

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 99-NM-198-AD; Amendment 39-11346; AD 99-21-03]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-145 series airplanes. This action requires revising the Airplane Flight Manual (AFM) for operation in the rain, and modifying the anemometric static ports. This action also provides for optional terminating action for the requirements of this AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to limit or prohibit the use of the autopilot and flight director during the descent and approach to land in the rain, and to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain; such conditions could result in reduced controllability of the airplane during the descent and approach to land in the rain.

DATES: Effective October 18, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 1999.

Comments for inclusion in the Rules Docket must be received on or before November 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-198-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Robert Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703-6071; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION: The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB-145 series airplanes. The DAC advises that there have been several occurrences of vertical speed, airspeed, and altitude fluctuations, and/or erratic indications [which in some cases have even caused autopilot and flight director disengagement and ground proximity warning system (GPWS) false warnings], during descent and approach to land in the rain. The cause of these fluctuations and erratic indications has been attributed to a flaw in the design of the anemometric static ports. These conditions, if not corrected, could result in reduced controllability of the airplane during the descent and approach to land in the rain.

Explanation of Relevant Service Information

Embraer has issued Service Bulletin No. 145-34-0026, Change No. 01, dated June 23, 1999, which describes procedures for modification of the central hole of the anemometric static ports and installation of nipples between the static ports and their hoses to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 1999-06-01R2, dated July 19, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to require certain AFM revisions and a modification of the central hole of the anemometric static ports. The modification, along with the optional replacement of the current connection adapter installed between the hose ends and the static ports with a new nipple adapter, would terminate the requirements of this AD. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This AD and the Foreign AD

This AD differs from the parallel Brazilian airworthiness directive in that this AD imposes a limitation in the AFM to prohibit the use of the autopilot or flight director during the approach in the rain. The Brazilian airworthiness directive AD instead addresses a CAUTION note that specifies hand-flying the airplane or using the autopilot basic mode, and relying on the primary flight display (PFD) raw information when operating in the rain. In addition, the replacement of calibration charts in the AFM following the modification of the static ports, as required by this AD, is not addressed by the Brazilian airworthiness directive.

Further, the terminating action (replacement of the current connection adapter with a new nipple adapter), provided as optional in this AD, is mandated by the Brazilian AD.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the replacement of the current connection adapter with a new nipple adapter, which will

constitute terminating action for the modification of the central hole of the anemometric static ports required by this AD action. However, the planned compliance time for the replacement of the current connection adapter with a new nipple adapter is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-198-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99-21-03 Empresa Brasileira De Aeronautica S.A. (Embraer):

Amendment 39-11346. Docket 99-NM-198-AD.

Applicability: Model EMB-145 series airplanes; serial numbers 145004 through 145144 inclusive, 145146 through 145149 inclusive, and 145152; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or

repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To limit or prohibit the use of the autopilot and flight director during the descent and approach to land in the rain, and to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain, which could result in reduced controllability of the airplane during the descent and approach to land in the rain, accomplish the following:

AFM Revisions

(a) Within 24 hours after the effective date of this AD, revise the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD into the AFM.

(1) Add the following statement in Section 2, Limitations, under AUTOPILOT: "The use of either the autopilot or flight director is prohibited during approach to land when operating in the rain."

(2) Add the following CAUTION note in Section 4, Normal Procedures, under DESCENT: "CAUTION: When operating in rain, monitor the vertical speed indicator (VSI) and indicated airspeed (IAS), and, if oscillations are observed, disengage the autopilot and hand-fly the airplane, or use the autopilot basic mode. Rely on the standby airspeed and altimeter indications."

(3) Add the following NOTE in Section 4, Normal Procedures, under APPROACH: "NOTE: The use of either the autopilot or flight director is prohibited during approach to land when operating in the rain."

Modification

(b) Within 400 flight hours after the effective date of this AD, modify the center hole of the anemometric static ports 1, 2, 3, and 4, located in the left- and right-hand sides of the forward fuselage, in accordance with "PART I" of Embraer Service Bulletin 145-34-0026, Change No. 01, dated June 23, 1999. Prior to or upon completion of this modification, replace the calibration charts for vertical speed, airspeed, and altitude with new charts in the AFM reflecting the modifications required by this paragraph, in accordance with Embraer AFM 145/1153, Revision 28, dated July 2, 1999. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (a) of this AD.

Optional Terminating Action

(c) Accomplishment of the requirements of paragraph (b) of this AD, together with the replacement of the current connection adapter installed between the hose ends and the static ports with a new nipple adapter, in accordance with "PART II" of Embraer

Service Bulletin 145-34-0026, Change No. 01, dated June 23, 1999, constitutes terminating action for the requirements of this AD.

(d) As of the effective date of this AD, no person shall install on any airplane anemometric static ports 1, 2, 3, and 4, unless they have been modified in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Atlanta ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (a) of this AD, the actions shall be done in accordance with Embraer SB 145-34-0026, Change No. 01, dated June 23, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999-06-01R2, dated July 19, 1999.

(h) This amendment becomes effective on October 18, 1999.

Issued in Renton, Washington, on September 27, 1999.

D.L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-25593 Filed 9-30-99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. 99N-1502]

Medical Devices: Quality Mammography Standards; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) published a direct final rule in the *Federal Register* of June 17, 1999 (64 FR 32404). The document notified the public of FDA's intention to amend the regulations that govern mammography quality standards to incorporate changes required by the Mammography Quality Standards Reauthorization Act. This document delays the effective date of the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule published at 64 FR 32404 is delayed until January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhardt, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20857, 301-594-3332.

SUPPLEMENTARY INFORMATION: FDA solicited comments concerning the direct final rule for a 75-day period ending August 31, 1999. FDA stated that the effective date of the direct final rule would be on November 1, 1999, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comment.

However, FDA has not yet received approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) of the information collection requirements in this rule. Therefore, FDA is revising the effective date of this rule to January 28, 2000. By that date, FDA expects to have received clearance from the Office of Management and Budget for the information collection requirements in the rule. This document delays the effective date of the direct final rule.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that no significant adverse comments were filed on the June 17, 1999, direct final

rule. Accordingly, the amendments issued thereby are effective January 28, 2000.

Dated: September 27, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99-25556 Filed 9-30-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC42

Coastal Zone Consistency Review of Exploration Plans and Development and Production Plans

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends regulations that specify how States review Exploration Plans (EP) and Development and Production Plans (DPP) for coastal zone consistency. The amended regulation clarifies that a State coastal zone consistency review occurs under the authority of the National Oceanic and Atmospheric Administration (NOAA) regulations and that when MMS prepares a DPP environmental impact statement (EIS), we will give the draft EIS to those States requiring the draft EIS as necessary information to conduct a DPP consistency review.

EFFECTIVE DATE: The rule is effective on November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen Bornholdt, Environmental Assessment Branch, (703) 787-1656.

SUPPLEMENTARY INFORMATION: This rulemaking seeks to correct discrepancies between MMS and NOAA regulations. We last revised our current rules in 1988 for Outer Continental Shelf (OCS) plan submission and approval. At that time, several statements concerning State coastal zone consistency reviews were placed in our regulations alerting lessees to the requirements that had to be met before we could approve activities associated with an EP or a DPP. Since 1988, some of these provisions conflict with the NOAA rules governing State coastal zone consistency review of OCS plans. Thus, we are revising our regulations to conform with the NOAA requirements.

Additionally, we believe it is in the interest of all parties for States to have the best available information in evaluating the consistency certification