

or repaired in the areas addressed by these inspections and CDCCLs, the operator may not be able to accomplish the inspections and CDCCLs, described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (o) of this AD. The request should include a description of changes to the required inspections and CDCCLs that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to reduce the potential of ignition sources inside fuel tanks, which in combination with flammable fuel vapors, could result in fuel tank fire or explosions and consequent loss of the airplane.

Compliance

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

Revision to the Airworthiness Limitations Section

(g) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the inspections specified in section 2.2.3 of the Goodrich A300–600 Instructions for Continued Airworthiness, Document T3012–0005–0101, Revision B, dated June 12, 2008.

(h) Within six months after the effective date of this AD, do a general visual inspection for tank unit separation and compensator separation of the: center, inner, outer fuel tanks, and trim fuel tanks of the tank units, in accordance with section 2.2.3 of the Goodrich A300–600 Instructions for Continued Airworthiness, Document T3012–0005–0101, Revision B, dated June 12, 2008. If incorrect separation is found, in accordance with section 2.2.3 of the Goodrich A300–600 Instructions for Continued Airworthiness, Document T3012–0005–0101, Revision B, dated June 12, 2008, before further flight, correct the separation in accordance with the airplane maintenance manual for the corresponding inspection specified in section 2.2.3 of the Goodrich A300–600 Instructions for Continued Airworthiness Document T3012–0005–0101, Revision B, dated June 12, 2008. A review of airplane maintenance records is acceptable in lieu of this inspection if the requirement of Table 6 in section 10.1 of the Goodrich A300–600 Instructions for Continued Airworthiness, Document T3012–0005–0101, Revision B, dated June 12, 2008, can be conclusively determined to have been done from that review.

(i) Within 30 days after the effective date of this AD, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in section 10.1 of the

Goodrich A300–600 Instructions for Continued Airworthiness, Document T3012–0005–0101, Revision B, dated June 12, 2008.

(j) Except as provided by paragraph (o) of this AD: After accomplishing the actions specified in paragraphs (g) and (i) of this AD, no alternative inspection, inspection intervals, or CDCCLs may be used.

Actions Done According to Previous Service Information

(k) Inspections are acceptable for compliance with the requirements of paragraph (h) of this AD, if done before the effective date of this AD, in accordance with Goodrich Service Bulletin 300723–0101–28–01, dated April 15, 2004.

(l) Inspections are also acceptable for compliance with the requirements of paragraph (h) of this AD, if done in accordance with Goodrich Service Bulletin 300723–0101–28–01, Revision 1, dated July 1, 2004.

Acceptable Methods of Compliance for AD 2004–05–05

(m) Doing the inspections in section 2.2.3 of the Goodrich A300–600 Instructions for Continued Airworthiness Document T3012–0005–0101, Revision B, dated June 12, 2008, is considered an acceptable method of compliance to paragraphs (b) and (c) of AD 2004–05–05, amendment 39–13499.

(n) Doing the inspections in accordance with Goodrich Service Bulletin 300723–0101–28–01, Revision 1, dated July 1, 2004, is an acceptable method of compliance to paragraphs (b) and (c) of AD 2004–05–05.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, Boston Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Marc Ronell, Aerospace Engineer, ANE–150, FAA, Boston ACO, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7776; fax (781) 238–7170.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on April 2, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–8081 Filed 4–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0083; Directorate Identifier 2006–NM–266–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by May 4, 2009.

ADDRESSES: You may send comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** (202) 493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- **Hand Delivery:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., 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), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227-901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927-5852 or +55 12 3309-0732; fax: +55 12 3927-7546; e-mail: distrib@embraer.com.br; Internet: <http://www.flyembraer.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2007-0083; Directorate Identifier 2006-NM-266-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on October 25, 2007 (72 FR 60595). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since the earlier NPRM was issued, we have determined that the procedures specified in paragraphs (f)(5)(ii), (f)(6)(i), (f)(6)(ii), (f)(7), and (f)(8) of the earlier NPRM need to be revised for the reasons cited in our response to the comment submitted by American Eagle Airlines below. The earlier NPRM corresponds to Brazilian Airworthiness Directive 2006-09-03R1, effective January 4, 2007 (referred to after this as "the MCAI").

