

Issued in Burlington, Massachusetts, on October 2, 2001.

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Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-298-AD; Amendment 39-12465; AD 2001-20-17]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all EMBRAER Model EMB-120 series airplanes, that currently requires revising the Airplane Flight Manual, installing a placard on the main instrument panel, and removing the "LIGHT-HEAVY" inflation switch of the leading edge deicing boots. This amendment continues to require those actions and adds requirements to install a low speed alarm for icing conditions, to revise the AFM, and to replace an existing placard with a placard that directs the flightcrew to activate the deicing boots whenever ice is detected by visual cues or ice detector illumination. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This action is intended to ensure that the flightcrew is provided with accurate indications of the severity of ice accretion, clear indication of unintentional airplane speed reductions in icing conditions, and appropriate procedures to prevent reduced controllability of the aircraft due to accretion of ice on the airplane.

DATES: Effective October 22, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 2001.

The incorporation of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of July 12, 2001 (66 FR 34083, June 27, 2001).

Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-298-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-298-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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, 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: Carla J. Worthey, Program Manager, ACE-118A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703-6062; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION: On June 20, 2001, the FAA issued AD 2001-13-14, amendment 39-12295 (66 FR 34083, June 27, 2001), applicable to all EMBRAER Model EMB-120 series airplanes, to require revising the Airplane Flight Manual (AFM), installing a placard on the main instrument panel, and removing the "LIGHT-HEAVY" inflation switch of the leading edge deicing boots. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions required by that AD are intended to ensure that the flightcrew is provided with accurate indications of the severity of ice accretion and appropriate procedures and actions to prevent reduced controllability of the airplane due to accretion of ice on the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, has notified the FAA that an unsafe condition may exist on all EMBRAER Model EMB-120 series airplanes. The DAC advises that it has received reports of loss of control events occurring on EMBRAER Model EMB-120 series airplanes that were flying during icing conditions. The DAC advises that such events indicate that the flightcrews may not have correctly determined both the severity of the ice accretion and the need to take immediate action to prevent excessive loss of airspeed, especially when using the autopilot. This situation, if not corrected, could result in reduced controllability of the airplane due to accretion of ice on the airplane.

Issuance of Service Information

EMBRAER has issued Service Bulletin 120-30-0033, Change 01, dated September 6, 2001, that describes procedures for installing a low speed alarm on the glareshield panel, adding new electrical wires in the cockpit and in the electronic compartment, installing or replacing two placards, and reworking the pitot-static system between frames 3 and 4.

EMBRAER also issued Service Bulletin 120-30-0033, Change 02, dated September 14, 2001, which includes two new electrical diagrams, corrects the hook-up charts, and describes a check for correct installation of diodes.

EMBRAER has issued Service Bulletin 120-25-0258, Change 01, dated August 30, 2001, which describes procedures for installing a placard to instruct pilots to immediately activate the deicing boots and disengage the autopilot, whenever ice is detected by visual cues or ice detector illumination. The original issue of Service Bulletin 120-25-0258, dated May 14, 2001, was cited as a source of service information in AD 2001-13-14. Change 01 is identical in technical content to the original service bulletin, and merely specifies that a new placard has been developed for airplanes that have been modified per EMBRAER Service Bulletin 120-30-0033, and contains procedures for installing the new placard.

The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 2001-05-02R1, effective September 30, 2001, 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 supersedes AD 2001-13-14 to continue to require revising the AFM, installing a placard on the main instrument panel, and removing the "LIGHT-HEAVY" inflation switch of the leading edge deicing boots. This AD will also require installing a low speed alarm for icing conditions, revising the AFM, and replacing an existing placard with a placard that directs the flightcrew to activate the deicing boots whenever ice is detected by visual cues or ice detector illumination.

