For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 05–589 Filed 1–11–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20011; Directorate Identifier 2003–NM–22–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain EMBRAER Model EMB–135 and –145 series airplanes. The existing AD currently requires revising the airplane flight manual (AFM) to prohibit in-flight auxiliary power unit (APU) starts, and installing a placard on or near the APU start/stop switch panel to provide such instructions to the flightcrew. This proposed AD would add an optional revision to the AFM that allows limited APU starts and would add a terminating action. This proposed AD is prompted by the airplane manufacturer developing modifications that revise or eliminate the need for restrictions to in-flight APU starts. We are proposing this AD to prevent flame backflow into the APU compartment through the eductor during in-flight APU starts, which could result in fire in the APU compartment.

DATES: We must receive comments on this proposed AD by February 11, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos—SP, Brazil.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20011; the directorate identifier for this docket is 2003–NM–22–AD.

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

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20011; Directorate Identifier 2003–NM–22–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet *at http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On May 7, 2001, we issued AD 2001–10–01, amendment 39–12226 (66 FR 24049, May 11, 2001), for certain EMBRAER Model EMB–135 and EMB–145 series airplanes. That AD requires revising the FAA-approved Airplane Flight Manual (AFM) to prohibit in-flight auxiliary power unit (APU) starts, and installing a placard on or near the APU start/stop switch panel to provide such instructions to the flight crew. That AD was prompted by reports that two APU fire alarms were triggered during in-flight APU starts. We issued that AD to prevent flame backflow into the APU compartment through the eductor during in-flight APU starts, which could result in fire in the APU compartment.

Actions Since Existing AD Was Issued

Since we issued AD 2001–10–01, the airplane manufacturer has developed modifications specified in several service bulletins that allow for a change to restrictions placed on in-flight APU starts as well as the elimination of the need for restrictions placed on in-flight APU starts. We have determined that these modifications address the identified unsafe condition and enable operators to do in-flight APU starts.

Also, the preamble to AD 2001–10–01 explains that we considered the requirements of that AD ''interim action'' and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

EMBRAER has issued the following service bulletins:

- EMBRAER Alert Service Bulletin 145–49–A017, dated April 12, 2001, which describes procedures for installing a placard in the pedestal panel.
- EMBRAER Service Bulletin 145–49–0017, Change 01, dated June 7, 2001, which describes procedures for measuring the gap between the APU and the APU exhaust silencer, installing a flush-type APU air inlet, part number (P/N) 120–45060–001, installing a

placard, and contacting the manufacturer if measurements are not within the limits specified in the service bulletin. The service bulletin also specifies prior to or concurrent accomplishment of EMBRAER Service Bulletin 145–49–0009.

• EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002, which describes procedures for measuring the gap between the APU and the APU exhaust silencer, installing a flush-type APU air inlet, P/N 145–48999–401, removing a placard, reidentifying the APU cowling, and contacting the manufacturer if measurements are not within the limits specified in the service bulletin. The service bulletin also specifies prior to or concurrent accomplishment of EMBRAER Service Bulletin 145–49–0009.

• EMBRAER Service Bulletin 145–49–0009, Change 07, dated September 1, 2002, which describes procedures for installing an APU silencer.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The Departmento de Aviacao Civil (DAC) issued Brazilian airworthiness directive 2001–04–02R2, dated June 29, 2001, to ensure the continued airworthiness of these airplanes in Brazil. The Brazilian airworthiness directive references procedures specified in the service information.

FAA's Determination and Requirements of the Proposed AD

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. We have examined the DAC's findings, evaluated all pertinent information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would supersede AD 2001–10–01. This proposed AD would retain the actions required in AD 2001–10–01. The proposed AD would also require accomplishing the actions specified in the service bulletins described previously, as applicable, except as discussed under ''Difference Between the Proposed AD and Service Bulletins.''

Difference Between Proposed AD and Service Bulletins

EMBRAER Service Bulletin 145–49–0017, Change 01, dated June 7, 2001; and EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002; specify that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the DAC (or its delegated agent) approve. 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 we or the DAC approve would be acceptable for compliance with this proposed AD.