The MCAI describes procedures for inspecting the engine anti-icing system valves and tubes to detect damage and, if necessary, replacing the anti-icing system valves. You may obtain further information by examining the MCAI in the AD docket.

Comments

We have considered the following comments received on the earlier NPRM.

Request To Clarify if Earlier NPRM Will be Delayed Due to a Malfunction Related to Part Number (P/N) C146009-4

American Eagle Airlines, Inc. states that it has experienced malfunctions of the engine anti-ice valve (EAIV) P/N C146009-4 installed during accomplishment of Embraer Service Bulletin 145-30-0044, Revision 03, dated December 12, 2006; and Embraer Service Bulletin 145-30-0049, Revision 01, dated October 19, 2006. These service bulletins are cited in the earlier NPRM as appropriate sources of service information for replacing the EAIV. The commenter asks if implementing the earlier NPRM will be delayed until the current problems with the P/N C146009-4 valve are identified and corrected.

We have determined that the reported malfunctions and failure of the EAIV P/N C146009-4 are due to piston rib breakage found in the EAIV (P/N C146009-2/-3 reworked to C146009-4) reworked in accordance with one of the service bulletins in the following table.

Embraer Service Bulletin	Revision	Date
145-30-0044	Original	October 31, 2005.
145-30-0044	01	June 26, 2006.
145-30-0044	02	September 25, 2006.
145-30-0044	03	December 12, 2006.
145LEG-30-0018	Original	June 26, 2006.
145LEG-30-0018	01	September 25, 2006.
145LEG-30-0018	02	December 12, 2006.

Embraer Service Bulletin 145LEG-30-0018, Revision 02, dated December 12, 2006, is also cited in the earlier NPRM as an appropriate source of service information for replacing the anti-ice valve.

We have determined that the piston rib failure mode of P/N C146009-4 is not related to the unsafe condition addressed by this supplemental NPRM. EMBRAER has stated that the new failure mode has no effect on safety because there is an engine indicating and crew alerting system (EICAS)

message related to the event. There is no indication that this failure could lead to engine anti-ice system clogging and the final effect of this failure mode is to maintain the EAIV in "open" position, therefore maintaining unobstructed bleed air for engine anti-icing. We have not changed this supplemental NPRM in this regard.

However, EMBRAER has issued Service Bulletins 145-30-0044, Revision 04, dated May 14, 2008; and 145LEG-30-0018, Revision 03, dated May 14, 2008. The latest revisions of

these service bulletins contain essentially the same procedures as the previous issues, except these service bulletins include revisions to the referenced Hamilton Sundstrand/Microtecnica procedures for upgrading the EAIV P/N C146009-2/-3 to P/N C146009-4 by including dye-penetrant inspections of the piston. We have revised paragraphs (f)(5)(i), (f)(6)(ii), (f)(7), (f)(8), and (f)(9) of the supplemental NPRM to refer to Embraer Service Bulletins 145-30-0044, Revision 04, dated May 14, 2008; and

145LEG-30-0018, Revision 03, dated May 14, 2008.

Also, EMBRAER has released Service Newsletter (SNL) 145-30-0021, dated May 26, 2008, informing the operators about the new failure mode and its effect on P/N C146009-4. EMBRAER and ANAC have stated that they will continue monitoring the occurrence reports related to the failure of P/N C146009-4. If additional data are presented that would justify additional actions, we might consider further rulemaking on this issue. We have not changed this supplemental NPRM in this regard.

Request to Correct Service Information Citation

EMBRAER and ExpressJet request that we correct an error in paragraph (f)(5)(ii) of the earlier NPRM. EMBRAER states that, rather than: "If the valve was installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145-30-0044, Revision 03, dated December 12, 2006," this sentence should cite the original issue of the service information: Embraer Service Bulletin 145-30-0044, dated October 31, 2005. ExpressJet also states that we should revise the service information citation as described, but adds that we should also refer to Embraer Service Bulletin 145-30-0044, Revision 01, dated June 26, 2006, in paragraph (f)(5)(ii) of the earlier NPRM.

