

national defense or foreign policy, and exempted pursuant to 5 U.S.C. 552a(k)(1).

(i) Requested information classified by NRC will be reviewed by the responsible official of the NRC to determine whether it continues to warrant classification under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.

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15. Section 9.62 is revised to read as follows:

§ 9.62 Records under control of another Government agency.

Requests received by NRC pertaining to records under the control of another Government agency will be returned to the requester with the name of the controlling Government agency, if known, within ten working days after receipt by the NRC.

16. In § 9.65, paragraph (b) is revised to read as follows:

§ 9.65 Access determinations; appeals.

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(b) *Appeals from denials of access.* If an individual has been denied access to a record the individual may request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations, as appropriate. A request for final review of an initial determination must be filed within 60 calendar days of the receipt of the initial determination. For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing directed to the Inspector General and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. For agency records denied by the Freedom of Information Act and Privacy Act Officer, the appeal must be in writing directed to the Executive Director for Operations and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. The appeal should clearly state on the envelope and in the letter "Privacy Act Appeal-Denial of Access." The NRC does not consider an appeal received until the date it is actually received by the Freedom of Information Act and Privacy Act Officer.

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17. In § 9.66, paragraph (b) is revised to read as follows:

§ 9.66 Determinations authorizing or denying correction of records; appeals.

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(b) *Appeals from initial adverse determinations.* If an individual's

request to amend or correct a record has been denied, in whole or in part, the individual may appeal that action and request a final review and determination of that individual's request by the Inspector General or the Executive Director for Operations, as appropriate. An appeal of an initial determination must be filed within 60 calendar days of the receipt of the initial determination. For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing directed to the Inspector General and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. For agency records denied by the Freedom of Information Act and Privacy Act Officer the appeal must be in writing directed to the Executive Director for Operations and sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6. The appeal should clearly state on the envelope and in the letter "Privacy Act Correction Appeal." The NRC does not consider an appeal received until the date it is actually received by the Freedom of Information Act and Privacy Act Officer. Requests for final review must set forth the specific item of information sought to be corrected or amended and should include, where appropriate, records supporting the correction or amendment.

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18. In § 9.67, paragraph (a) is revised to read as follows:

§ 9.67 Statements of disagreement.

(a) Written "Statements of Disagreement" may be furnished by the individual within 30 calendar days of the date of receipt of the final adverse determination of the Inspector General or the Executive Director for Operations. "Statements of Disagreement" directed to the Executive Director for Operations must be sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6, and should be clearly marked on the statement and on the envelope, "Privacy Act Statement of Disagreement." "Statements of Disagreement" directed to the Inspector General must be sent to the Freedom of Information Act and Privacy Act Officer by an appropriate method listed in § 9.6, and should be clearly marked on the statement and on the envelope "Privacy Act Statement of Disagreement."

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19. Section 9.85 is revised to read as follows:

§ 9.85 Fees.

Fees shall not be charged for search or review of records requested under this subpart or for making copies or extracts of records in order to make them available for review, although fees may be charged for additional copies. Fees established under 31 U.S.C. 483c and 5 U.S.C. 552a(f)(5) shall be charged according to the schedule contained in § 9.35 of this part for actual copies of records disclosed under the Freedom of Information Act from Privacy Act Systems of Records.

20. Section 9.95 is revised to read as follows:

§ 9.95 Specific exemptions.

Exemptions applicable to Privacy Act Systems of Records are stated in each Privacy Act System of Records Notice which is published in the **Federal Register** and is available at the NRC Web site, <http://www.nrc.gov>.

Dated in Rockville, Maryland, this 21st day of April, 2004.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 04-9488 Filed 4-26-04; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004-NM-37-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145 and EMB-135 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-145 and EMB-135 series airplanes. This proposal would require replacement of the engine-driven hydraulic pump. This action is necessary to prevent oil leakage at the coupling seal between the hydraulic pump and the engine gearbox from causing low engine oil levels, which could lead to in-flight engine shutdown and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 27, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2004-NM-37-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. 2004-NM-37-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 2004-NM-37-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. 2004-NM-37-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

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-145 and EMB-135 series airplanes. The DAC advises that operators have reported three cases of in-flight engine shutdown due to low engine oil levels caused by oil leakage at the coupling seal between the engine-driven hydraulic pump and the engine gearbox. This condition, if not corrected, could result in in-flight engine shutdown and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletins 145-29-0018, Revision 03 (for Model EMB-145 and EMB-135 series airplanes, except for EMB-135BJ series airplanes), dated December 2, 2003; and 145LEG-29-0001, Revision 01 (for Model EMB-135BJ series airplanes), dated November 11, 2003. These service bulletins describe procedures for replacement of the engine-driven hydraulic pump with a new or modified pump. 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 2004-

01-03, dated January 29, 2004, to ensure the continued airworthiness of these airplanes in Brazil.

