

FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-330-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 EMBRAER Model EMB-135 and -145 series airplanes. The DAC advises that water accumulates in the pitot 1 and pitot 2 drain valves in the nose landing gear (NLG) compartment where they are subjected to freezing temperatures. Frozen water in the drain valve can expand and cause the pitot drain valves to fail so that the airspeed indication system tubing is open to ambient pressure. This condition, if not corrected, could result in ice damage to the pitot drain valves, which could cause airspeed indication errors, resulting in display of erroneous or misleading information to the flight crew.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145-34-0070, Change 03, dated July 16, 2003, and Service Bulletin 145LEG-34-0002, dated September 23, 2002, which describe procedures for relocating the pitot 1 and pitot 2 drain valves from the NLG compartment to the forward electronic compartment so that water will not accumulate in the valves and the valves are less susceptible to freezing temperatures. The procedures also include installing a plug, washers, and a nut to close the hole from which the drain valve is removed; replacing an existing placard with a new placard; and applying sealant on the placard. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition. The DAC classified these service bulletins as mandatory and issued Brazilian Airworthiness Directive 2002-06-01R1, dated November 8, 2002, to ensure 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 § 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 bulletin described previously.

Cost Impact

The FAA estimates that 374 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$65 per work hour. Required parts would cost approximately between \$301 and \$304 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between \$161,194 and \$162,316, or between \$431 and \$434 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 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:

EMBRAER: Docket 2002-NM-330-AD.

Applicability: Model EMB-135 and -145 series airplanes; as listed in EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; and EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent ice from damaging the pitot drain valves, which could cause airspeed indication errors, resulting in display of erroneous or misleading information to the flight crew, accomplish the following:

Relocation

(a) Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Relocate the pitot 1 and pitot 2 drain valves from the nose landing gear (NLG) compartment to the forward electronic compartment; and install a plug, washers, and a nut to close the hole in the structure where the pitot 1 and pitot 2 drain valves were removed; per the Accomplishment Instructions of EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; or EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; as applicable.

Installation

(b) After accomplishment of paragraph (a) of this AD but prior to further flight: Install a new placard and apply sealant on the placard per the Accomplishment Instructions of EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; or EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; as applicable.