We agree with the requests to correct the service information citation. However, since Embraer Service Bulletin 145-30-0044, Revision 01, includes the special detailed inspections for removing any damage or obstruction of the anti-ice tubes, only Embraer Service Bulletin 145-30-0044, dated October 31, 2005, should be cited in paragraph (f)(5)(ii) of the supplemental NPRM. We have revised paragraph (f)(5)(ii) of the supplemental NPRM accordingly. For the same reasons, we also revised paragraph (f)(6)(i) of the supplemental NPRM to cite Embraer Service Bulletin 145-30-0044, dated October 31, 2005.

Request to Allow Records Check

ExpressJet requests that we revise paragraph (f)(1) of the earlier NPRM to allow an aircraft records review to determine the valve part number. ExpressJet states that, except for 10 airplanes, its fleet has been retrofitted to replace EAIV P/Ns C146009-2 and C146009-3 with P/N C146009-4 valves. ExpressJet asserts that the locations of those valves that have not been replaced can be easily determined from an aircraft records review and that requiring a general visual inspection

(GVI) of valves to determine their part numbers would be redundant and a waste of resources.

We disagree with this request. In order to ensure the correct configuration of EAIV part numbers are installed on the airplanes so that appropriate actions required by this AD are followed, we require a visual inspection of the part number, as specified in the MCAI, to determine if the valve is installed. However, as provided by paragraph (g)(1) of the AD, operators may request an alternative method of compliance (AMOC) if data are submitted to demonstrate that using a records review would provide an acceptable level of safety.

Request to Clarify Valve Replacement

ExpressJet requests that we clarify the valve replacement requirements described in paragraphs (f)(3) and (f)(4) of the earlier NPRM. ExpressJet asserts that replacing a P/N C146009-2 or C146009-3 valve with a valve having either of those P/Ns rather than a P/N C146009-4 valve will lead to excessive tracking and inspection requirements. ExpressJet states that this will constitute an enormous burden on operators and make it impossible or very difficult to meet certain documentation and tracking requirements of section 121.380 (a)(2)(i) of the Federal Aviation Regulations (14 CFR 121.380 (a)(2)(i)).

We acknowledge ExpressJet's statement that replacement with a P/N C146009-2 or C146009-3 valve leads to additional tracking and inspection requirements. However, we disagree that this will constitute an enormous burden on operators because replacing EAIV P/N C146009-2 or C146009-3 with a valve having either of those P/Ns rather than a P/N C146009-4 valve is an option. Although this option is more labor intensive, it will address the unsafe condition as required by the supplemental NPRM. Eventually operators would be required to replace P/N C146009-2 and C146009-3 valves with new P/N C146009-4 valves as specified in paragraphs (f)(7) and (f)(8) of the supplemental NPRM. We have not changed this supplemental NPRM in this regard.

Request to Allow Alternative Parts

Dukes, Inc., requests that we revise the earlier NPRM to permit the use of parts manufacturer approval (PMA) parts. The commenter states that in 2003 it designed, tested, and manufactured an approved PMA alternative valve (Dukes P/N 5460-00-1) to replace the P/N C146009-2 valve. The commenter states that this PMA valve is currently in operation in the field and that the PMA

valve design is not subject to the failure mode described in the earlier NPRM. Further, the commenter asserts that subsequent upgrades developed for P/N C146009-2 and -3 valves do not affect the form, fit, or function of the PMA valve. The commenter asserts that the reduced cost and shorter lead-time for the PMA valve would be of great benefit to operators. The commenter requests that we permit the use of the described PMA valves as replacements for P/N C146009-4 as well as P/N C146009-3 valves.

We do not agree with the request to allow the use of Dukes P/N 5460-00-1 as a replacement for P/Ns C146009-3 and C146009-4. The PMA request to allow Dukes P/N 5460-00-1 as a replacement for P/N C146009-4 as well as P/N C146009-3 valves has not been approved yet. However, as provided by paragraph (g)(1) of the AD, any person may request an AMOC if data are submitted to demonstrate that using a different replacement part would provide an acceptable level of safety. We have not changed this supplemental NPRM in this regard.