Differences Between Proposed AD and Foreign AD

Operators should note the following differences between the proposed AD and Brazilian airworthiness directive 2001–04–02R2, dated June 29, 2001:

The Brazilian airworthiness directive references EMBRAER Service Bulletin 145–49–0009, Revision 03, dated May 15, 2001, for accomplishing the optional terminating action. This proposed AD specifies that terminating action be done within 8,000 flight hours after the effective date of the AD in accordance with EMBRAER Service Bulletin 145–49–0009, Change 07, dated September 1, 2002. We have not given credit for actions done with previous issues of the service bulletin because there is additional work needed in Change 07 of the service bulletin. Mandating the terminating action is based on our determination that, in this case, long-term continued operational safety would be better ensured by a modification to remove the source of the problem, rather than by revising flight procedures. While revising flight procedures ensures that the flightcrew is informed that an unsafe condition may exist, it does not remove the source of that unsafe condition. Human factors (*e.g.,* variations in flightcrew training and familiarity with the airplane, flightcrew awareness in the presence of other hazards, and flightcrew fatigue) may allow an inadvertent APU start and result in the unsafe condition. Thus, revisions to flight procedures are not considered adequate to provide the degree of safety assurance necessary for the transport airplane fleet. Consideration of these factors has led the FAA to mandate the terminating action.

The Brazilian airworthiness directive also references EMBRAER Service Bulletin 145–49–0018, original issue, or further revisions, for accomplishing the optional terminating action. This proposed AD specifies the terminating action also be done in accordance with EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002. We have not given credit for actions done with previous issues of the service bulletin because there is additional work needed in Change 03 of the service bulletin.

These differences have been coordinated with the Brazilian airworthiness authority.

Clarification of Applicability

AD 2001–10–01 has an applicability that specifies ''* * * with Hamilton Sundstrand Power Systems auxiliary power unit (APU) model T–62T–40C14 (APS 500R).'' This proposed AD has an applicability that specifies ''* * * with Hamilton Sundstrand auxiliary power unit (APU) model T–62T–40C14 (APU 500R).'' The ''S'' in APS 500R of the applicability of AD 2001–10–01 is a typographical error; APU 500R is the correct nomenclature. We also revised the nomenclature of the APU manufacturer from Hamilton Sundstrand Power Systems to Hamilton Sundstrand, which matches the nomenclature specified in the Brazilian airworthiness directive.

Change to Existing AD

This proposed AD would retain all requirements of AD 2001–10–01. Since AD 2001–10–01 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2001–10–01	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f)

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Installation of placard (required by AD 2001–10–01)	1	$65	None	$65	290	$18,850
Terminating action (new proposed action)	4	65	$1,514	1,774	290	514,460
Concurrent action (new proposed action)	6	65	38,500	38,890	290	11,278,100
Optional installation of APU air inlet and placard (new proposed optional action).	2	65	397	527	290	([1])

[1] Depends on # of airplanes on which installation is done.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this proposed AD.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by removing amendment 39–12226 (66 FR 24049, May 11, 2001) and adding the following new airworthiness directive (AD):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2005–20011; Directorate Identifier 2003–NM–22–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by February 11, 2005.

Affected ADs

(b) This AD supersedes AD 2001–10–01, amendment 39–12226 (66 FR 24049, May 11, 2001).

Applicability

(c) This AD applies to EMBRAER Model EMB–135 and –145 series airplanes, certificated in any category, equipped with Hamilton Sundstrand auxiliary power unit (APU) model T–62T–40C14 (APU 500R).

Unsafe Condition

(d) This AD was prompted by the airplane manufacturer developing modifications that revise or eliminate the need for restrictions to in-flight APU starts. We are issuing this AD to prevent flame backflow into the APU compartment through the eductor during in-flight APU starts, which could result in fire in the APU compartment.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Requirements of AD 2001–10–01, Amendment 39–12226 and New Note

Airplane Flight Manual (AFM) Revision

(f) Within 25 flight hours or 10 days after May 29, 2001 (the effective date of AD 2001–10–01), whichever occurs first, accomplish the actions required by paragraphs (f)(1) and (f)(2) of this AD.

(1) Install a placard on or near the APU start/stop switch panel that reads:

''CAUTION: IN-FLIGHT APU STARTS ARE PROHIBITED''

Note 1: Installing a placard in accordance with EMBRAER Alert Service Bulletin 145–49–A017, dated April 12, 2001, is acceptable for compliance with the action required by paragraph (f)(1) of this AD.

