

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

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007-0119, dated May 2, 2007, and Dassault Service Bulletin F2000EX-138, dated March 5, 2007, for related information.

Issued in Renton, Washington, on July 23, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. E8-17792 Filed 8-1-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0831; Directorate Identifier 2008-NM-051-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes and Model ERJ 190 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. 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 failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

* * * * *

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight

emergencies. 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 September 3, 2008.

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.

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:

Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; 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-2008-0831; Directorate Identifier 2008-NM-051-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

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2007-12-01 and 2007-12-02, both effective January 24, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

It has been found the occurrence of failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight emergencies. The corrective actions include determining the part number and serial number of the RAT, and re-identifying or replacing the RAT if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued Service Bulletins 170-24-0041, Revision 01, dated August 28, 2007; and 190-24-0012, Revision 01, dated August 21, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

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.

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 124 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. 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 \$9,920, or \$80 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, 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-2008-0831; Directorate Identifier 2008-NM-051-AD.

Comments Due Date

- (a) We must receive comments by September 3, 2008.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to all EMBRAER Model ERJ 170-100 LR, -100 SE, -100 STD, -100 SU, -200 LR, -200 STD, and -200 SU airplanes; and Model ERJ 190-100 IGW, -100 LR, -100 STD, -100 ECJ, -200 IGW, -200 LR, and -200 STD airplanes; certificated in any category.

Subject

- (d) Air Transport Association (ATA) of America Code 24: Electrical power.

Reason

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

It has been found the occurrence of failed bearings of the RAT [ram air turbine] generator, which may lead to a RAT generator failure. The RAT generator was designed to provide emergency electrical power to essential systems in case of loss of all other sources of aircraft AC electrical power.

Loss of emergency electrical power could result in reduced controllability of the airplane during in-flight emergencies. The corrective actions include determining the part number (P/N) and serial number (S/N) of the RAT, and re-identifying or replacing the RAT if necessary.

Actions and Compliance

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

(1) Within 1,300 flight hours or 6 months after the effective date of this AD, whichever occurs first, determine the P/N and S/N of the RAT. For airplanes on which a RAT having P/N 1703781 is installed, do the actions specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, as applicable, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 170-24-0041, Revision 01, dated August 28, 2007; or 190-24-0012, Revision 01, dated August 21, 2007; as applicable.

(i) For airplanes on which the S/N on the RAT is 0110, 0150, 0255, or 0354 through 0419: Before further flight, re-identify RAT P/N 1703781 to P/N 1703781A.

(ii) For airplanes on which the S/N on the RAT is 0005, 0101 through 0109, 0111 through 0149, 0151 through 0254, or 0256 through 0353: Within 6,000 flight hours or 26 months after the effective date of this AD, whichever occurs first, replace the RAT with a RAT having P/N 1703781A.

(2) Previous accomplishment of the re-identification or replacement of the RAT before the effective date of this AD in accordance with EMBRAER Service Bulletin 170-24-0041 or 190-24-0012, both dated May 4, 2007, meets the requirements of (f)(1)(i) and (f)(1)(ii) of this AD, as applicable.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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 MCAI Brazilian Airworthiness Directives 2007–12–01 and 2007–12–02, both effective January 24, 2008, and EMBRAER Service Bulletins 170–24–0041, Revision 01, dated August 28, 2007; and 190–24–0012, Revision 01, dated August 21, 2007; for related information.

Issued in Renton, Washington, on July 23, 2008.

Ali Bahrami,

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

[FR Doc. E8–17777 Filed 8–1–08; 8:45 am]

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[REG–120844–07]

RIN 1545–BG70

Rules for Home Construction Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and Notice of Public Hearing.

SUMMARY: This document contains proposed regulations amending the regulations under § 1.460 to provide guidance to taxpayers in the home construction industry regarding accounting for certain long-term construction contracts that qualify as home construction contracts under section 460(e)(6) of the Internal Revenue Code (Code) and to provide guidance to taxpayers with long-term contracts under section 460(f) regarding certain changes in method of accounting for long-term contracts. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by November 3, 2008. Outlines of topics to be discussed at the public hearing scheduled for December 5, 2008, at 10 a.m. must be received by November 13, 2008.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–120844–07), room 5203, Internal Revenue Service, POB 7604 Ben Franklin Station, Washington, DC 20224. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–120844–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal

eRulemaking Portal at www.regulations.gov (IRS REG–120844–07). The public hearing will be held in the auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Brendan P. O'Hara, (202) 622–4920; concerning submission of comments, the hearing, or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background and Explanation of Provisions**

This document contains a proposed amendment to the Income Tax Regulations, 26 CFR part 1, under section 460 and §§ 1.460–3, 1.460–4, 1.460–5 and 1.460–6 of the Income Tax Regulations. In general, section 460(a) requires taxpayers to use the percentage of completion method (PCM) to account for taxable income from any long-term contract. Section 460(e) exempts home construction contracts from the general requirement to use the percentage of completion method of accounting. Section 460(e)(6) defines a home construction contract to be any construction contract if 80 percent or more of the total estimated contract costs are reasonably expected to be attributable to the construction of (i) dwelling units contained in buildings containing 4 or fewer dwelling units, and (ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units. Section 460(e)(4) defines a construction contract to be any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvement of, real property.

These proposed regulations expand the types of contracts eligible for the home construction contract exemption and amend the rules for how taxpayer-initiated changes in methods of accounting to comply with the regulations under section 460 may be implemented.

Definition of a Home Construction Contract*Improvements to Real Property*

The definition of a *construction contract* under section 460(e) includes many transactions involving land developers and construction service providers in the home construction industry. For example, a construction contract under section 460(e) includes a

contract for the provision of land by the taxpayer if the estimated total allocable contract costs attributable to the taxpayer's construction activities (not including the cost of the land provided to the customer) are 10 percent or more of the contract's total contract price.

As noted, section 460(a) requires that the income from any long-term contract be recognized using the percentage of completion method. However, taxpayers with contracts that meet the definition of a “home construction contract” are not required to use the percentage of completion method for those contracts and may use an exempt method. Exempt methods commonly used to account for home construction contracts include the completed contract method (CCM) and the accrual method.

Under section 460, a home construction contract includes any construction contract if 80 percent of the total estimated contract costs are reasonably expected to be attributable to the construction of improvements to real property directly related to qualifying dwelling units and located on the site of such dwelling units. Commentators have suggested that many contracts entered into by land developers in the home construction industry should fall within the definition of a home construction contract.

The proposed regulations expand the scope of the home construction contract exemption by providing that a contract for the construction of common improvements is considered a contract for the construction of improvements to real property directly related to the dwelling unit(s) and located on the site of such dwelling unit(s), even if the contract is not for the construction of any dwelling unit. Therefore, under the proposed regulations, a land developer that is selling individual lots (and its contractors and subcontractors) may have long-term construction contracts that qualify for the home construction contract exemption.

Townhouses, Rowhouses, and Condominiums

Under section 460, a home construction contract also includes any construction contract if 80 percent of the total contract costs are reasonably expected to be attributable to the construction of dwelling units contained in buildings containing four or fewer dwelling units. Section 460(e)(6) states that each townhouse or rowhouse shall be treated as a separate building, regardless of the number of townhouses or rowhouses physically attached to each other. In certain circumstances, the terms condominium