Request to Clarify Terminating Action

ExpressJet requests that we clarify that the actions specified in paragraph (f)(5)(ii) of the earlier NPRM are considered terminating action. ExpressJet states that it is clear that the actions described in paragraph (f)(5)(i) of the earlier NPRM are terminating actions. ExpressJet asserts, therefore, that after the inspection specified in paragraph (f)(5)(ii) is done, no further action is required because the installation and inspection specified in paragraph (f)(5)(ii) of the earlier NPRM is equivalent to the installation specified in paragraph (f)(5)(i). ExpressJet states that the action in paragraph (f)(5)(ii) of the earlier NPRM would also qualify as an exception to the minimum equipment list (MEL) requirement specified in paragraph (f)(6) of the earlier NPRM.

We acknowledge ExpressJet's comments regarding clarifying paragraph (f)(5)(ii) of the earlier NPRM. We have revised paragraph (f)(5)(ii) of the supplemental NPRM to include the following statement: After doing the actions specified in paragraph (f)(5)(ii) of this AD, no further action is required by this AD.

We have revised paragraph (f)(6)(i) of the supplemental NPRM to add Embraer Service Bulletin 145-30-0044, dated October 31, 2005. In addition, we have revised paragraph (f)(6)(ii) of the supplemental NPRM to add Embraer Service Bulletins 145-30-0044, Revision 01, dated June 26, 2006;

Revision 02, dated September 25, 2006; Revision 03, dated December 12, 2006; and Revision 04, dated May 14, 2008. Therefore, the MEL exception will be in accordance with paragraph (f)(6)(i) and (f)(6)(ii) of the supplemental NPRM.

Request to Address Parts Installed as Replacements

ExpressJet requests that we revise paragraph (f)(5)(ii) of the earlier NPRM to address parts installed as replacements in accordance with service information other than the service bulletins specified in paragraph (f)(5)(ii).

We agree with the request to address service information other than the service bulletins specified in paragraph (f)(5)(ii) of the supplemental NPRM. We have received reports of clogging of venturi tubes when parts were replaced in accordance with the airplane maintenance manual or illustrated parts catalog. We have determined that parts that were installed in accordance with a method other than those specified in paragraph (f)(5)(i) of this AD must be inspected. We have revised paragraph (f)(5)(ii) of this AD accordingly.

Request to Revise Costs of Compliance

Dukes, Inc., requests that we revise the Costs of Compliance paragraph in the earlier NPRM. The commenter states that the cost to modify P/N C146009-2 or -3 valves to the -4 configuration will be in excess of \$20,000 per valve.

We agree with the commenter. There are approximately 306 P/N C146009-2 and -3 valves (305 C146009-2 valves and 1 C146009-3 valve) that need to be replaced with P/N C146009-4 valves. The part would cost about \$27,507 (the cost to modify the part is up to \$23,444) and it would take about 5 work-hours to install. We have revised the Costs of Compliance paragraph in this supplemental NPRM accordingly. However, since certain parts of the P/N C146009-2 and -3 valve assemblies are re-workable, Hamilton Sundstrand and Microtechnica state that they have established commercial programs that reduce the cost substantially for the parts returned for modification.

Request to Review Additional Information on Earlier NPRM

Dukes, Inc., requests that we provide them with any additional information that was submitted after the comment period closed (November 26, 2007) for the earlier NPRM. Dukes states that it is aware that additional information may have been presented by a third party.

