Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–130–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 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 EMBRAER Model EMB–120 series airplanes. This proposal would require inspections of certain components, and corrective action, if necessary. This action is necessary to prevent deterioration and deformation of the mass-balance weights of the aileron, which could affect the surface balance of the aileron and result in loss of aileron control and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by August 16, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–130–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. 2000–NM–130–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 for Windows 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; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

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:

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 notice 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–130–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. 2000–NM–130–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento 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–120 series airplanes. The DAC advises that the mass-balance weights of the aileron may deteriorate or become deformed. Such deterioration or deformation could affect the surface balance and lead to chafing between the exposed end of the mass-balance weight and the adjoining aileron hinge attachment. This condition, if not corrected, could result in loss of aileron control and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 120–27–0077, Change No. 01, dated October 24, 1997, which, for certain airplanes, describes procedures for repetitive visual inspections to measure the gap between the mass-balance weights and aileron hinge attachment, and corrective action, if necessary. For all airplanes, the service bulletin describes procedures for performing a one-time detailed visual inspection of the mass-balance weights to detect any cavity, hole, or delamination, and follow-on actions. For affected airplanes, accomplishment of the one-time detailed visual inspection eliminates the need for the repetitive inspections described previously. If no cavity, hole, or delamination is found,

follow-on actions involve visual inspection of the surface of the mass-balance weights to detect white powder, and removal of any detected white powder. If any cavity, hole, or delamination is found, corrective action involves replacement of the mass-balance weights with new, improved parts. 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 98–01–02, dated January 15, 1998, in order to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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. 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.

Differences Between DAC's Airworthiness Directive and This Proposed AD

Operators should note that the DAC's airworthiness directive recommends that repetitive measurements of the gap between the mass-balance weights and aileron hinge attachment, and corrective action, if necessary, be accomplished on all airplanes manufactured since March 1, 1995. The FAA finds that it is clearer to refer to the airplanes affected by this AD by serial number rather than by date of manufacture. Therefore, this proposed AD would require these repetitive measurements for airplanes with serial numbers 120–0291, 120–0294, and 120–0296 through 120–0333 inclusive.

In addition, operators should note that, for the one-time detailed visual inspection of the mass-balance weights to detect any cavity, hole, or delamination, the DAC's airworthiness directive specifies separate compliance times depending on whether the airplane was manufactured before or after March 1, 1995. However, this proposed AD would require that this action be accomplished on all airplanes subject to this AD within 2,000 flight hours after the effective date of this AD. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the DAC's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, and the date the DAC's recommendation was issued. In light of these factors, the FAA finds that 2,000 flight hours represents an appropriate interval of time allowable for all affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that approximately 28 U.S.-registered airplanes would be affected by the proposed requirement to measure the gap between the mass-balance weights and aileron hinge attachment. It would take approximately 2 work hours per airplane to accomplish the proposed measurement, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement on U.S. operators is estimated to be $3,360, or $120 per airplane, per inspection cycle.

The FAA estimates that approximately 230 U.S.-registered airplanes would be affected by the proposed detailed visual inspection of the mass-balance weights to detect any cavity, hole, or delamination. It would take approximately 8 work hours per airplane to accomplish this proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these proposed requirements on U.S. operators is estimated to be $110,400, or $480 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:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2000–NM–130–AD.

Applicability: Model EMB–120 series airplanes, serial numbers 120–0001 through 120–0333 inclusive; 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 deterioration and deformation of the mass-balance weights of the aileron, which could affect the surface balance of the aileron and result in loss of aileron control and consequent reduced controllability of the airplane, accomplish the following:

Measurement of Clearance and Corrective Actions

(a) For airplanes having serial numbers 120–0291, 120–0294, and 120–0296 through 120–0333 inclusive: Within 150 flight hours after the effective date of this AD, measure the clearance between the aileron mass-balance weights and attach fittings on the left and right sides of the airplane, in accordance with PART I of the Accomplishment Instructions of EMBRAER Service Bulletin 120–27–0077, Change No. 01, dated October 24, 1997.

(1) If the clearance is within the acceptable limits described in the service bulletin, thereafter, repeat the measurement at intervals not to exceed 1,000 flight hours until the actions required by paragraph (b) of this AD have been accomplished.

(2) If the clearance is outside the acceptable limits described in the service bulletin, prior to further flight, replace the affected mass-balance weight with a new, improved mass-balance weight, in accordance with PART III of the Accomplishment Instructions of the service bulletin. Such replacement terminates the requirement to accomplish paragraph (b) of this AD.

Detailed Visual Inspection and Follow-On Actions

(b) *For all airplanes:* Within 2,000 flight hours after the effective date of this AD, perform a one-time detailed visual inspection of the aileron mass-balance weights to detect any cavity, hole, or delamination, in accordance with PART II of the Accomplishment Instructions of EMBRAER Service Bulletin 120–27–0077, Change No. 01, dated October 24, 1997. Such inspection constitutes terminating action for the repetitive inspections required by paragraph (a)(1) of this AD for airplanes subject to paragraph (a) of this AD.

(1) If no cavity, hole, or delamination is detected: Prior to further flight, perform a one-time detailed visual inspection to detect white powder on the surface of the mass-balance weights, in accordance with PART II of the Accomplishment Instructions of the service bulletin. If any white powder is found, remove the white powder in accordance with the service bulletin.

(2) If any cavity, hole, or delamination is found, prior to further flight, replace the affected mass-balance weight with a new, improved mass-balance weight, in accordance with PART III of the Accomplishment Instructions of the service bulletin.

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 2: 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.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 98–01–02, dated January 15, 1998.

Issued in Renton, Washington, on July 11, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18042 Filed 7–14–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SPATS No. ND–041–FOR; North Dakota State Program Amendment No. XXX]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). North Dakota proposes revisions of rules about: Rulemaking notices; prime farmland reclamation plans; permit approval and denial criteria; performance bond liability period; bond release applications; surface water monitoring; revegetation success standards; prime farmland reclamation standards; and small operator assistance.

North Dakota intends to revise its program to be consistent with the corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

DATES: We will accept written comments on this amendment until 4:00 p.m., m.d.t. August 16, 2000. If requested, we will hold a public hearing on the amendment on August 11, 2000. We will accept requests to speak until 4:00 p.m., m.d.t. on August 1, 2000.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the North Dakota program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Chief, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East ''B'' Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918

James R. Deutsch, Director, Reclamation Division, North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota 58505, Telephone: 701–328–2251.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307–261–6550. Internet: GPadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the December 15, 1980 **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.15 and 934.16.

II. Description of the Proposed Amendment

By letter dated June 20, 2000, North Dakota sent us a proposed amendment to its program (Amendment number XXX, administrative record No. ND–EE–01) under SMCRA (30 U.S.C. 1201 *et*