

**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.

**Inspection**

(f) Within 24 months after the effective date of this AD, perform a detailed inspection to determine if there is sufficient fillet sealant at the inboard and outboard sides of the receptacles in the MLG wheel wells, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-24-1169, dated December 15, 2006. Do all applicable related investigative and corrective actions before further flight in accordance with the service bulletin.

**Alternative Methods of Compliance (AMOCs)**

(g)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on March 23, 2007.

**Ali Bahrami,**

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

[FR Doc. E7-5907 Filed 3-29-07; 8:45 am]

**BILLING CODE 4910-13-P**

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

[Docket No. FAA-2006-26354; Directorate Identifier 2006-NM-196-AD]

**RIN 2120-AA64**

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

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

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

**SUMMARY:** The FAA is revising an earlier NPRM for certain EMBRAER Model EMB-135 airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. The original NPRM would have required

replacing the metallic tubes enclosing the vent and pilot valve wires in the left- and right-hand wing fuel tanks with non-conductive hoses. The original NPRM resulted from fuel system reviews conducted by the manufacturer. This action revises the original NPRM by adding airplanes to the applicability. We are proposing this supplemental NPRM to prevent an ignition source inside the fuel tank that could ignite fuel vapor and cause a fuel tank explosion and loss of the airplane.

**DATES:** We must receive comments on this supplemental NPRM by April 24, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments on this supplemental NPRM.

- **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.

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP 12.225, Sao Jose dos Campos-SP, Brazil, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Tom Groves, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1503; fax (425) 227-1503.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA-2006-26354; Directorate Identifier 2006-NM-196-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, 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 supplemental NPRM. Using the search function of that 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>.

**Examining the Docket**

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or 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 in the Nassif Building at the DOT street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management System receives them.

**Discussion**

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the "original NPRM"). The original NPRM applies to certain EMBRAER Model EMB-135 airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. The original NPRM was published in the **Federal Register** on November 20, 2006 (71 FR 67082). The original NPRM proposed to require replacing the metallic tubes enclosing the vent and pilot valve wires in the left- and right-hand wing fuel tanks with non-conductive hoses.

**Comments**

We have considered the following comments on the original NPRM.

**Support for the NPRM**

Chautauqua Airlines expresses full support for the intent of the NPRM and the initiatives taken by the FAA to enhance safety.

**Request to Revise Service Information Reference**

EMBRAER requests that we revise the NPRM to refer to current service information. EMBRAER states that, although the NPRM specifies Service Bulletin 145-28-0023, Revision 05,

dated May 15, 2006, as the latest revision, Revision 06 and Revision 07 have been issued. EMBRAER therefore proposes that the NPRM be revised to cite EMBRAER Bulletin 145-28-0023, Revision 07, dated February 7, 2007, as the appropriate source of service information for accomplishing the requirements of the AD; and that EMBRAER Service Bulletin 145-28-0023, Revision 05, dated May 15, 2006; and Revision 06, dated October 31, 2006; be included in Table 1 of the AD as acceptable means of compliance.

We agree with this request as ADs should refer to current service information. We have reviewed Service Bulletin 145-28-0023, Revision 06, dated October 31, 2006; and Revision 07, dated February 7, 2007; which include additional airplanes in the effectivity. The procedures in Revision 06 and Revision 07 are essentially the same as in Revision 05; however, Revision 06 corrects a few illustrative errors and Revision 07 specifies a reduced parts cost. Accordingly, in the Costs of Compliance of this supplemental NPRM, we have increased the number of airplanes of U.S. registry specified to 623 airplanes and revised the parts cost. We have also revised the supplemental NPRM to refer to Service Bulletin 145-28-0023, Revision 07, as the appropriate source of service information for accomplishing the proposed requirements of the supplemental NPRM. Further, we have modified Table 1 of the supplemental NPRM to give credit for the use of Service Bulletin 145-28-0023, Revision 05 and Revision 06, prior to the effective date of the AD.

#### **Request for Revised Parts Costs**

Chautauqua Airlines requests that we clarify the parts costs of the NPRM, which are listed as "between \$1,121 and \$1,796 per airplane." Chautauqua asserts that EMBRAER Service Bulletin 145-28-0023, Revision 05, clearly states kit pricing as "reference price of U.S. \$1,795.53." Chautauqua points out that the \$1,796 quoted in the NPRM seems appropriate, but that the lower end of the range stated in the NPRM is not mentioned anywhere in the referenced service bulletin.

We partially agree. The kit price of \$1,121 does not appear in Service Bulletin 145-28-0023, Revision 05, but appears in EMBRAER Service Bulletin 145LEG-28-0018, Revision 01, dated April 20, 2005, which applies only to Model EMB-135BJ airplanes. Therefore, as stated in the original NPRM, the parts cost would have varied between \$1,121 and \$1,796, depending upon the airplane model. However, Service

Bulletin 145-28-0023, Revision 07, specifies a kit price of \$1,788 rather than \$1,796. Therefore, we have revised the parts cost of the Costs of Compliance of the supplemental NPRM to reflect this reduced figure for airplanes other than Model EMB-135BJ airplanes.