As stated earlier, we have received and reviewed new service information from EMBRAER. No additional

information other than what is contained in the docket has been submitted. We are not aware of any ex parte contacts that occurred during the rulemaking process. You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The street address for the Docket Operations office (telephone (800) 647-5527) is in the ADDRESSES section of the supplemental NPRM. You may also review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

Revisions to the Supplemental NPRM to Allow Compliance With Certain Service Bulletins

In the earlier NPRM, we inadvertently did not include references to the original issue of Embraer Service Bulletins 145-30-0049 and 145LEG-30-0016, both dated June 28, 2006, in paragraphs (f)(1)(ii), (f)(2), (f)(3), (f)(4), (f)(5)(ii), and (f)(6) of the earlier NPRM. These service bulletins are acceptable sources of service information for doing the actions specified in paragraphs (f)(1)(ii), (f)(2), (f)(3), (f)(4), (f)(5)(ii), and (f)(6) of the earlier NPRM. In order to correspond with the MCAI, we have revised paragraphs (f)(1)(ii), (f)(2), (f)(3), (f)(4), (f)(5)(ii), and (f)(6) of this supplemental NPRM to refer to Embraer Service Bulletin 145-30-0049, dated June 28, 2006; and Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 697 products of U.S. registry. We also estimate that it would take about 7 work-hours per product to comply with the requirements of this proposed AD. Required parts would cost up to \$55,014 per product (for airplanes having two affected parts; there are 306 affected parts). Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be up to \$8,807,433 or up to \$55,574 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking 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 rulemaking action.

Regulatory Findings

We 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 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. 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 and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 adding the following new AD:

Empresa Brasileira De Aeronautica S.A.

(Embraer): Docket No. FAA-2007-0083; Directorate Identifier 2006-NM-266-AD.

Comments Due Date

- (a) We must receive comments by May 4, 2009.

Affected ADs

- (b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes, certificated in any category, except airplanes having serial numbers 14500921, 14500928, 14500932, 14500949, 14500958, 14500971, 14500973 and up, which will have in-factory modification incorporated.

Subject

(d) Air Transport Association of America Code 30: Ice and Rain Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found the occurrence of engine anti-ice system valve failure, where the valve spring seat has broken and obstructed the anti-ice system venturi tube. Aircraft dispatch with that failure may be allowed by the operator Minimum Equipment List (MEL), since the engine anti-ice system valve be locked in the OPEN position. However, there is no readily available means to make sure the anti-ice system tubing is free of debris, allowing unrestricted hot airflow to the piccolo tube on the engine inlet lip. Therefore, should the aircraft encounter icing conditions, ice may accrete in the engine inlet lip and be ingested through the air inlet, resulting in possible engine damage and flame-out.

The required actions include an inspection to determine the part number of the engine anti-icing system valves; repetitive inspections of certain engine anti-icing system valves and tubes to detect damage, and replacement of the valves if damage is found; and eventual replacement of certain anti-icing system valves.

Actions and Compliance

- (f) Unless already done, do the following actions.

(1) PART I—Within the next 500 flight hours or 3 months after the effective date of this AD, whichever occurs first, carry out a general visual inspection of both LH (left-hand) and RH (right-hand) engine anti-ice system valves to determine their P/N (part number).

(i) If any engine anti-ice system valve with P/N C146009-2 is found, no further action is required by paragraph (f)(1) of this AD.

(ii) If any anti-ice system valve with P/N C146009-3 is found, before further flight: Remove it and carry out a detailed inspection regarding its integrity; and carry out a special detailed inspection for an obstruction in the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(A) If the valve is damaged or the tube is obstructed, before further flight: Replace the valve with a serviceable or new valve bearing P/N C146009-2, C146009-3, or C146009-4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(B) If the valve is not damaged or the tube is not obstructed, re-install the valve or install a serviceable or new valve bearing P/N C146009-2, C146009-3, or C146009-4; or re-install the tube; in accordance with the

Accomplishment Instructions of Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(iii) If any engine anti-ice system valve with P/N C146009-4 is found, no further action is required by paragraph (f)(1) of this AD. In this case, paragraphs (f)(2), (f)(3), (f)(4), (f)(7), and (f)(8) of this AD are not applicable. However, paragraphs (f)(5) and (f)(6) of this AD must be accomplished.

(2) PART II—Within the next 1,500 flight hours or 9 months after the effective date of this AD, whichever occurs first, and thereafter at intervals that do not exceed 1,000 flight hours or 6 months, whichever occurs first, carry out a detailed inspection for damage of both LH and RH engine anti-ice system valves bearing P/N C146009-2 or C146009-3; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; according to the detailed instructions and procedures described in Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable; and accomplish paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, as applicable.

