

Corrective Actions

(c) Prior to further flight, repair any cracking detected by any inspection required by paragraph (a) or (b) of this AD in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Optional Terminating Action

(d) Installation of the preventative modification of the BS 480 frame in accordance with Part 3.C. of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1220, dated October 4, 1999, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737-53A1220, dated October 4, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, WA 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, WA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 10, 2000.

Issued in Renton, Washington, on February 15, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-4116 Filed 2-23-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 99-NM-370-AD; Amendment 39-11591; AD 2000-04-09]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-135 and EMB-145 series airplanes. This action requires various inspections to detect discrepancies of the elevator servo tab and spring tab hinge fittings of the horizontal stabilizer, and follow-on corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent the linkage of the elevator servo tab or spring tab hinge fittings from separating from the horizontal stabilizer, which could result in loss of control of the airplane.

DATES: Effective March 10, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 2000.

Comments for inclusion in the Rules Docket must be received on or before March 27, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-370-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD 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; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Satish Lall, Aerospace Engineer, Airframe and Propulsion Branch, ACE-117A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337-2748; telephone (770) 703-6082; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION: The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB-135 and EMB-145 series airplanes. The DAC advises that it has received a report of looseness of the hinge fitting attachment of the elevator spring tab of the horizontal stabilizer. The configuration of the hinge fitting attachment of the elevator servo tab is similar in design to that of the elevator spring tab. Therefore the elevator servo tab may be subject to the same unsafe condition reported on the elevator spring tab. The looseness was attributed to the incorrect installation of the attachment fasteners (two) to the tab upper skin. The loss of the fitting rigidity may cause damage to the other attachment fasteners (four) in the tab spar, which could cause the linkage of the elevator servo tab or spring tab hinge fittings to separate from the horizontal stabilizer. This condition, if not corrected, could result in loss of control of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Embraer Alert Service Bulletin S.B. 145-55-A022, Change 02, dated October 8, 1999, which describes procedures for various inspections to detect discrepancies of the elevator servo tab and spring tab hinge fittings of the horizontal stabilizer, and corrective actions, if necessary.

- Part I of the Accomplishment Instructions: Repetitive visual inspections to detect proper attachment (as specified in the alert service bulletin) of the left-and right-hand elevator servo tab and spring tab hinge fittings of the horizontal stabilizer, and follow-on corrective actions, if necessary. The corrective actions involve replacing all affected tabs with new or serviceable tabs or accomplishing Part II of the Accomplishment Instructions.

- Part II of the Accomplishment Instructions: One-time visual inspection to detect relative movement between the servo tab center hinge fitting and the tab lower skin and spar, and between the spring tab inboard hinge fitting and the tab upper skin and spar, and corrective

actions, if necessary. The corrective actions involve replacing all affected tabs with new or serviceable tabs. Part II of the Accomplishment Instructions also includes procedures for accomplishing a rework and performing a boroscopic inspection to verify correct installation (as specified in the alert service bulletin) of the fasteners attaching the elevator servo tab and spring tab hinge fittings to the elevator servo tabs and spring tabs, and replacing the fasteners (one at a time) with new fasteners and washers, if necessary. The boroscopic inspection is repeated to ensure correct installation of all replaced fasteners.

The DAC classified this alert service bulletin as mandatory and issued Brazilian airworthiness directive 1999-09-01R1, dated October 25, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

These airplane models are manufactured in Brazil and are 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 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, this AD is being issued to prevent the linkage of the elevator servo tab or spring tab hinge fittings from separating from the horizontal stabilizer, which could result in loss of control of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Differences Between Rule and Related Service Information

Operators should note that the parallel Brazilian airworthiness directive and the manufacturer's alert service bulletin allow the repetitive inspection interval to be increased from 100 flight hours to 400 flight hours after accomplishing Part II (one-time detailed visual inspection and boroscopic inspection) of the Accomplishment Instructions of the alert service bulletin. However, this AD would allow the repetitive inspection interval to be increased to 400 flight hours following replacement of all elevator servo and spring tabs.

