

Issued in Renton, Washington, on April 5, 2005.

**Kalene C. Yanamura,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19176; Directorate Identifier 2003-NM-36-AD; Amendment 39-14054; AD 2005-08-02]

RIN 2120-AA64

#### **Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding an existing airworthiness directive (AD), which applies to all EMBRAER Model EMB-135 and -145 series airplanes. That AD currently requires repetitive inspections of the electrical connectors of the electric fuel pumps to detect discrepancies, and follow-on corrective actions. This new AD extends the repetitive intervals for the inspections; adds new criteria for replacing discrepant fuel pumps; adds a new requirement for applying anti-corrosion spray; adds a requirement to replace all fuel pumps with improved fuel pumps; and adds repetitive inspections after all six fuel pumps are replaced. This AD is prompted by the manufacturer's development of a new modification that addresses the unsafe condition in the existing AD. We are issuing this AD to prevent an ignition source in the fuel tank or adjacent dry bay, which could result in fire or explosion.

**DATES:** This AD becomes effective May 19, 2005.

The incorporation by reference of certain service information, as listed in the AD, is approved by the Director of the Federal Register as of May 19, 2005.

On October 3, 2000 (65 FR 56233, September 18, 2000), the Director of the Federal Register approved the incorporation by reference of certain other service information.

**ADDRESSES:** For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

**Docket:** The AD docket contains the proposed AD, comments, and any final disposition. You can 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 of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Washington, DC. This docket number is FAA-2004-19176; the directorate identifier for this docket is 2003-NM-36-AD.

#### **FOR FURTHER INFORMATION CONTACT:**

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an AD to supersede AD 2000-19-02, amendment 39-11903 (65 FR 56233, September 18, 2000). The existing AD applies to all EMBRAER Model EMB-135 and -145 series airplanes. The proposed AD was published in the **Federal Register** on September 28, 2004 (69 FR 57888), to extend the repetitive intervals for the inspections; add new criteria for replacing discrepant fuel pumps; add a new requirement for applying anti-corrosion spray; add a requirement to replace all fuel pumps with improved fuel pumps; and add repetitive inspections after all six fuel pumps are replaced.

#### **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD.

#### **Request to Extend Compliance Time**

One commenter, an operator, ended the repetitive inspections required by AD 2000-19-02 for its fleet after completing an approved alternative method of compliance (AMOC) with that AD (after all pumps had been upgraded to part number (P/N) 2C7-4). As a result, the operator would need more time to reinstitute the inspections specified in the new proposed AD. The commenter requests that we extend the proposed compliance time from 1,200 to 2,000 flight hours.

We agree. We find that P/Ns 2C7-4 must be inspected and sprayed within

8,000 flight cycles after their replacement, and repeated thereafter at intervals not to exceed 8,000 flight cycles. Therefore, for airplanes that have all P/N 2C7-4 pumps, we have revised the initial compliance times specified in paragraph (i) of this AD accordingly.

#### **Request to Change Replacement Part Requirement**

The commenter (the manufacturer) opposes the proposed requirement to replace P/N 2C7-1 only with P/N 2C7-4. From the parallel Brazilian airworthiness directive 2000-08-01R2, dated February 13, 2002, the commenter concludes that the electric fuel pumps with P/Ns 2C7-1 and 2C7-4 would be equally airworthy, if they are inspected within 1,200- and 8,000-flight-hour intervals, respectively. The commenter adds that the Brazilian action allows the 8,000-flight-hour interval only when all pumps on the airplane are P/N 2C7-4. The commenter considers the procedures of EMBRAER Service Bulletin 145-28-0013, dated April 25, 2001, "technically acceptable as a 'terminal action' to prevent fuel tanks and surrounding areas from ignition sources." (The proposed AD specified that service bulletin as the source of service information for the new inspections.) The commenter states that the improvements to the P/N 2C7-4 pump should allow its repetitive inspection interval to be extended. The commenter therefore requests that we revise the proposed AD to change the replacement part in paragraph (k) from a "new electric fuel pump that has part number (P/N) 2C7-4" to a "serviceable component" and remove paragraphs (l) and (o) from the proposed AD. (Paragraph (l) would ensure that all pumps are P/N 2C7-4; paragraph (o) would prohibit installing P/N 2C7-1.) The commenter provides the following additional support for this request:

- Periodic inspections and anti-corrosion spray application within short intervals were effective in avoiding blackened and damaged P/N 2C7-1 pumps.
- There have been no reports of failed pumps due to blackened pins since the service bulletin was released.
- Pumps with blackened pins have functioned properly when removed during the required inspections.
- The results of the manufacturer's SFAR 88 critical analysis indicate that maintaining a pump having P/N 2C7-1 according to the service bulletin would fulfill the requirements of the proposed AD.