(i) If the valve is damaged or the tube is obstructed, before further flight: Replace the valve with a serviceable or new valve bearing P/N C146009-2, C146009-3, or C146009-4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(ii) If the valve is not damaged, or the tube is not obstructed, before further flight: Re-install the valve or install a serviceable or new valve bearing P/N C146009-2, C146009-3, or C146009-4; or remove the obstruction; as applicable; in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(3) PART III—Any engine anti-ice system valve with P/N C146009-2 or C146009-3 that will be installed as a replacement as provided for in paragraph (f)(1) and (f)(2) of this AD, must undergo a detailed inspection for its integrity before installation, and any damage or obstruction repaired, according to the detailed instructions and procedures described in Embraer Service Bulletin 145-30-0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG-30-0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable; and additionally adhere to paragraphs (f)(3)(i) and (f)(3)(ii) of this AD, as applicable.

(i) If the valve is damaged, replace it with a serviceable or new valve bearing P/N C146009-2, C146009-3, or C146009-4; in accordance with the Accomplishment

Instructions of Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(ii) If the valve is not damaged, installation is permitted.

(4) PART IV—Any engine anti-ice system tubes that will be installed on the airplane as a replacement as provided for in paragraph (f)(1) and (f)(2) of this AD, must undergo a special detailed inspection before installation, and any damage or obstruction repaired, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable.

(5) PART V—If any engine anti-ice system valve with P/N C146009–4 has been found during the inspection required by paragraph (f)(1) of this AD, do paragraphs (f)(5)(i) or (f)(5)(ii) of this AD, as applicable, within the next 1,500 flight hours or 9 months after the effective date of this AD, whichever occurs first.

(i) If the valve was installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable; no further action is required by this AD.

(ii) If the valve was installed according to detailed instructions and procedures other than those specified in paragraph (f)(5)(i) of this AD; carry out a special detailed inspection in the corresponding engine anti-ice system tubes, and repair all damage and remove all obstructions; according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable. After doing the actions specified in paragraph (f)(5)(ii) of this AD, no further action is required by this AD.

(6) PART VI—Before aircraft dispatch with one or two engine anti-ice system valves inoperative (Master Minimum Equipment List (MMEL) 30–21–01), carry out a detailed inspection for damage of the affected engine anti-ice system valves; and a special detailed inspection for obstruction of the corresponding engine anti-ice system tubes; and repair any damage or obstruction before further flight. Do all actions according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0049, dated June 28, 2006, or Revision 01, dated October 19, 2006; or Embraer Service Bulletin 145LEG–30–0016, dated June 28, 2006, or Revision 01, dated February 5, 2007; as applicable; by accomplishing paragraph (f)(2) of this AD, unless:

(i) Valves with P/N C146009–4 have been previously installed according to the detailed

instructions and procedures described in Embraer Service Bulletin 145–30–0044, dated October 31, 2005; Embraer Service Bulletin 145LEG–30–0018, dated June 26, 2006; or Embraer Service Bulletin 145LEG–30–0018, Revision 01, dated September 25, 2006; as applicable; and additionally, paragraph (f)(5)(ii) of this AD has been accomplished; or

(ii) Valves with P/N C146009–4 have been previously installed according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(7) PART VII—Within the next 2,500 flight hours or 12 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–3, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(8) PART VIII—Within the next 6,000 flight hours or 30 months after the effective date of this AD, whichever occurs first, install engine anti-ice system valves bearing P/N C146009–4 in the LH and RH engine positions, replacing P/N C146009–2, according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006; Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006, or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable.

(9) PART IX—The installation of engine anti-ice system valves bearing P/N C146009–4 according to the detailed instructions and procedures described in Embraer Service Bulletin 145–30–0044, Revision 01, dated June 26, 2006, Revision 02, dated September 25, 2006, Revision 03, dated December 12, 2006; or Revision 04, dated May 14, 2008; or Embraer Service Bulletin 145LEG–30–0018, Revision 02, dated December 12, 2006, or Revision 03, dated May 14, 2008; as applicable; constitutes a terminating action for this AD, in lieu of the repetitive inspections required by paragraph (f)(2) of this AD.

