008 inclusive, on any PSU on any airplane.

Returning Parts Not Required

(i) Where EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004, specifies to return any PCB with a subject S/N to C&D Aerospace, this AD does not require that action.

Alternative Methods of Compliance (AMOCs)

(j) 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.

Related Information

(k) Brazilian airworthiness directive 2004-05-02, dated June 2, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO 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. You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-26918 Filed 12-8-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004-NM-33-AD; Amendment 39-13898; AD 2004-25-10]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-300 and -400ER Series Airplanes

AGENCY: Federal Aviation Administration, DOT.