(2) Revise the Limitations section of the AFM to include the information on the placard, as specified in paragraph (f)(1) of this AD, and to limit APU starts to ground conditions only. This may be accomplished by inserting a copy of this AD in the AFM.

Note 2: Because APU starts are prohibited in flight when an engine-driven generator is inoperative, the APU must be started on the ground in order to dispatch, and the APU must be kept operational for the entire flight.

Terminating Requirements of This AD and Optional Action

Optional New Limitations for APU Starts

(g) Doing the actions specified in paragraphs (g)(1) and (g)(2) of this AD in accordance with EMBRAER Service Bulletin 145–49–0017, Change 01, dated June 7, 2001, terminates the requirements of paragraph (f) of this AD.

(1) Measure the gap between the APU and the APU exhaust silencer, install a flush-type APU air inlet, and install or replace, as applicable, the placard on or near the APU start/stop switch panel with a placard that reads:

''CAUTION: IN-FLIGHT APU STARTS ARE LIMITED TO FLIGHT ENVELOPE UP TO 15KFT/320KIAS (NORMAL APU STARTS) OR 15KFT/200KIAS (BATTERY SUPPORT ONLY)''

(2) Revise the Limitations section of the AFM to include the information on the placard specified in paragraph (g)(1) of this AD to limit APU starts. This may be accomplished by inserting a copy of this AD

in the AFM. Remove any existing copy of AD 2001–10–01 from the AFM.

Terminating Action for This AD

(h) Within 8,000 flight hours after the effective date of this AD, measure the gap between the APU and the APU exhaust silencer, install a flush type APU air inlet, remove any placard on or near the APU start/stop switch panel that limits APU starts, and reidentify the APU cowling, in accordance with EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002, except as provided by paragraph (j) of this AD. Doing the actions in paragraph (h) of this AD terminates the requirements of paragraphs (f) and (g) of this AD and any copy of AD 2001–10–01 or this AD may be removed from the AFM.

Prior to or Concurrent Requirements

(i) Prior to or concurrently with the actions specified in paragraphs (g) and (h) of this AD, install an APU silencer in accordance with EMBRAER Service Bulletin 145–49–0009, Change 07, dated September 1, 2002.

Contact the FAA or Departmento de Aviacao Civil (DAC)

(j) If, during the actions required by paragraphs (g) and (h) of this AD, any measurement exceeds the limits specified in EMBRAER Service Bulletin 145–49–0017, Change 01, dated June 7, 2001; or EMBRAER Service Bulletin 145–49–0018, Change 03, dated January 3, 2002; as applicable; and the service bulletin specifies to contact EMBRAER: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the DAC (or its delegated agent).

Actions Accomplished According to Previous Issue of Service Bulletin

(k) Actions accomplished before the effective date of this AD according to EMBRAER Service Bulletin 145–49–0017, dated May 15, 2001, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) AMOCs approved previously in accordance with AD 2001–10–01, amendment 39–12226, are approved as AMOCs for the corresponding requirements in paragraph (f) of this AD.

Related Information

(m) Brazilian airworthiness directive 2001–04–02R2, dated June 29, 2001, also addresses the subject of this AD.

Issued in Renton, Washington, on December 30, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–539 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20023; Directorate Identifier 2004–NM–49–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 707 airplanes and Model 720 and 720B series airplanes. The existing AD currently requires a preventive modification of the front spar fitting on the outboard engine nacelle. This proposed AD would remove the requirement to do this preventive modification, and would require repetitive inspections for cracking of the front spar fitting of the inboard and outboard nacelle struts, and replacement of any cracked fitting with a new fitting. The proposed AD would also apply to more airplanes. This proposed AD is prompted by a report indicating that a crack was found in a front spar fitting that had been replaced as part of the modification required by the existing AD. We are proposing this AD to detect and correct this cracking, which could result in reduced structural integrity of the engine nacelle, and consequent separation of an engine from the airplane.

DATES: We must receive comments on this proposed AD by February 28, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
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- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20023; the directorate identifier for this docket is 2004–NM–49–AD.

FOR FURTHER INFORMATION CONTACT: Candice Gerretsen, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6428; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20023; Directorate Identifier 2004–NM–49–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

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