#### **Request for Revised Work Hours**

Chautauqua also requests that we revise the labor costs specified in the NPRM. Chautauqua states that this NPRM (as with most others) does not include time to disassemble, reassemble, or test, allowing one man hour for the modification, where the service bulletin allows a total of 4.5 man hours to disassemble, modify, reassemble, and test. Chautauqua acknowledges that, as a general rule, the FAA does not include times for disassembly, reassembly, or testing in proposed rules, asserting however, that, over the years, these hours add up to considerable expense that is not accounted for in the rulemaking process. Chautauqua continues that the NPRM also does not include any allowances for defueling the aircraft, which is one of the first requirements of the service bulletin. Chautauqua asserts that most operators would elect to perform the requirements of the AD during a heavy check where the aircraft is already in a defueled state, stating that, for those who perform this modification at any time other than a heavy check, there may be additional costs associated with defueling. Chautauqua asks why these times should not be included in the rule making process, stating a firm belief that all associated costs should be accounted for in any rulemaking decisions when those costs are so clearly identified by the manufacturer.

We do not agree with this request. As noted by Chautauqua, the cost information describes only the direct costs of the specific actions required by this supplemental NPRM: in this case, the modification. Based on the best data available, the manufacturer provided the number of work hours (1 hour) necessary to do the required actions. This number represents the time necessary to perform only the actions actually required by this supplemental NPRM. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs, which might vary significantly

among operators, are almost impossible to calculate. We have not changed the supplemental NPRM in this regard.

#### **Change to Costs of Compliance**

We have been advised that there are 30 Model EMB-135BJ airplanes on the U.S. register. As this allows us to specify a more precise fleet cost estimate, we have changed the Costs of Compliance of the supplemental NPRM accordingly.

#### **Clarification of Applicability**

To eliminate confusion, we have revised the applicability of this supplemental NPRM to clearly identify which airplane models are affected by each service bulletin.

#### **FAA's Determination and Proposed Requirements of the Supplemental NPRM**

Certain changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

#### **Costs of Compliance**

This supplemental NPRM would affect about 623 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Required parts would cost about \$1,121 (for each of 30 Model EMB-135BJ airplanes) or \$1,788 (for each of 593 remaining airplanes). The cost per airplane would be \$1,201 or \$1,868. Based on these figures, the estimated cost of the supplemental NPRM for U.S. operators is \$1,143,754.

#### **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 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 supplemental NPRM and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket No. FAA-2006-26354; Directorate Identifier 2006-NM-196-AD.

#### Comments Due Date

- (a) The FAA must receive comments on this AD action by April 24, 2007.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to the following airplanes, certificated in any category; as described in paragraph (c)(1) and (c)(2) of this AD.

(1) EMBRAER Model EMB-135ER, -135KE, -135KL, and -135LR airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes; as identified in EMBRAER Service Bulletin 145-28-0023, Revision 07, dated February 7, 2007.

(2) EMBRAER Model EMB-135BJ airplanes, as identified in EMBRAER Service Bulletin 145LEG-28-0018, Revision 01, dated April 20, 2005.

### Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent an ignition source inside the fuel tank that could ignite fuel vapor and cause a fuel tank explosion and loss of the airplane.

### 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.

### Tube Replacement

(f) Within 5,000 flight hours or 48 months after the effective date of this AD, whichever occurs first, replace the metallic tubes enclosing the vent and pilot valve wires in the left- and right-hand wing fuel tanks with new, improved, non-conductive hoses, in accordance with the Accomplishment Instructions of the service bulletin specified in paragraph (f)(1) or (f)(2) of this AD, as applicable.

(1) For Model EMB-135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes: EMBRAER Service Bulletin 145-28-0023, Revision 07, dated February 7, 2007.

(2) For Model EMB-135BJ airplanes: EMBRAER Service Bulletin 145LEG-28-0018, Revision 01, dated April 20, 2005.

### Credit for Actions Done Using Previous Service Information

(g) Actions accomplished before the effective date of this AD in accordance with the service information specified in Table 1 of this AD are considered acceptable for compliance with the corresponding actions specified in this AD.

TABLE 1.—ACCEPTABLE EMBRAER SERVICE INFORMATION

| Service bulletin     | Revision level | Date              |
|----------------------|----------------|-------------------|
| 145-28-0023 .....    | Original ..... | April 19, 2004.   |
| 145-28-0023 .....    | 01 .....       | June 9, 2004.     |
| 145-28-0023 .....    | 02 .....       | November 8, 2004. |
| 145-28-0023 .....    | 03 .....       | April 27, 2005.   |
| 145-28-0023 .....    | 04 .....       | November 7, 2005. |
| 145-28-0023 .....    | 05 .....       | May 15, 2006.     |
| 145-28-0023 .....    | 06 .....       | October 31, 2006. |
| 145LEG-28-0018 ..... | Original ..... | April 23, 2004.   |

### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, ANM-116, International Branch, 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

### Related Information

(i) Brazilian airworthiness directive 2006-06-02, effective June 28, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on March 23, 2007.

**Ali Bahrami,**

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

[FR Doc. E7-5911 Filed 3-29-07; 8:45 am]

**BILLING CODE 4910-13-P**

### DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

[Docket No. FAA-2007-27594; Airspace Docket 07-ASO-3]

### Proposed Establishment of Class D and E Airspace; Aguadilla, PR

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.