

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-34-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-34-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 the plastic lamp/smoke detector covers and joints in the baggage compartment do not comply with Section 25.855 of the Federal Aviation Regulations (FARs). Section 25.855 ("Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes") of the FAR (14 CFR 25.855) requires that materials used in the construction of cargo or baggage compartments meet prescribed flammability tests. This noncompliance with the flammability tests of the affected model airplanes has been determined to be an unsafe condition. This condition, if not corrected, could result in the plastic lens protection grids breaking away and exposing the lens as a source of fire, which could lead to fire damage to the aircraft systems and structure, and expose the passengers and crew to hazardous quantities of smoke.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145-25-0168, Change 02, dated August 8, 2000, which describes procedures for modification of the mid, aft, and forward baggage compartment upper liners to replace the plastic lens protection grids on all upper liners with new, light metal lens protection grids. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 2000-06-01, dated July 3, 2000, to ensure the continued airworthiness of these airplanes in Brazil.

EMBRAER Service Bulletin 145-25-0168 references C&D Aerospace Service Bulletin 145-20216-25-03, Revision 2, dated June 9, 2000, as an additional source of service information for accomplishment of the modification. The C&D Aerospace service bulletin is included within the EMBRAER service bulletin.

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 bulletin described previously.

Cost Impact

The FAA estimates that 160 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$65 per work hour. Parts will be provided by the manufacturer at no charge. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$72,800, or \$455 per airplane.

The cost impact figure discussed above is 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:

Empresa Brasileira de Aeronáutica S.A. (EMBRAER): Docket 2003-NM-34-AD.

Applicability: Model EMB-135 and -145 series airplanes, having serial numbers (S/Ns) 145004 through 145187 inclusive, S/Ns 145191 through 145196 inclusive, S/N 145200, and S/N 145204; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the plastic lens protection grids in the baggage compartment from breaking away and exposing the lens as a source of fire, which could lead to fire damage to the aircraft systems and structure, and expose the passengers and crew to hazardous quantities of smoke, accomplish the following: