DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18752; Directorate Identifier 2004–NM–107–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 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) for certain EMBRAER Model EMB–135 and EMB–145 series airplanes. That AD currently requires replacing the nose landing gear wheel nuts and associated inner and outer seals, and reidentifying the landing gear strut. This proposed AD would add an airplane to the applicability and revise a part number for a replacement part. This proposed AD is prompted by a report of an invalid part number for the new nose landing gear wheel nut. We are proposing this AD to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing.

DATES: We must receive comments on this proposed AD by September 3, 2004.

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.

You can get the service information identified in this proposed AD from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

You may examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or 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.

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:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form ''Docket No. FAA–2004–99999.'' The Transport Airplane Directorate identifier is in the form ''Directorate Identifier 2004–NM–999–AD.'' Each DMS AD docket also lists the directorate identifier (''Old Docket Number'') as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2004–18752; Directorate Identifier 2004–NM–107–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 may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

You may examine the AD docket 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 April 26, 2004, we issued AD 2004–09–15, amendment 39–13604 (69 FR 24940, May 5, 2004), for certain EMBRAER Model EMB–135 and EMB–145 series airplanes. That AD requires replacing the nose landing gear wheel nuts and associated inner and outer seals, and reidentifying the landing gear strut. That AD was prompted by reports that the outer wheel bearings of certain nose landing gear wheels have failed. We issued that AD to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing.

Actions Since Existing AD Was Issued

Since we issued AD 2004–09–15, we received a report indicating that a part number (P/N) in the AD was invalid. Due to a typographical error, paragraph (a) of that AD (specified as paragraph (f) of this proposed AD) specifies to replace the nose landing gear wheel nuts ''with new wheel nuts, P/N 170–0082.'' P/N 170–0082 does not exist; the correct P/N is 1170–0082.

In addition, there is a typographical error in the applicability of AD 2004–09–15. Serial number (S/N) 146375 does not exist; the correct S/N is 145375.

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 2004–09–15 to continue to require replacing the nose landing gear wheel nuts and associated inner and outer seals, and reidentifying the landing gear strut. This proposed AD also would add an airplane to the applicability and revise a part number for a replacement part. The proposed AD would require you to use the service information described in AD 2004–09–15 to perform these actions.

Change to Existing AD

This proposed AD would retain certain requirements of AD 2004–09–15. Since AD 2004–09–15 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 2004–09–15	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).

Costs of Compliance

This proposed AD would affect about 365 airplanes of U.S. registry.

The actions that are required by AD 2004–09–15 and retained in this proposed AD take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Required parts will be provided free of charge by the airplane manufacturer. Based on these figures, the estimated cost of the currently required actions for U.S. operators is $23,725, or $65 per airplane.

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 39–13604 (69 FR 24940, May 5, 2004) and adding the following new airworthiness directive (AD):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2004–18752; Directorate Identifier 2004-NM–107-AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by September 3, 2004.

Affected ADs

(b) This AD supersedes AD 2004–09–15, amendment 39–13604.

Applicability

(c) This AD applies to Model EMB–135 and –145 series airplanes having serial numbers (S/N) 145003 through 145373 inclusive, 145375, 145377 through 145391 inclusive, and 145393 through 145408 inclusive; certificated in any category; equipped with nose landing gear struts, part number (P/N) 1170C0000–01 (including all modifications), P/N 1170C0000–02, or P/N 1170C0000–03.

Unsafe Condition

(d) This AD was prompted by a report of an invalid part number for the new nose landing gear wheel nut. We are issuing this AD to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing.

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.

Replacement and Reidentification

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD, replace the nose landing gear wheel nuts, P/N 1170–0007, with new wheel nuts, P/N 1170–0082; replace the associated inner and outer seals, P/N 68–1157 or P/N 72–290, with new seals, P/N 68–1498; and reidentify the struts. Do the actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–32–0068, Change 04, dated January 20, 2003; or EMBRAER Service Bulletin 145LEG–32–0006, Change 01, dated January 20, 2003; as applicable.

(1) For Model EMB–135 and –145 series airplanes having serial numbers (S/N) 145003 through 145373 inclusive, 145377 through 145391 inclusive, and 145393 through 145408 inclusive: Within 12 months after June 9, 2004 (the effective date of AD 2004–09–15).

(2) For Model EMB–145 series airplane having S/N 145375: Within 12 months after the effective date of this AD.

