

sent to the Reserve Bank was a substitute check or a paper or electronic representation of a substitute check; and

(v) Any indemnity made the Reserve Bank under § 210.12(e)(1)(iii) of this subpart, if the returned check sent to the Reserve Bank was an electronic item that was not a representation of a substitute check.

* * * * *

24. In § 210.12, redesignate paragraphs (d) through (i) as paragraphs (e) through (j), respectively, and add a new paragraph (d) to read as follows:

* * * * *

(d) *Preservation of other warranties and indemnities.* Nothing in paragraph (c) of this section limits any warranty or indemnity by a returning bank or paying bank (or a party that handled an item prior to that bank) arising under state law or regulation or other federal law or regulation.

* * * * *

25. Revise newly-redesignated § 210.12(e) to read as follows:

* * * * *

(e) *Warranties by Reserve Bank.* (1) The following provisions apply when a Reserve Bank handles a returned check under this subpart—

(i) The Reserve Bank warrants to the bank to which it sends the returned check that the returned check bears all indorsements applied by parties that previously handled the returned check for forward collection or return;

(ii) Subject to the terms of part 229 of this chapter, the Reserve Bank—

(A) Makes the returning-bank warranties in § 229.34 of this chapter; and

(B) If the returned check is a substitute check or a paper or electronic representation of a substitute check, makes the warranties and indemnity set forth in §§ 229.52 and 229.53 of this chapter; and

(iii) If the returned check is an electronic item that is not a representation of a substitute check, the Reserve Bank—

(A) Warrants to the bank to which it sends the returned check that—

(1) The item accurately represents all of the information on the front and back of the original check as of the time that the original check was truncated; replicates the MICR line of the original check, except for any changes required or permitted by part 229, subpart D of this chapter for substitute checks; and meets the technical requirements for sending electronic items to a Reserve Bank as set forth in the operating circulars; and

(2) No party will receive a transfer, presentment, or return of, or otherwise

be charged for, the electronic item, the original item, or a paper or electronic representation of the electronic item such that the party will be asked to make payment based on an item it already has paid; and

(B) Agrees to indemnify the bank to which it sends the returned check for the amount of any losses that the bank incurs under § 229.53 of this chapter for an indemnity that the bank was required to make under § 229.53 in connection with a substitute check later created from the returned check.

(2) A Reserve Bank shall not have or assume any other liability to any person with respect to a returned check except—

(i) As provided in paragraph (e)(1) of this section;

(ii) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this chapter; or

(iii) As provided in part 229, subpart D of this chapter.

* * * * *

26. In newly-redesignated § 210.12(f)(3), remove the phrase "Any warranty made by the Reserve Bank under 12 CFR 229.34," and add the phrase "Any warranty or indemnity made by the Reserve Bank under paragraph (e) of this section," in its place.

27. In newly-redesignated § 210.12(g):

A. In paragraph (g)(1) introductory text, remove the phrase "paragraph (d)" and add the phrase "paragraph (e)" in its place; and

B. Designate the last sentence of paragraph (g)(2) as paragraph (g)(3);

C. In paragraph (g)(2) and newly-designated paragraph (g)(3), remove the phrase "paragraph (f)" wherever it appears and add the phrase "paragraph (g)" in its place;

D. In newly-designated paragraph (g)(3), remove the phrase "paragraph (c)(3)" and add the phrase "paragraph (c)(5)" in its place.

§ 210.13 [Amended]

28. In § 210.13(b), remove the citation "§ 210.9(a)(5)" and add the citation "§ 210.9(b)(5)" in its place.

By order of the Board of Governors of the Federal Reserve System, June 4, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04-13147 Filed 6-17-04; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-NM-271-AD]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 series airplanes. This proposal would require inspecting the pilot's and co-pilot's seat tracks for proper locking of the seats, and adjusting or replacing the seat tracks, if necessary. This action is necessary to prevent uncommanded movement of the pilot's or co-pilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 19, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-271-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-271-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule 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.