We agree with the request. We have determined that undamaged pumps with P/N 2C7-1 will be adequate if they

are lubricated, sprayed, and inspected within 1,200-flight-hour intervals. We have revised paragraph (k), removed paragraphs (l) and (o), and redesignated the paragraphs accordingly in this final rule.

**Request To Extend Repetitive Interval**

In light of existing operational data, the commenter (an operator) requests that we extend the proposed repetitive inspection interval from 8,000 to 10,000 flight hours. The commenter states that this adjustment would align with current maintenance review board limitations and save operators considerable expense associated with the additional maintenance. The commenter adds that the previously described AMOC for AD 2000-19-02 allowed the inspections of its fleet to be terminated, and notes that no indications of the identified issues exist.

We disagree with the request to extend the repetitive interval. The commenter did not explain how the data would demonstrate that the unsafe condition would be addressed. If additional data are presented that would justify a longer compliance time, we may consider further rulemaking on this issue. In light of this, and in consideration of the amount of time that has already elapsed since issuance of the original notice, we have determined that further delay of this final rule is not appropriate. However, paragraph (n)(1) of this final rule provides affected operators the opportunity to apply for an adjustment of the compliance time if the operator also presents data that justify the adjustment.

**Additional Change to Proposed AD**

The final sentence of proposed paragraph (i) read as follows: "Doing the inspection required by this paragraph

terminates the repetitive inspections required by paragraph (f) of this AD." We have revised paragraph (i) in this final rule to clarify that accomplishment of the initial inspection only is terminating action.

**Conclusion**

We have carefully reviewed the available data, including the comments that have been submitted, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per air-plane	Number of U.S.-registered air-planes	Fleet cost
Inspections (required by AD 2000-19-02).	1 per inspection cycle.	\$65	None .....	\$65 per inspection.	290	\$18,850 inspection per cycle.
Repetitive inspections (new proposed action).	1 per inspection cycle.	\$65	None .....	\$65 per inspection cycle.	290	\$18,850 per inspection cycle.

**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 AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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 AD. See the ADDRESSES section for a location to examine the regulatory evaluation.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by removing amendment 39-11903 (65 FR 56233, September 18, 2000) and adding the following new airworthiness directive (AD):

**2005-08-02 Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Amendment 39-14054. Docket No. FAA-2004-19176; Directorate Identifier 2003-NM-36-AD.

**Effective Date**

(a) This AD becomes effective May 19, 2005.

**Affected ADs**

(b) This AD supersedes AD 2000-19-02, amendment 39-11903.

**Applicability**

(c) This AD applies to all EMBRAER Model EMB-135 and -145 series airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD was prompted by the manufacturer's development of a new modification that addresses the unsafe condition in AD 2000-19-02. We are issuing this AD to prevent an ignition source in the fuel tank or adjacent dry bay, which could result in fire or explosion.

**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.

**Restatement of the Requirements of AD 2000-19-02***Repetitive Inspections*

(f) Perform a general visual inspection of the electrical connectors of the fuel pumps in the right- and left-hand wings to detect discrepancies (including blackened connector pins, damage to electrometric insert, cracks, erosion, or charring), in accordance with EMBRAER Alert Service Bulletin S.B. 145-28-A013, dated August 16, 2000, at the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, as applicable. Repeat the inspection thereafter at intervals not to exceed 400 flight hours until the inspection required by paragraph (i) of this AD is done.

(1) For airplanes having 1,200 total flight hours or less as of October 3, 2000 (the effective date of AD 2000-19-02, amendment 39-11903): Prior to the accumulation of 1,600 total flight hours.

(2) For airplanes having more than 1,200 total flight hours, but less than 4,000 total flight hours, as of October 3, 2000: Within 400 flight hours after October 3, 2000.

(3) For airplanes having 4,000 total flight hours or more as of October 3, 2000: Prior to the accumulation of 4,400 total flight hours, or within 50 flight hours after October 3, 2000, whichever occurs later.

**Note 1:** For the purposes of this AD, a general visual inspection is "a visual examination of a interior or exterior area, installation or assembly to detect obvious damage, failure or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light and may require removal or opening of access panels or doors. Stands, ladders or platforms may be required to gain proximity to the area being checked."