(g) Actions accomplished before the effective date of this AD per the EMBRAER Service Bulletins listed in Table 1 of this AD are considered acceptable for compliance with the corresponding actions specified in this AD:

TABLE 1.—SERVICE BULLETINS CONSIDERED ACCEPTABLE FOR COMPLIANCE

EMBRAER service bulletin	Change level	Date
145–32–0068	Original	May 4, 2001.
145–32–0068	01	Jan. 14, 2002.
145–32–0068	02	Apr. 16, 2002.
145–32–0068	03	Nov. 25, 2002.
145LEG–32–0006.	Original	Nov. 26, 2002.

Parts Installation

(h) As of the effective date of this AD, no person may install nose landing gear wheel nuts, P/N 1170–0007, or the associated inner and outer seals, P/N 68–1157 or P/N 72–290, on any airplane.

Alternative Methods of Compliance (AMOC)

(i) 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.

Related Information

(j) Brazilian airworthiness directive 2002–03–01R2, dated April 22, 2003, also addresses the subject of this AD.

Issued in Renton, Washington, on July 27, 2004.

Kyle L. Olsen,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–17761 Filed 8–3–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–37–AD]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc. Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HS, 369HM, 500N, and OH–6A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified MD Helicopters, Inc. (MDHI) model helicopters. The AD would require replacing or reworking certain forward (fwd) and aft landing gear assemblies. This proposal is prompted by five reports of landing gear strut (strut) failures. The actions specified by the proposed AD are intended to prevent cracking of the fwd and aft struts, failure of a strut, and subsequent loss of control of the helicopter during landing.

DATES: Comments must be received on or before October 4, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2003–SW–37–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.* Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5228, fax (562) 627–5210.

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 should 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 will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

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 mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2003–SW–37–AD.'' The postcard will be date stamped and returned to the commenter.

Discussion

This document proposes adopting a new AD for MDHI Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HS, 369HM, 500N, and OH–6A helicopters. The AD would require removing all landing gear fairings; determining the number and location of rivets that attach the landing gear fairing support assembly to the landing gear strut; and if three rivets (fwd, aft and inboard) are present, replacing or reworking the landing gear assembly. If only the fwd and aft rivets are present, no rework would be required by the proposed AD. This proposal is prompted by five reports of strut failures. Operators of the helicopters with failed struts do not fall into any clear category of service. For example, one was a tour operator in Niagara Falls, New York and another was a police department operator in Calgary, Canada. In its original design, the fairing support was attached to the strut with three rivets. In 1994 the manufacturer released a design change to attach the fairing support assembly with only forward and aft rivets because of the possibility of reduced service life of the strut with the additional inboard rivet hole present. Some landing gear struts entered service with an additional rivet hole drilled on the inboard side of the strut. This additional rivet hole is resulting in decreased strength of the strut and subsequent cracking. The actions specified by the proposed AD are intended to prevent cracking of the fwd and aft struts, failure of a strut, and subsequent loss of control of the helicopter during landing.

The FAA has reviewed MD Helicopters Service Bulletin SB369H–244, SB369E–094, SB500N–022, SB369D–200, and SB369F–078, dated April 7, 2000 (SB), which describes procedures for determining the number and location of rivets attaching the landing gear fairing support assembly to the landing gear strut. Where three rivets are present, instructions are provided to rework the landing gear assembly and replace any cracked strut assembly.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, the proposed AD would require removing all landing gear fairings; determining the number and location of rivets that attach the landing gear fairing support assembly to the landing gear strut; and if three rivets (fwd, aft and inboard) are present, replacing or reworking the landing gear assembly. If only two rivets are present, no rework is required by this AD. Although this action does not propose to require that access holes be drilled through the fairings to facilitate future inspections as described in the manufacturer's SB, that action may be part of a future AD if additional repetitive inspections become necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that this proposed AD would affect 651 helicopters of U.S. registry, and determining the number of rivets would take approximately 7 work hours, reworking an affected ''3-hole'' strut would take approximately 1 work hour, and installing a new strut would take approximately 1.5 work hours. The average labor rate is $65 per work hour. Required parts (new struts) would cost approximately $9,937 each. Assuming all 651 helicopters will require inspection, 325 helicopters will need two struts reworked, and 5 aircraft will need two new struts installed, the total cost of the proposed AD on U.S. operators would be $438,800.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and