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

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2003-NM-271-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-271-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Departamento de Aviação Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain Empresa Brasileira de Aeronáutica S.A. (EMBRAER) Model EMB-135 and -145 series airplanes. The DAC advises that there have been a number of cases reported where flight crews had difficulty fitting the lock pin into the track of their seats during seat adjustments due to damage in the seat track locking holes. This condition, if not corrected, could result in uncommanded movement of the pilot's or co-pilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin (SB) 145-53-0027, Revision 03, dated February 5, 2004, which describes procedures for inspecting for proper locking of the seats to the pilot's and co-pilot's seat tracks; related investigative actions, if necessary; and corrective actions, if necessary. The related investigative actions include checking for proper fitting of the locking pins, performing a detailed inspection of the seat track alignment, and measuring the seat track holes for excessive wear. The corrective actions include the following: Adjusting the seat track alignment; reworking seat track holes; and replacing the seat track with a new, improved seat track, if necessary.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC recommended this service bulletin as mandatory and issued Brazilian airworthiness directive 2002-09-01, dated September 23, 2002, in order to assure the continued airworthiness of these airplanes in Brazil.

For certain airplanes, EMBRAER SB 145-53-0027 recommends prior or concurrent accomplishment of the Accomplishment Instructions of SICMA Aero Seat SB 147-25-020, Issue 2, dated December 22, 2003. The service bulletin describes procedures for replacing the locking pin and the locking spring with new parts, and adding a modification placard.

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 Proposed 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, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as described below.

Difference Between This Proposed AD and the Brazilian Airworthiness Directive

We have determined that the requirements of Part I of the Brazilian airworthiness directive include repetitive inspections or inspections that conflict with Parts II and III of the Brazilian airworthiness directive. Therefore, this proposed AD would not require the actions of Part I of the Brazilian airworthiness directive.

The manufacturer has revised EMBRAER SB 145-53-0027 to recommend a new service bulletin by SICMA Aero Seat (147-25-020) for concurrent accomplishment, and to update the Effectivity section of the EMBRAER service bulletin. The DAC has not issued a revised, or corresponding, airworthiness directive, although accomplishment of the SICMA service bulletin may be considered mandatory for operators of these aircraft in Brazil. This proposed AD would require accomplishment of the SICMA Aero Seat service bulletin, and would specify the updated effectivity of the EMBRAER service bulletin. These issues have been coordinated with the Brazilian authority.

Differences Between Proposed Rule and Service Bulletin

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposal would require operators to repair those conditions per a method approved by either the FAA or the DAC (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness

agreements, we have determined that, for this proposed AD, a repair approved by either the FAA or the DAC would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 459 airplanes of U.S. registry would be affected by this proposed AD. The following table

shows the estimated cost impact for airplanes affected by this AD. The average labor rate is \$65 per work hour.

| Action | Number of airplanes affected | Work hours | Parts cost | Total cost |
|---|------------------------------|------------|--------------|-----------------------------------|
| Inspection (Part I of EMBRAER SB 145–53–0027, Revision 03, February 5, 2004). | 459 | 4 | (none) | \$119,340, or \$260 per airplane. |
| Inspection and Alignment (Part III of EMBRAER SB145–53–0027, Revision 03, February 5, 2004). | 348 | 4 | (none) | \$90,480, or \$260 per airplane. |
| Locking Pin and Spring Replacement (SICMA Aero Seat SB 147–25–020, Issue 2, December 22, 2003). | 459 | 1 | \$684 | \$343,791, or \$749 per airplane. |

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

Empresa Brasileira de Aeronautica S.A.

(EMBRAER): Docket 2003–NM–271–AD.