Differences Between This AD and the Brazilian AD

This AD differs from the Brazilian AD in the following ways:

1. This AD is more specific as to when to disconnect the autopilot.
2. This AD includes instructions to remove the current information contained in the Normal Procedures Section advising the flightcrew to select either HEAVY or LIGHT mode.
3. This AD adds a WARNING to the Normal Procedures section to exit icing conditions if the flightcrew detects large or frequent changes in trim or excessive performance degradation.
4. This AD includes additional AFM instructions regarding abnormal operations with the icing low speed alarm activated.
5. This AD also includes dispatch relief regarding certain Master Minimum Equipment List items for the ice detection system and the new icing low speed alarm system.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

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 2001-NM-298-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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 removing amendment 39-12295 (66 FR 34083, June 27, 2001), and by adding a new airworthiness directive (AD), amendment 39-12465, to read as follows:

2001-20-17 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39-12465. Docket 2001-NM-298-AD. Supersedes AD 2001-13-14, Amendment 39-12295.

Applicability: All Model EMB-120, -120RT, -120ER, and -120FC series airplanes, 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 (m) 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 ensure that the flightcrew is provided with accurate indications of the severity of ice accretion, clear indication of unintentional airplane speed reductions in icing conditions, and appropriate procedures to prevent reduced controllability of the aircraft due to accretion of ice on the airplane; accomplish the following:

Restatement of the Requirements of AD 2001-13-14

Airplane Flight Manual

(a) Within 20 flight hours after July 12, 2001 (the effective date of AD 2001-13-14, amendment 39-12295): Revise the Limitations and Normal Procedures Sections of the FAA-approved Airplane Flight Manual (AFM) to include the following procedures, as specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD. This may be accomplished by inserting a copy of this AD in the AFM.

(1) In the Limitations section under the existing title 'Operation in Icing Conditions,' insert the following:

"Autopilot use is prohibited when atmospheric icing conditions exist, at the first sign of icing accretion anywhere on the airplane, or after the illumination of the Ice Condition light, whichever occurs first.

Leading edge deicers switch must be operated in the 'Heavy' mode only."

(2) In the Normal Procedures section under the existing title, "Operation in Icing Conditions," delete the following:

"Leading edge deicers switch ON
Select "Heavy" or "Light" mode (1 or 3 minutes cycle), based on the flightcrew's judgement and evaluation of the severity of the ice encounter and rate of accretion."

(3) In the Normal Procedures section under the existing title, 'Operation in Icing Conditions,' insert the following:

"Leading edge deicers switch On (TIMER 1 or
TIMER 2)
Select 'Heavy' mode if Light/Heavy switch is still installed."

(4) In the Normal Procedures section insert the following warning:

"WARNING: If large or frequent changes in longitudinal trim, and/or excessive performance degradation occur (identified by large increases in power required to maintain airspeed and altitude), immediately request priority handling from air traffic control to exit icing conditions."

Placard Installation

(b) Within 400 flight hours after July 12, 2001: Install a placard to activate the deicing boots and disengage the autopilot, whenever ice is detected by visual cues or ice detector illumination, to the left of the pilot's airspeed indicator and one placard to the right of the co-pilot's altimeter, per EMBRAER Service Bulletin 120-25-0258, dated May 14, 2001, or Change 01, dated August 30, 2001.

Removal of Inflation Switch

(c) Within 400 flight hours after July 12, 2001: Remove the "Light-Heavy" inflation switch of the leading edge deicing boots, per EMBRAER Service Bulletin 120-30-0032, Change 01, dated June 13, 2001.

New Requirements of This AD

Installation of a Low Speed Alarm

(d) Within 40 days after the effective date of this AD: Install a low speed alarm for icing conditions per EMBRAER Service Bulletin 120-30-0033, Change 01, dated September 6, 2001, or Change 02, dated September 14, 2001. Accomplish the installation together with or after the removal of the leading edge boots inflation cycle control "light-heavy" switch, required by paragraph (c) of this AD.

