

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 39–13236 (68 FR 42580, July 18, 2003), and by adding a new airworthiness directive (AD), to read as follows:

#### **Bombardier, Inc. (Formerly Canadair):**

Docket 2003–NM–233–AD. Supersedes AD 2003–14–17, Amendment 39–13236.

**Applicability:** Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes; certificated in any category; as listed in Bombardier Alert Service Bulletin A601R–26–017, Revision ‘D,’ dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ‘A,’ dated February 27, 2003.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fluid contamination inside the fire and overheat control unit in the flight compartment, which could result in a false fire alarm and consequent emergency landing, accomplish the following:

#### **Restatement of Requirements of AD 2003–14–17**

##### *Installation of Protective Tape*

(a) For airplanes listed in Bombardier Alert Service Bulletin A601R–26–017, Revision ‘A,’ dated September 8, 2000: Within 250 flight hours or 30 days after August 22, 2003 (the effective date of AD 2003–14–17, amendment 39–13236), whichever occurs first, install protective tape on the external cover of the fire and overheat control unit located in the flight compartment per the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ‘A,’ dated September 8, 2000; or Revision ‘D,’ dated November 6, 2003.

(b) Installation of protective tape on the external cover of the fire and overheat control in the flight compartment, done before the effective date of this AD, per Bombardier Alert Service Bulletin A601R–26–017, dated August 4, 2000; or Revision ‘B,’ dated February 6, 2003; is acceptable for compliance with the requirements of paragraphs (a) and (c) of this AD.

#### **New Requirements of This AD**

##### *Installation of Protective Tape*

(c) For airplanes listed in Bombardier Alert Service Bulletin A601R–26–017, Revision ‘D,’ dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ‘A,’ dated February 27, 2003; on which the requirements specified in paragraph (a) of this AD have not been done as of the effective date of this AD: Within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, install protective tape

on the external cover of the fire and overheat control unit located in the flight compartment per the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ‘D,’ dated November 6, 2003. Accomplishment of this paragraph terminates the requirements of paragraph (a) of this AD.

##### *Repetitive Inspections/Corrective Action*

(d) Within 5,000 flight hours or 24 months after the effective date of this AD: Do a general visual inspection to determine the condition of the protective tape on the external cover of the fire and overheat control unit, per the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–26–017, Revision ‘D,’ dated November 6, 2003.

(1) If the protective tape is not damaged and provides an adequate seal to prevent entry of liquid at the fastener and hinge positions of the unit: Repeat the inspection thereafter at intervals not to exceed 5,000 flight hours or 24 months, whichever is later.

(2) If the protective tape is damaged or does not provide an adequate seal to prevent entry of liquid at the fastener and hinge positions of the unit: Before further flight, replace the protective tape with new tape per the service bulletin. Repeat the inspection thereafter at intervals not to exceed 5,000 flight hours or 24 months, whichever is later.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an 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 enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight 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.”

##### *Replacement*

(e) Within 20,000 flight hours or 84 months after the effective date of this AD, whichever is first: Replace the fire and overheat control unit with a modified unit, per the Accomplishment Instructions of Bombardier Service Bulletin 601R–26–018, Revision ‘A,’ dated February 27, 2003. Accomplishment of the replacement terminates the repetitive inspections required by paragraph (d) of this AD.

##### *No Reporting Required*

(f) Where Bombardier Alert Service Bulletin A601R–26–017, Revision ‘D,’ dated November 6, 2003; and Bombardier Service Bulletin 601R–26–018, Revision ‘A,’ dated February 27, 2003; describe procedures for completing a reporting sheet, this AD does not require that action.

##### *Part Installation*

(g) As of the effective date of this AD, no person may install a fire and overheat control unit, part number 472597–01, on any airplane, unless the unit has been modified per paragraph (e) of this AD.

##### *Alternative Methods of Compliance*

(h) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Canadian airworthiness directive CF–2000–35R1, dated July 2, 2003.

Issued in Renton, Washington, on March 30, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04–7712 Filed 4–5–04; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. 2003–NM–65–AD]

RIN 2120–AA64

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

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes. This proposal would require a one-time inspection of the access door ramp of the fueling control panel for damage or deformation, and applicable corrective actions. This action is necessary to prevent inadvertent fuel transfer in flight due to fuel service personnel not repositioning the defuel valve switch control to the closed position after utilization on the ground, which could cause in-flight fuel starvation. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by May 6, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–65–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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-65-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 or 2000 or ASCII text.

The service information referenced in the proposed rule 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.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer; International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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 proposed 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 proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2003-NM-65-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-65-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

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-120 series airplanes. The DAC advises that it has received reports of inadvertent fuel transfer in flight. Investigation revealed that damage to the ramp on the access door of the fueling control panel may occur if the access door is closed with the defuel valve switch control set to the open position. This condition, if not corrected, could result in inadvertent fuel transfer in flight due to fuel service personnel not repositioning the defuel valve switch control to the closed position after utilization of the switch control on the ground, which could cause in-flight fuel starvation.

**Explanation of Relevant Service Information**

EMBRAER has issued Service Bulletin 120-57-0038, dated June 26, 2002, which describes procedures for a one-time inspection of the access door ramp of the fueling control panel for damage or deformation; and applicable corrective actions. The corrective actions include reinforcement of the access door, and replacement of any damaged ramp with a new ramp; as well as modification of the access door by installation of a ramp in cases where no ramp is present. 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 2002-12-02, effective January 6, 2003, to ensure 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 Proposed 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, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

The FAA estimates that 220 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish each proposed action, and that the average labor rate is \$65 per work hour. Required parts would cost approximately \$200 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$101,200, or \$460 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

**Regulatory Impact**

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket 2003–NM–65–AD.

*Applicability:* Model EMB–120 series airplanes, serial numbers 120003, 120004, and 120006 through 120358 inclusive; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent inadvertent fuel transfer in flight due to fuel service personnel not repositioning the defuel valve switch control to the closed position after utilization on the ground, which could cause in-flight fuel starvation, accomplish the following:

#### Inspection of Existing Ramp and Corrective Actions

(a) For airplanes that have a ramp on the access door of the fueling control panel: Within 1,200 flight hours or 8 months from the effective date of this AD, whichever occurs first, perform a general visual inspection of the access door ramp for damage or deformation; and do all applicable corrective actions by accomplishing all the actions in accordance with paragraph 2.2.3 of the Accomplishment Instructions of EMBRAER Service Bulletin 120–57–0038, dated June 26, 2002. Do the actions per the service bulletin. Accomplish any applicable corrective actions before further flight.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: “A visual examination of an 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 enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight 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.”

#### Modification

(b) For airplanes that do not have a ramp on the access door of the fueling control panel: Within 1,200 flight hours or 8 months from the effective date of this AD, whichever occurs first, modify the access door by accomplishing all the actions in paragraph 2.1.3 of the Accomplishment Instructions of EMBRAER Service Bulletin 120–57–0038, dated June 26, 2002. Do the actions per the service bulletin. Accomplish any applicable corrective actions before further flight.

#### Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Brazilian airworthiness directive 2002–12–02, effective January 6, 2003.

Issued in Renton, Washington, on March 30, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04–7711 Filed 4–5–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003–NM–96–AD]

RIN 2120–AA64

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

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes. This proposal would require installing three new vertical cargo nets in cargo-configured cabins. This action is necessary to prevent

significant movement of cargo during operation, which could result in loss of control of the airplane or injury to the flightcrew. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by May 6, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–96–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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2003–NM–96–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 or 2000 or ASCII text.

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**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:

##### Comments Invited

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