Applicability: Model EMB–135, and –145 series airplanes, as listed in EMBRAER Service Bulletin 145–53–0027, Revision 03, dated February 5, 2004; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movement of the pilot's or copilot's seat, which could result in interference with the operation of the airplane and consequent temporary loss of airplane control, accomplish the following:

Inspection and Other Actions Per Parts I and II of the Service Bulletin

(a) For airplanes with serial numbers (S/N) 145004 through 145362 inclusive, and 145364 through 145384 inclusive: Within 500 flight hours after the effective date of this AD, perform general visual and detailed inspections of the seat tracks of the pilot's and copilot's seats for proper locking of the seats, and do all applicable related investigative actions and corrective actions by accomplishing all the actions of Part I and Part II of the Accomplishment Instructions of EMBRAER SB 145–53–0027, Revision 03, February 5, 2004; except as provided by paragraph (d) of this AD. Repeat the inspections/related investigative actions of this paragraph thereafter at intervals not to exceed 500 flight hours until the seat tracks are replaced with new seat tracks having P/N 145–33669–601 per Part II of the

Accomplishment Instructions of the service bulletin.

(1) Before further flight, accomplish any related investigative actions.

(2) Within 50 flight hours after the inspection, accomplish any applicable corrective action per Part II of the Accomplishment Instructions of the service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

Note 2: For the purposes of this AD, a detailed 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 mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.”

Concurrent Service Bulletin

(b) For airplanes with the same serial numbers listed in paragraph (a) of this AD: Prior to or concurrent with the actions specified in paragraph (a) of this AD, replace the locking pin and spring with new parts in accordance with the Accomplishment Instructions of SICMA Aero Seat Service Bulletin 147–25–020, Issue 2, dated December 22, 2003.

Inspection and Other Actions Per Part III of the Service Bulletin

(c) For airplanes with S/N 145291 through 145559 inclusive, except for S/N 145363, 145411, 145412, 145431, 145447, 145451, 145462, 145464, 145484, 145490, 145495, 145505, 145509, 145516, 145524, 145528, 145540, 145549, 145551, and 145555: Within

500 flight hours after the effective date of this AD, perform general visual and detailed inspections of the tracks of the pilot's and copilot's seats for proper locking of seats, and do all applicable related investigative and corrective actions by accomplishing all of the actions in Part III of the Accomplishment Instructions of EMBRAER Service Bulletin 145-53-0027, Revision 03, dated February 5, 2004, except as provided by paragraph (d) of this AD. Do the actions per the service bulletin. Accomplish any related investigative action or corrective action before further flight.

Certain Repairs

(d) Where the EMBRAER service bulletin recommends contacting EMBRAER for appropriate action: Before further flight, repair per a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Departamento de Aviação Civil (or its delegated agent).

Actions Accomplished Per Previous Issue of Service Bulletin

(e) Accomplishment of the actions specified in EMBRAER Service Bulletin 145-53-0027, Revision 02, dated January 24, 2003, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraphs (a) and (c) of this AD.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2002-09-01, dated September 23, 2002.

Issued in Renton, Washington, on June 10, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-13869 Filed 6-17-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002-NM-298-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model A320 series airplanes.

This proposal would require a detailed inspection of the tail cone triangle to determine its position, and corrective actions if necessary. This action is necessary to prevent excessive vibrations of the elevators, which could result in reduced structural integrity and reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 19, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-298-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2002-NM-298-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2141; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the proposed AD is being requested.

- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002-NM-298-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-298-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that the tail cone triangles were not installed properly on certain airplanes during production, resulting in possible mis-rigged elevator servo-controls. Mis-rigged elevator servo-controls may result in low hinge moments and possible vibrations, if combined with elevator freeplay. This condition, if not corrected, could result in excessive vibrations of the elevator, which could result in reduced structural integrity and reduced controllability of the airplane.

Other Related Rulemaking

On August 10, 2001, the FAA issued AD 2001-16-09, amendment 39-12377 (66 FR 43471, August 20, 2001), applicable to all Airbus Model A319, A320, and A321 series airplanes. That AD currently requires periodic inspection of the elevators for excessive