Placards

(e) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Remove the placard required by paragraph (b) of this AD, and prior to further flight, replace it with a new placard to specify activation of the deicing boots whenever ice is detected by visual cues or ice detector illumination, per EMBRAER Service Bulletin 120-30-0033, Change 01, dated September 6, 2001, or Change 02, dated September 14, 2001.

Airplane Flight Manual

(f) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Accomplish the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD.

(1) Remove the AFM Limitation required by paragraph (a)(1) of this AD, and revise the Limitations Section of the FAA-approved AFM under the existing title of "Operation in Icing Conditions" to include the following procedures (This may be accomplished by inserting a copy of this AD in the AFM.):

For airplanes on which the HEAVY/LIGHT switch is installed: Leading edge deicers switch must be operated in the HEAVY mode only at the first sign of icing accretion anywhere on the airplane or after the illumination of the ICE CONDITION light, whichever occurs first.

For airplanes on which the low speed alarm has NOT been installed: Autopilot use is prohibited at the first sign of icing accretion anywhere on the airplane or after illumination of the ICE CONDITION light, whichever occurs first.

Airspeeds:

Flaps and Gear UP	160 KIAS MINIMUM (All engines operating)
Flaps 15% Gear UP	160 KIAS MINIMUM (All engines operating)

Note: In the event of an engine failure in icing conditions, maintain the engine failure

airspeeds shown in Section V, Performance. The icing condition low speed alarm may

activate if the airspeed is below 160 KIAS with the flaps up."

(2) Remove the following paragraph from the Limitations Section of the AFM under the existing title of "Operation in Icing Conditions," that currently reads as follows:

"When operating in known or forecast icing conditions, the specific procedures for operation in icing conditions presented in the Normal Procedures Section of this manual must be followed."

(3) Insert the following into the Limitations Section of the AFM under the existing title of "Operation in Icing Conditions":

"When operating in known or forecast icing conditions, the specific procedures for operation in icing conditions presented in the Abnormal Procedures and Normal Procedures Sections of the AFM must be followed."

(g) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Revise the Emergency and Abnormal Procedures Sections of the AFM under the existing titles

of "Flight With All Engines Inoperative," "Forced Landing," "Ditching," "Takeoff with Engine Failure (Above V₁)," "One Engine Inoperative Approach and Landing," "One Engine Inoperative Go-Around," and "Engine Airstart" to include the following **Note** (This may be accomplished by inserting a copy of this AD in the AFM.):

"**Note:** In the event of an engine failure in icing conditions, maintain the engine failure airspeeds shown in Section V, Performance. The icing condition low speed alarm may activate as airspeed decreases below 160 KIAS."

(h) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Accomplish the actions specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Revise the Abnormal Procedures Section of the AFM under the existing titles of "Flap Control Fault," "Flap Disagreement," "Flap Asymmetry," "Loss of

the Green (Hydraulic) System," "Loss of the Blue (Hydraulic) System," and "Loss of Both Hydraulic Systems" to include the following procedures (This may be accomplished by inserting a copy of this AD in the AFM.):

"**Note:** In the event of a 0° flap landing in icing conditions, maintain 160 KIAS until landing is assured. Reduce airspeed to cross runway threshold (50 ft) at VREF 45 + 35 KIAS. The icing condition low speed alarm may activate as airspeed decreases below 160 KIAS."

(2) Revise the Abnormal Procedures Section of the AFM to include the following new section (This may be accomplished by inserting a copy of this AD in the AFM.): "ICING CONDITION LOW SPEED ALARM (If installed):

- LOW SPEED amber light illuminated on the Icing Cond Low speed Alarm Panel.
- Buzzer sound.

1. Airspeed	ABOVE 160 KIAS
2. Leading Edge Deicer Switch	VERIFY TIMER 1 OR TIMER 2

Note: ICING CONDITION LOW SPEED ALARM may not be cancelable by the flightcrew, and may not extinguish until 170 KIAS. Applying power should promptly recover speed. If necessary, disengage the autopilot, push over to regain airspeed, and notify ATC of altitude deviation.