**Follow-On Corrective Actions**

(g) If any discrepancy (including blackened connector pins, damage to electrometric

insert, cracks, erosion, or charring) is detected after accomplishment of any inspection required by paragraph (f) of this AD: Before further flight, replace the fuel pump and its mating airplane connector in accordance with EMBRAER Alert Service Bulletin S.B. 145-28-A013, dated August 16, 2000.

(h) After accomplishment of the replacement required by paragraph (g) of this AD, before further flight: Perform a general visual inspection of the electrical connectors adjacent to the fuel pump to detect damage (visible cracks, erosion, or charring), in accordance with EMBRAER Alert Service Bulletin S.B. 145-28-A013, dated August 16, 2000, and accomplish the requirements in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) If any damage is detected, before further flight, replace the connectors with new ones in accordance with the alert service bulletin.

(2) If no damage is detected, before further flight, replace only the socket contacts with new contacts in accordance with the alert service bulletin.

**New Requirements of This AD***Inspections*

(i) Do a general visual inspection of the electrical connectors of the fuel pumps in the right- and left-hand wings to detect discrepancies (including any corrosion, surface irregularities, damaged plating, blackened pins, damaged elastomeric inserts, cracks, erosion, or charring of the connector). Do the first inspection at the applicable time in paragraph (i)(1), (i)(2), or (i)(3) of this AD, in accordance with part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0013, dated April 25, 2001. Repeat the inspection thereafter at intervals not to exceed 1,200 flight hours until all six fuel pumps are replaced with P/N 2C7-4 pumps. When all six fuel pumps have been replaced with P/N 2C7-4 pumps, repeat the inspection thereafter at intervals not to exceed 8,000 flight hours. Doing the initial inspection required by this paragraph terminates the repetitive inspections required by paragraph (f) of this AD.

(1) For airplanes that have been inspected in accordance with paragraph (f) of this AD as of the effective date of this AD but do not have all six P/N 2C7-4 pumps: Within 1,200 flight hours since the most recent inspection done in accordance with paragraph (f) of this AD.

(2) For airplanes inspected in accordance with paragraph (f) of this AD as of the effective date of this AD that have all six P/N 2C7-4 pumps: Within 8,000 flight cycles since replacement of all six pumps with P/N 2C7-4 pumps, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(3) For airplanes that have not been inspected in accordance with paragraph (f) of this AD as of the effective date of this AD: Within 1,200 flight hours after the effective date of this AD.

*Corrective Action If No Discrepancy Is Found*

(j) If there is no evidence of a discrepancy found during any inspection required by paragraph (i) of this AD: Before further flight,

apply anti-corrosion spray on the male contacts of the fuel pump electrical connectors in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0013, dated April 25, 2001.

*Replacement If Any Discrepancy Is Found*

(k) If any evidence of a discrepancy is found during any inspection required by paragraph (i) of this AD: Before further flight, replace the electric fuel pump with a serviceable pump in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0013, dated April 25, 2001. After the replacement, repeat the inspection required by paragraph (i) of this AD at the applicable interval in that paragraph.

*Inspection and Corrective Actions*

(l) Before further flight after replacing a fuel pump, as required by paragraph (k) of this AD: Do a general visual inspection for damage of the mating aircraft connectors; and do the applicable corrective action in paragraph (l)(1) or (l)(2) of this AD; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0013, dated April 25, 2001.

(1) If there is any sign of damage to the mating aircraft connectors: Replace the affected connector with a new connector, and apply anti-corrosion spray on the male contacts of the fuel pump electric connectors.

(2) If there is no sign of damage to the mating aircraft connectors: Replace only the socket contacts with new socket contacts, and apply anti-corrosion spray on the male contacts of the fuel pump electric connectors.

*Master Minimum Equipment List (MMEL)*

(m) The inspections required by paragraphs (f) and (i) of this AD apply to the six electric fuel pumps in the right- and left-hand wings (three pumps in each wing). For pump replacement planning purposes, the airplane may be operated in accordance with the provisions and limitations specified in an operator's FAA-approved MMEL, provided that no more than one fuel pump on each wing on the airplane is inoperative.

**Note 2:** When operating under the MMEL, operators must comply with the unusable fuel quantity as referenced in the Limitations Section of the appropriate FAA-approved Airplane Flight Manual.

*Alternative Methods of Compliance (AMOCs)*

(n)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Alternative methods of compliance, approved previously per AD 2000-19-02, amendment 39-11903, are not approved as alternative methods of compliance with this AD.

*Related Information*

(o) Brazilian airworthiness directive 2000-08-01R2, dated February 13, 2002, also addresses the subject of this AD.

