responsibilities among the various levels of government.

For the reasons discussed above, I certify that the 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. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 (AD):

Airbus: Docket No. FAA–2005–21342; Directorate Identifier 2004–NM–15–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A321 series airplanes, certificated in any category; except for those airplanes that have received Airbus Modification 33426 in production.

Unsafe Condition

(d) This AD was prompted by a report that an operator found it impossible to lock emergency doors 2 and 3 in the open position. We are issuing this AD to prevent failure of the emergency doors to lock in the open position, which could interfere with passenger evacuation during an emergency.

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.

Inspection of Emergency Exit Doors

(f) Within 600 flight hours after the effective date of this AD and thereafter at intervals not to exceed 600 flight hours, perform a measurement for correct gap of the control rod of the hold-open mechanism of all emergency doors, in accordance with Airbus All Operators Telex (AOT) A320–52A1120, Revision 2, dated July 10, 2003. If the gap of any control rod is not correct, prior to further flight, apply all necessary corrective actions in accordance with the AOT.

Optional Interim Terminating Action

(g) Replacing the polyamide control rod of any mechanism with an aluminum control rod prior to accomplishing paragraph (h) of this AD, as specified in AOT A320–52A1120, Revision 2, dated July 10, 2003, terminates the repetitive measurement required by paragraph (f) of this AD for that mechanism.

Final Terminating Action

(h) Within 18 months after the effective date of this AD, replace the polyamide or interim aluminum control rods of the release mechanisms with new, improved, water-resistant control rods according to the Accomplishment Instructions of Airbus Service Bulletin A320–52–1121, dated December 12, 2003. This replacement terminates the repetitive measurement required by paragraph (f) of this AD.

Actions Accomplished Per Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to Airbus AOT A320–52A1120, dated June 5, 2003, or Revision 1, dated June 19, 2003, are considered acceptable for compliance with the corresponding actions specified in this AD.

No Reporting Requirement

(j) Although the service information specifies procedures for reporting measurement results and control rod replacement to the manufacturer, this AD does not require these reports.

Alternative Methods of Compliance (AMOCs)

(k) 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

(l) French airworthiness directive F–2004–040, dated March 31, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11061 Filed 6–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21345; Directorate Identifier 2005–NM–005–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all EMBRAER Model ERJ 170 series airplanes. This proposed AD would require inspecting the hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. This proposed AD is prompted by failure of a hydraulic system due to leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine driven pump. We are proposing this AD to prevent cracking of the hydraulic pressure pipes, which could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 5, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed 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 the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person 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. This docket number is FAA–2005–21345; the directorate identifier for this docket is 2005–NM–005–AD.

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

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21345; Directorate Identifier 2005–NM–005–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

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. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 series airplanes. The DAC advises that failure of hydraulic system 1 occurred on an EMBRAER Model ERJ 170 series airplane. The failure was caused by leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine-driven pump. Investigation determined that the crack developed because the pipe was manufactured with defective material. Cracking of the hydraulic pressure pipes, if not corrected, could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

Relevant Service Information

EMBRAER has issued Service Bulletin 170–29–0001, including the Appendix, dated August 9, 2004. The service bulletin describes procedures for inspecting the left and right hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2004–11–06, dated November 29, 2004, to ensure the continued airworthiness of these airplanes in Brazil.

The EMBRAER service bulletin refers to Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011, original revision, dated August 3, 2004, as an additional source of service information for inspecting the hydraulic pressure tubes to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tubes. Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011 is included in the Appendix of the EMBRAER service bulletin.

FAA's Determination and Requirements of the Proposed AD

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. We have examined the DAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Service Bulletin.''

Difference Between the Proposed AD and Service Bulletin

Operators should note that, although the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting a comment sheet related to service bulletin quality and a sheet recording compliance with the service bulletin, this proposed AD would not require those actions. We do not need this information from operators.

Clarifications Between the Proposed AD and Brazilian Airworthiness Directive

Operators should note that if both hydraulic pressure tubes have affected serial numbers the Brazilian airworthiness directive specifies replacing ''at least one of the tubes'' before further flight. This proposed AD would require that, and would also require replacing the other affected hydraulic pressure tube within 600 flight hours after the inspection. This clarification has been coordinated with the DAC.

Operators should also note that the Brazilian airworthiness directive specifies accomplishing the inspection within 100 flight hours after the effective date of the Brazilian airworthiness directive. This proposed AD, however, would require compliance within 100 flight hours ''or 14 days after the effective date of the AD, whichever is first.'' In developing an appropriate compliance time for this proposed AD, we considered not only the safety implications and the DAC's recommendations, but also the degree of urgency associated with the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, we find that the compliance time in this proposed AD represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. This clarification has been coordinated with the DAC.

Costs of Compliance

This proposed AD would affect about 27 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed inspection for U.S. operators is $1,755, or $65 per airplane.

The proposed replacement, if necessary, would take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would be $0 per airplane. Based on these figures, the estimated cost of the proposed replacement is $195 per airplane, if necessary.

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 have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify that the 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. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 (AD):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–21345; Directorate Identifier 2005-NM–005-AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by July 5, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model ERJ 170 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by failure of a hydraulic system due to leakage of hydraulic fluid from a crack in the pipe coming from the pressure side of the engine driven pump. We are issuing this AD to prevent cracking of the hydraulic pressure pipes, which could result in failure of hydraulic system 1 or 2 or both, and consequent reduced controllability of the airplane.

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.

Inspection and Replacement if Necessary

(f) Within 100 flight hours or 14 days after the effective date of this AD, whichever is first: Inspect the left and right hydraulic pressure tubes at the outlet of the engine-driven hydraulic pumps to determine the part and serial numbers, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 170–29–0001, including the Appendix, dated August 9, 2004.

(1) If neither hydraulic pressure tube has a serial number as identified in Part I of the service bulletin, then no further action is required by this paragraph.

(2) If only one hydraulic pressure tube has a serial number as identified in Part I of the service bulletin: Within 600 flight hours after the inspection, replace the affected hydraulic pressure tube with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin.

(3) If both hydraulic pressure tubes have serial numbers as identified in Part I of the service bulletin: Before further flight, replace one of the affected hydraulic pressure tubes with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin. Within 600 flight hours after the inspection, replace the other affected hydraulic pressure tube with a new hydraulic pressure tube, in accordance with Part III or Part IV, as applicable, of the service bulletin.

Note 1: EMBRAER Service Bulletin 170–29–0001 refers to Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011, original revision, dated August 3, 2004, as an additional source of service information for inspecting the hydraulic pressure tubes to determine the part and serial numbers; and replacing hydraulic pressure tubes having certain serial numbers with new hydraulic pressure tube as applicable. Turbofan (Airline Service) Service Bulletin CF34–8E MHD 71–00–011 is included in the Appendix of EMBRAER Service Bulletin 170–29–0001.

No Reporting Requirement

(g) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Parts Installation

(h) As of the effective date of this AD, no person may install a hydraulic pressure pipe having any part and serial numbers identified in Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 170–29–0001, dated August 9, 2004, on any airplane.

Alternative Methods of Compliance (AMOCs)

(i) 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

(j) Brazilian airworthiness directive 2004–11–06, dated November 29, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on May 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–11046 Filed 6–2–05; 8:45 am]

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