When ICING CONDITION LOW SPEED ALARM extinguishes:

Autopilot AS REQUIRED

Note: Monitor the ice accretion and the airspeed.

Severe Icing Conditions CHECK

If Severe Icing Conditions are confirmed:

Flying in Severe Icing Conditions Procedure APPLY

(i) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Add the following new procedure to the Normal Procedures Section of the AFM under the existing title of "Daily Checks, Before Engine Start," as follows (This may be accomplished by inserting a copy of this AD in the AFM.):

"Icing Condition Low Speed Alarm System:

TEST Button PRESS

Check the buzzer sounding continuously and the LOW SPEED amber light illuminated. Release button. Check sound and light extinguished."

(j) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Revise the Normal Procedures Section of the AFM under the existing title of "Turbulent Air Penetration," as specified in paragraphs (j)(1) and (j)(2) of this AD. This may be accomplished by inserting a copy of this AD in the AFM.

(1) Remove the following from the existing paragraph under "Turbulent Air Penetration":

"1. Airspeed: 180 KIAS (from sea level to 15000 ft); 160 KIAS (above 15000 ft)"

(2) Replace the wording specified in paragraph (j)(1) with the following:

"1. Airspeed: 175 KIAS"

(k) Prior to further flight after accomplishment of the installation required by paragraph (d) of this AD: Revise the Normal Procedures Section of the FAA-approved AFM under the existing title of "Operation in Icing Conditions" as specified in paragraphs (k)(1) and (k)(2) of this AD. This may be accomplished by inserting a copy of this AD in the AFM.

(1) Remove the following from the wording under the existing title of "Operation in Icing Conditions":

"At the first sign of icing accretion anywhere on the airplane, proceed:

Windshield Heat Switches ON

Leading Edge Deicers Switch ON

Select HEAVY or LIGHT mode (1 or 3 minutes cycle), based on the pilot's judgement and evaluation of the severity of the ice encounter and rate of accretion."

(2) Insert the following wording under the existing title of "Operation in Icing Conditions":

"At the first sign of icing accretion anywhere on the airplane or ICE CONDITION light illumination, whichever occurs first, proceed as follows:

If the icing condition low speed alarm is NOT installed:

Autopilot DISENGAGE

Windshield Heat Switches ON

Leading Edge Deicers Switch ON (TIMER 1 or
TIMER 2)

Inflation Cycle Switch (if installed) HEAVY

If the icing condition low speed alarm IS installed:

Windshield Heat Switches ON

Leading Edge Deicers Switch ON (TIMER 1 or
TIMER 2)

"WARNING: If large or frequent changes in longitudinal trim, and/or excessive performance degradation (identified by large increases in power required to maintain airspeed and altitude), immediately request priority handling from air traffic control to exit icing conditions."

Master Minimum Equipment List (MMEL)

(l) The dispatch relief conditions specified in paragraphs (l)(1) and (l)(2) of this AD are considered to be acceptable for continued operations if either the ice detection system or the low speed alarm system is inoperative:

(1) The airplane may be operated for a period of three days with the ice detection system inoperative, provided that, whenever operating in visible moisture at temperatures below 10 degrees C (50 degrees F):

(i) All ice protection systems are turned on (except leading edge deicing during takeoff), and

(ii) AFM limitations and normal procedures for operating in icing conditions are complied with.

(2) The airplane may be operated for a period of three days with the icing condition low speed alarm system inoperative, provided:

(i) It is not operated in known or forecast icing conditions, and

(ii) If icing conditions are inadvertently encountered, the autopilot must be disconnected and steps must be taken to exit icing conditions.

Note 2: Refer to MMEL/MEL system for complete dispatch requirements. Where a difference exists between this AD and the MMEL, the provisions of this AD prevail.