*Material Incorporated by Reference*

(p) You must use EMBRAER Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000; and EMBRAER Service Bulletin 145–28–0013, dated April 25, 2001; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The incorporation by reference of EMBRAER Service Bulletin 145–28–0013, dated April 25, 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 Alert Service Bulletin S.B. 145–28–A013, dated August 16, 2000, was approved previously by the Director of the Federal Register as of October 3, 2000 (65 FR 56233, September 18, 2000).

(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 National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on April 1, 2005.

**Kalene C. Yanamura,**

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

[FR Doc. 05–7282 Filed 4–13–05; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 742, 744, and 774

[Docket No. 050401091–5091–01]

RIN 0694–AD37

#### **Expansion of the Country Scope of the License Requirements that Apply to Chemical/Biological (CB) Equipment and Related Technology; Amendments to CB-Related End-User/End-Use and U.S. Person Controls**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Industry and Security (BIS) is publishing this final rule to amend the Export Administration Regulations (EAR) by increasing the country scope of chemical/biological (CB) controls on those Commerce Control List (CCL) entries that contain chemical/biological equipment and related technology included on the Australia Group (AG) Common Control Lists. Specifically, this

final rule expands the country scope of the CB license requirements for these CCL entries from certain countries of concern for chemical/biological weapons reasons to all destinations, worldwide, except for those countries that participate in the Australia Group (AG). These changes are intended to make the EAR license requirements that apply to chemical/biological equipment and related technology identified on the AG Common Control Lists consistent with the AG “Guidelines for Transfers of Sensitive Chemical or Biological Items.”

In addition, this rule amends certain end-user and end-use based controls in the EAR by expanding these controls to include transfers (in-country), as well as exports and reexports. Specifically, this final rule expands the EAR restrictions on certain chemical and biological weapons end-uses to apply to exports, reexports, and transfers of items subject to the EAR to or within any country or destination, worldwide. Prior to the publication of this rule, such restrictions applied only to exports and reexports.

Finally, this rule amends the EAR by expanding the country scope of the restrictions on certain activities of U.S. persons to include activities in support of the design, development, production, stockpiling, or use of chemical or biological weapons in or by any country or destination, worldwide. This change makes the country scope of these U.S. person controls consistent with the country scope of the chemical and biological weapons end-user/end-use controls in Section 744.4 of the EAR, as described above.

**DATES:** This rule is effective April 14, 2005. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

**ADDRESSES:** You may submit comments, identified by RIN 0694–AD37, by any of the following methods:

- E-mail: [wfisher@bis.doc.gov](mailto:wfisher@bis.doc.gov). Include “RIN 0694–AD37” in the subject line of the message.
- Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

- Mail or Hand Delivery/Courier: Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694–AD37.

**FOR FURTHER INFORMATION CONTACT:** Mark Sagrams, Office of Nonproliferation and Treaty

Compliance, Bureau of Industry and Security, telephone: (202) 482–7900.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by increasing the country scope of the chemical/biological (CB) controls that apply to entries on the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) that list chemical/biological equipment and related technology included on the Australia Group (AG) Common Control Lists. The AG is a multilateral forum, consisting of 38 participating countries, that maintains export controls on lists of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program.

Specifically, this rule amends Export Control Classification Numbers (ECCNs) 1A004, 2A226, 2A292, 2B350, 2B351, 2B352, 2E001, 2E002, 2E201, 2E290, and 2E301 by revising the License Requirements section in each of these ECCNs to expand the country scope of the CB license requirements for these ECCNs from CB Column 3 to CB Column 2. The countries that require a license under CB Column 2 or CB Column 3 are indicated in the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR). Prior to the publication of this rule, these ECCNs required a license, for CB reasons, only to certain countries of concern for chemical/biological weapons reasons. Effective with the publication of this rule, the CB license requirements for these ECCNs now apply to all destinations, worldwide, except for those countries that participate in the Australia Group (AG), *i.e.*, those countries identified in Country Group A:3 (Australia Group) in Supplement No. 1 to Part 740 of the EAR.

This rule also amends ECCN 1E001 by: (1) revising the ECCN, in conformance with entry 1.E.1 on the Wassenaar Arrangement (WA) “List of Dual-Use Goods and Technologies,” to control technology for the “development” or “production” of equipment controlled by 1A004; (2) expanding the CB Column 2 controls in ECCN 1E001 to include technology for the “development” or “production” of chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristics described in 2B351.a; and (3) correcting the NS Column 1 controls in ECCN 1E001 to include technology for the “development” or “production” of metals and compounds