In addition, the FAA has determined that it is not necessary to accomplish the rework and boroscopic inspection recommended by Part II of the Accomplishment Instructions of the alert service bulletin on any elevator servo and spring tabs which have been replaced in accordance with this AD. The FAA has determined that replacement of affected elevator servo and spring tabs adequately addresses the unsafe condition and ensures operational safety of the affected airplanes until final action can be identified.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic,

environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-370-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

2000-04-09 Empresa Brasileira de Aeronautica S.A. (EMBRAER):

Amendment 39-11591. Docket 99-NM-370-AD.

Applicability: Model EMB-135 and EMB-145 series airplanes, as listed in Embraer Alert Service Bulletin S.B. 145-55-A022, Change 02, dated October 8, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the linkage of the elevator servo tab or spring tab hinge fittings from separating from the horizontal stabilizer, which could result in loss of control of the airplane, accomplish the following:

Detailed Visual Inspection

(a) Within 10 flight hours after the effective date of this AD, perform a detailed visual inspection to verify proper attachment, as specified in the alert service bulletin, of the left- and right-hand elevator servo tab and spring tab hinge fittings of the horizontal stabilizer, in accordance with Part I of the Accomplishment Instructions of Embraer Alert Service Bulletin S.B. 145-55-A022, Change 02, dated October 8, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If all elevator servo tab and spring tab hinge fittings are properly attached, as specified in the alert service bulletin, repeat the detailed visual inspection thereafter at intervals not to exceed 100 flight hours until the requirements of paragraph (b) of this AD are accomplished.

(2) If any elevator servo tab or spring tab hinge fitting is improperly attached, as specified in the alert service bulletin, prior to further flight, accomplish the requirements of

either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the affected tab with a new or serviceable tab in accordance with Part I of the Accomplishment Instruction of the alert service bulletin. Thereafter, repeat the detailed visual inspection required by paragraph (a) of this AD at intervals not to exceed 100 flight hours until the requirements of paragraph (b) of this AD are accomplished. Following replacement of all tabs, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 flight cycles; or

(ii) Accomplish the requirements of paragraphs (b) of this AD.

(b) For airplanes that have not replaced all elevator servo tabs and spring tabs: Within 400 flight hours after the effective date of this AD, perform a one-time detailed visual inspection to detect relative movement between the servo tab center hinge fitting and the tab lower skin and tab spar, and between the elevator spring tab inboard hinge fitting and the tab upper skin and tab spar, in accordance with Part II of the Accomplishment Instructions of Embraer Alert Service Bulletin S.B. 145-55-A022, Change 02, dated October 8, 1999.

(1) If no relative movement is detected, prior to further flight, rework the elevator servo tabs and spring tabs and perform a boroscopic inspection to verify correct installation, as specified in the alert service bulletin, of the fasteners attaching the elevator servo tab and spring tab hinge fittings to the elevator servo tab and spring tab, in accordance with Part II of the Accomplishment Instruction of the alert service bulletin.

(i) If all fasteners attaching the elevator servo tab and spring tab hinge fittings are installed correctly, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 flight cycles.

(ii) If any fastener attaching the elevator servo tab or spring tab hinge fittings is incorrectly installed, as specified in the alert service bulletin, prior to further flight, replace, one at a time, each affected fastener with a new fastener and washer, and prior to further flight, repeat the boroscopic inspection required by paragraph (b)(1) of this AD. When correct fastener installation is verified, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 flight cycles.

Note 3: Replacement of the attaching fasteners one at a time will avoid the loss of the servo tab or spring tab hinge fittings position.

(2) If any relative movement is detected, prior to further flight, replace the affected tab with a new or serviceable tab, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin. Following replacement of all tabs, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 flight cycles.

Note 4: Accomplishment of the actions required by this AD prior to the effective date of this AD, in accordance with Embraer Alert Service Bulletin S.B. 145-55-A022, dated September 24, 1999, or Revision 01, dated October 7, 1999, is considered acceptable for

the compliance with the applicable actions specified by this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Embraer Alert Service Bulletin S.B. 145-55-A022, Change 02, dated October 8, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 6: The subject of this AD is addressed in Brazilian airworthiness directive 1999-09-01R1, dated October 25, 1999.

(f) This amendment becomes effective on March 10, 2000.

Issued in Renton, Washington, on February 15, 2000.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
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