Alternative Methods of Compliance

(m) 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. 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(n) 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

(o) Except for the actions specified in paragraphs (a), (f), (g), (h), (i), (j), and (k) of this AD the actions shall be done in accordance with EMBRAER Service Bulletin 120-25-0258, dated May 14, 2001; EMBRAER Service Bulletin 120-30-0032, Change 01, dated June 13, 2001; EMBRAER Service Bulletin 120-25-0258, Change 01, dated August 30, 2001; EMBRAER Service Bulletin 120-30-0033, Change 01, dated September 6, 2001; and EMBRAER Service Bulletin 120-30-0033, Change 02, dated September 14, 2001; as applicable.

(1) The incorporation by reference of EMBRAER Service Bulletin 120-25-0258, Change 01, dated August 30, 2001; EMBRAER Service Bulletin 120-30-0033, Change 01, dated September 6, 2001; and EMBRAER Service Bulletin 120-30-0033,

Change 02, dated September 14, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of EMBRAER Service Bulletin 120-25-0258, dated May 14, 2001; and EMBRAER Service Bulletin 120-30-0032, Change 01, dated June 13, 2001, was approved previously by the Director of the Federal Register as of July 12, 2001 (66 FR 34083, June 27, 2001).

(3) 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, 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 4: The subject of this AD is addressed in Brazilian airworthiness directive 2001-05-02R1, effective date of September 30, 2001.

Effective Date

(p) This amendment becomes effective on October 22, 2001.

Issued in Renton, Washington, on October 3, 2001.

Charles Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Part 1904**

[Docket No. R-02A]

RIN 1218-AC00

Occupational Injury and Illness Recording and Reporting Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is delaying the effective date of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements rule published January 19, 2001 (66 FR 5916-6135) and is establishing interim criteria for recording cases of work-related hearing loss. The provisions being delayed are §§ 1904.10(a) and (b), which specify recording criteria for cases involving occupational hearing loss, § 1904.12,

which defines “musculoskeletal disorder (MSD)” and requires employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder, and § 1904.29(b)(7)(vi), which states that MSDs are not considered privacy concern cases. The effective date of these provisions is delayed from January 1, 2002 until January 1, 2003. OSHA will continue to evaluate §§ 1904.10 and 1904.12 over the next year.

OSHA is also adding a new paragraph (c) to § 1904.10, establishing criteria for recording cases of work-related hearing loss during calendar year 2002. Section 1904.10(c) codifies the enforcement policy in effect since 1991, under which employers must record work related shifts in hearing of an average of 25dB or more at 2000, 3000 and 4000 hertz in either ear.

DATES: The amendments in this rule will become effective on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N-3609, 200 Constitution Avenue, N.W., Washington, DC 20210. Telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:**I. Background**

In January, 2001 (66 FR 5916-6135), OSHA published revisions to its rule on recording and reporting occupational injuries and illnesses (29 CFR parts 1904 and 1952) to take effect on January 1, 2002. On July 3, 2001, the agency proposed to delay the effective date of Sections 1904.10 *Recording criteria for cases involving occupational hearing loss*, and 1904.12 *Recording criteria for cases involving work-related musculoskeletal disorders*, until January 1, 2003 (66 FR 35113-35115). In that notice, OSHA explained that, as a result of the regulatory review required by the Andrew Card memorandum (66 FR 7702), it was reconsidering the requirement in Section 1904.10 to record a case involving an occupational hearing loss averaging 10dB, or more. OSHA found that there were reasons to question the appropriateness of 10dB as the recording criterion, and asked for comment on other approaches and criteria, including recording losses averaging 15, 20 or 25dB. In view of the uncertainty concerning the appropriate criteria, OSHA preliminarily concluded that it should delay implementing the 10dB requirement for a year while it reconsidered the question. The proposal stated that if implementation of Section