The service bulletins refer to EATON Service Bulletin 971808-29-02, dated May 1, 2001, as an additional source of service information for accomplishing the modification of the hydraulic pump. The EATON service bulletin is included in the EMBRAER service bulletins.

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, except as discussed below.

Difference Between Proposed Rule and Foreign AD

The DAC states that Brazilian airworthiness directive 2004-01-03, dated January 29, 2004, is applicable to "all EMB-145 and EMB-135 aircraft models in operation." However, this does not agree with EMBRAER Service Bulletin 145-29-0018, Revision 03, dated December 2, 2003, and Service Bulletin 145LEG-29-0001, Revision 01, dated November 11, 2003, which state that only certain EMB-145 and EMB-135 airplanes with certain serial numbers are affected. This proposed AD would be applicable only to the airplanes listed in the service bulletins. This difference has been coordinated with the DAC.

Cost Impact

The FAA estimates that 548 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$65 per work hour. The manufacturer

will provide replacement parts at no cost. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$142,480, or \$260 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 Aeronautica S.A.

(EMBRAER): Docket 2004–NM–37–AD.

Applicability: Model EMB–145 and EMB–135 series airplanes, certificated in any category, as listed in EMBRAER Service Bulletin 145–29–0018, Revision 03, dated December 2, 2003; and EMBRAER Service Bulletin 145LEG–29–0001, Revision 01, dated November 11, 2003.

Compliance: Required as indicated, unless accomplished previously.

To prevent oil leakage at the coupling seal between the hydraulic pump and the engine gearbox from causing low engine oil levels, which could lead to in-flight engine shutdown and consequent reduced controllability of the airplane, accomplish the following:

Service Bulletin References

(a) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

- (1) For Model EMB–145 and EMB–135 (except Model EMB–135BJ) series airplanes: EMBRAER Service Bulletin 145–29–0018, Revision 03, dated December 2, 2003; and
- (2) For Model EMB–135BJ series airplanes: EMBRAER Service Bulletin 145LEG–29–0001, Revision 01, dated November 11, 2003.

Note 1: EATON Service Bulletin 971808–29–02, dated May 1, 2001, has been incorporated into the EMBRAER service bulletins as an additional source of service information for accomplishing the modification of the hydraulic pump.

Replacement of Hydraulic Pump

(b) Within 1,000 flight hours after the effective date of this AD, replace the engine-driven hydraulic pump, part number (P/N) 971808, with a new or modified pump, P/N 971808 MOD A, in accordance with the Accomplishment Instructions of the applicable service bulletin.

Parts Installation

(c) As of the effective date of this AD, no person may install a hydraulic pump having P/N 971808 on any airplane, unless that pump has been modified and reidentified as P/N 971808 MOD A, per Part II of the Accomplishment Instructions of the applicable service bulletin.

Actions Accomplished Per Previous Issues of Service Bulletins

(d) Actions accomplished before the effective date of this AD in accordance with the service bulletins listed in Table 1 of this AD are considered acceptable for compliance with the corresponding action specified in this AD.

TABLE 1.—PREVIOUS ISSUES OF SERVICE BULLETINS

EMBRAER service bulletin	Revision and date
145–29–0018	Original Issue, June 6, 2002.
145–29–0018	Revision 01, October 9, 2002.
145–29–0018	Revision 02, August 25, 2003.
145LEG–31–0001	Original Issue, October 9, 2002.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2004–01–03, dated January 29, 2004.

Issued in Renton, Washington, on April 16, 2004.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–9499 Filed 4–26–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 and 900 Series Airplanes, and Model Falcon 2000 and 900EX 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 Dassault Model Mystere-Falcon 50 and 900 series airplanes, and Model Falcon 2000 and 900EX series airplanes. This proposal would require temporary changes to the Airplane Flight Manual to prohibit the use of certain functions depending on whether or not the operator chooses to deactivate the global positioning system (GPS). For airplanes on which the GPS is deactivated, this proposal would require installing a deactivation locking collar on certain circuit breakers. For certain airplanes, this proposal would also require modifying the wiring of the global