

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003–NM–66–AD]

RIN 2120–AA64

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

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes. That action would have required modifying the strap configuration of IC–600 #1 and #2 integrated computers to disable CAT II operations with the flight director. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data indicating that the identified unsafe condition has been corrected on all airplanes that would have been subject to the proposed AD. Accordingly, the proposed rule is withdrawn.

#### 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) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on January 27, 2004 (69 FR 3863). The proposed rule would have required modifying the strap configuration of IC–

600 #1 and #2 integrated computers to disable CAT II operations with the flight director. That action was prompted by a report that IC–600 integrated computers, equipped with certain Engine Indication and Crew Alerting System (EICAS) software versions not configured through configuration module IM–600, enable CAT II operations with the flight director. The proposed actions were intended to prevent the flightcrew from receiving hazardous misleading guidance information, which, in the event of a high-workload landing, could result in reduced controllability of the airplane.

#### Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the airplane manufacturer has provided us with data that indicate that the identified unsafe condition (enabling of CAT II operations with the flight director, which could cause the flightcrew to receive hazardous misleading guidance information that, in the event of a high-workload landing, could result in reduced controllability of the airplane) has already been corrected on all airplanes that would have been subject to the proposed AD. On all affected airplanes, either the strap configuration of IC–600 #1 and #2 integrated computers has been modified as proposed in the NPRM, or a later EICAS software version has been installed that is not affected by the identified unsafe condition. Thus, the unsafe condition no longer exists on the subject airplanes.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### Request To Expand Applicability of Proposed AD

One commenter requests that we expand the applicability of the proposed AD to include airplanes equipped with IM–600 configuration modules. The commenter states that the configuration software for Model EMB–135 and –145XR series airplanes allows either Autopilot or Flight Director modes of CAT II operation. The commenter states that applying the proposed requirements to airplanes equipped with IM–600 configuration modules

would standardize the FAA's approach to CAT II operations.

We are reviewing the commenter's statements and may consider additional rulemaking to require actions on airplanes equipped with IM–600 configuration modules if we determine that an unsafe condition exists on those airplanes. No change to this action is necessary in this regard.

#### FAA's Conclusions

Upon further consideration, the FAA has determined that the actions that would have been required by the proposed AD have already been done on all affected airplanes, and the identified unsafe condition has been corrected. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the agency to any course of action in the future.

#### Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

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

Air transportation, Aircraft, Aviation safety, Safety.

#### The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 2003–NM–66–AD, published in the **Federal Register** on January 27, 2004 (69 FR 3863), is withdrawn.

Issued in Renton, Washington, on September 16, 2004.

**Ali Bahrami,**

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

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