Note 1: For the purposes of this AD, a general visual inspection is: “A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level

of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.”

Note 2: For the purposes of this AD, a detailed inspection is: “An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.”

Note 3: For the purposes of this AD, a special detailed inspection is: “An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.”

FAA AD Differences

Note 4: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to Brazilian Airworthiness Directive 2006–09–03R1, effective January 4, 2007; and to the service bulletins listed in Table 1 of this AD; for related information.

TABLE 1—RELATED SERVICE BULLETINS

Embraer Service Bulletin—	Revision—	Dated—
145-30-0044	01	June 26, 2006.
145-30-0044	02	September 25, 2006.
145-30-0044	03	December 12, 2006.
145-30-0044	04	May 14, 2008.
145-30-0049	Original	June 28, 2006.
145-30-0049	01	October 19, 2006.
145LEG-30-0016	Original	June 28, 2006.
145LEG-30-0016	01	February 5, 2007.
145LEG-30-0018	02	December 12, 2006.
145LEG-30-0018	03	May 14, 2008.

Issued in Renton, Washington, on March 30, 2009.

Stephen P. Boyd,

*Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.*

[FR Doc. E9-8082 Filed 4-8-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 38

[Docket No. RM05-5-013]

Standards for Business Practices and Communication Protocols for Public Utilities

April 3, 2009.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Notice of proposed rulemaking;
extension of time for comments.

SUMMARY: On March 19, 2009, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) proposing to incorporate by reference in its regulations at 18 CFR 38.2 the latest version (Version 002.1) of certain business practice standards adopted by the Wholesale Electric Quadrant of the North American Energy Standards Board (NAESB). The date for filing comments on the Commission's NOPR is being extended at the request of the Electric Power Supply Association and the Edison Electric Institute.

DATES: Comments on the proposed rule are due May 26, 2009.

ADDRESSES: You may submit comments identified by Docket No. RM05-5-013, by one of the following methods:

- *Agency Web Site:* <http://ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble of the Commission's March 19, 2009 NOPR.

- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Ryan M. Irwin (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6454.

Valerie Roth (technical issues), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8538.

Gary D. Cohen (legal issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8321.

SUPPLEMENTARY INFORMATION:

Notice of Extension of Time

On April 1, 2009, the Electric Power Supply Association (EPSA) and the Edison Electric Institute (EEI) filed a joint motion in the above-proceeding, for an extension of time to file comments on the Commission's March 19, 2009 Notice of Proposed Rulemaking, 74 FR 12739, Mar. 25, 2009 which proposed to incorporate by reference standards developed by the North American Energy Standards Board.¹ In their motion, EPSA and EEI request that the date for filing comments on the NAESB NOPR be extended to the date when comments are due to be filed on the Commission's March 19, 2009 NOPR addressing reliability standards submitted to the Commission for approval by the North American Electric

Reliability Company (NERC).² EPSA and EEI state that because of the importance of the market issues addressed in the NAESB NOPR and the NERC NOPR and because these issues impact each other, additional time is needed to adequately address both NOPRs and to submit responsive comments.

Upon consideration, notice is hereby given that an extension of time for interested parties for filing comments on the NAESB NOPR is granted to and including May 26, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-8054 Filed 4-8-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 589

[Docket No. FDA-2002-N-0031] (formerly
Docket No. 2002N-0273)

RIN 0910-AF46

Substances Prohibited From Use in Animal Food or Feed; Final Rule: Proposed Delay of Effective Date

AGENCY: Food and Drug Administration,
HHS.

ACTION: Notice of proposed delay of
effective date.

SUMMARY: The Food and Drug Administration (FDA) is seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled "Substances Prohibited From Use in Animal Food or Feed," published in the **Federal Register** on

² Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System, 126 FERC ¶ 61,249 (2009) (NERC NOPR).

¹ Standards for Business Practices and Communication Protocols for Public Utilities, 126 FERC ¶ 61,248 (2009) (NAESB NOPR).