

through 12WR inclusive, located in the 722VU and 742VU panels; per Airbus Service Bulletin A330-92-3034, Revision 03 (for Model A330 series airplanes); or Airbus Service Bulletin A340-92-4042, Revision 03 (for Model A340 series airplanes); both dated November 13, 2001; as applicable.

#### Corrective Action

(b) If any Texas Instruments circuit breaker having part number (P/N) E0730-005A7A5A, E0730-005A05AA, E0730-005A7A5B, or E0730-005A05AB, with any date code 96/01 through 98/52 inclusive, is found during the inspection required by paragraph (a) of this AD, before further flight, replace the circuit breaker with a new improved circuit breaker, either having the proper date code or from another manufacturer, per Airbus Service Bulletin A330-92-3034, Revision 03 (for Model A330 series airplanes); or Airbus Service Bulletin A340-92-4042, Revision 03 (for Model A340 series airplanes); both dated November 13, 2001; as applicable.

(c) Inspections and corrective actions accomplished before the effective date of this AD per Airbus Service Bulletin A330-92-3034, dated February 9, 2001; Revision 01, dated April 11, 2001; or Revision 02, dated August 14, 2001 (for Model A330 series airplanes); and Airbus Service Bulletin A340-92-4042, dated February 9, 2001; Revision 01, dated April 11, 2001; or Revision 02, dated August 14, 2001 (for Model A340 series airplanes); are considered acceptable for compliance with the applicable inspections and corrective actions required by this AD.

#### Part Installation

(d) As of the effective date of this AD, no person shall install any Texas Instruments circuit breaker having P/N E0730-005A7A5A, E0730-005A05AA, E0730-005A7A5B, or E0730-005A05AB with any date code 96/01 through 98/52 inclusive, on any airplane.

#### Alternative Methods of Compliance

(e) 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, International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

#### Special Flight Permits

(f) 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

(g) The actions shall be done in accordance with Airbus Service Bulletin A330-92-3034,

Revision 03, dated November 13, 2001; or Airbus Service Bulletin A340-92-4042, Revision 03, dated November 13, 2001 excluding Appendix 01, Reporting Sheet, and quality perception form, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directives 2001-468(B) and 2001-469(B), both dated October 3, 2001.

#### Effective Date

(h) This amendment becomes effective on February 10, 2003.

Issued in Renton, Washington, on December 23, 2002.

#### Vi L. Lipski,

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

[FR Doc. 03-140 Filed 1-3-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-348-AD; Amendment 39-13008; AD 2002-26-51]

RIN 2120-AA64

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

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the *Federal Register* an amendment adopting airworthiness directive (AD) 2002-26-51 that was sent previously to all known U.S. owners and operators of certain EMBRAER Model EMB-135 and -145 series airplanes by individual notices. This AD requires revising the Limitations Section of the Airplane Flight Manual to advise the flightcrew of the possibility of locking of the elevator during takeoff and to provide the appropriate procedures to prevent it. This action is prompted by a report indicating that the elevator locked during the takeoff run on a Model EMB-145 series airplane. The actions specified by this AD are intended to

prevent locking of the elevator during takeoff, which could result in loss of controllability of the airplane.

**DATES:** Effective January 13, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2002-26-51, issued December 20, 2002, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before February 5, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-348-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](mailto:9-anm-iarcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2002-NM-348-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.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Bob Breneman, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1263; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** On December 20, 2002, the FAA issued emergency AD 2002-26-51, which is applicable to certain EMBRAER Model EMB-135 and -145 series airplanes.

#### Background

The Departamento de Aviação Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB-135 and -145 series airplanes. The DAC received a report indicating that the elevator locked during the takeoff run on a Model EMB-145 series airplane. The locking was caused by a restart of the locking sequence, which was initiated by a rearward movement of the gust lock lever (and aggravated by a possible ineffective plunger spring) after the elevator had been unlocked. Locking

of the elevator during takeoff could result in loss of controllability of the airplane.

The DAC issued Brazilian airworthiness directive 2002-12-03, dated December 20, 2002, in order to ensure the continued airworthiness of these airplanes in Brazil.

#### FAA's Determination

In light of this information, the FAA finds that certain procedures must be included in the AFM for Model EMB-135 and -145 series airplanes to provide the flightcrew with appropriate procedures for preventing a locked elevator during takeoff. The FAA has determined that such procedures currently are not defined adequately in the AFM for these airplanes.

#### 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 the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 2002-26-51 to prevent locking of the elevator during takeoff, which could result in loss of controllability of the airplane. The AD requires revising the Limitations Section of the Airplane Flight Manual to advise the flightcrew of the possibility of locking of the elevator during takeoff and to provide the appropriate procedures to prevent it. This AD is consistent with the Brazilian airworthiness directive.

#### Interim Action

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

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual

notices issued on December 20, 2002, to all known U.S. owners and operators of certain EMBRAER Model EMB-135 and -145 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

#### 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.

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 2002-NM-348-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, 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 adding the following new airworthiness directive:

**2002-26-51 Empresa Brasileira de Aeronautica S.A. (Embraer):** Amendment 39-13008. Docket 2002-NM-348-AD.

**Applicability:** Model EMB-135 and -145 series airplanes, certificated in any category, equipped with an electromechanical gust lock system.

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

To prevent locking of the elevator during takeoff, which could result in loss of controllability of the airplane, accomplish the following:

(a) Within 24 clock hours after receipt of this AD, revise the Limitations Section of the Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"Every single time the gust lock lever is set to the unlocked position, the elevator movement must be checked. This check must be performed no sooner than 10 seconds after positioning the gust lock lever to the fully forward unlocked position by moving the

control column from the full up stop and to the full down stop and back to the full up stop.”

#### Alternative Methods of Compliance

(b) 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, International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 1:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

#### Special Flight Permits

(c) 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.

**Note 2:** The subject of this AD is addressed in Brazilian airworthiness directive 2002-12-03, dated December 20, 2002.

(d) This amendment becomes effective on January 13, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2002-26-51, issued December 20, 2002, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 30, 2002.

**Kevin Mullin,**

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

[FR Doc. 03-149 Filed 1-3-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2002-14089; Airspace Docket No. 02-ACE-13]

#### Modification of Class E Airspace; Caruthersville, MO

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

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action modifies the Class E airspace at Caruthersville, MO. The FAA has developed Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 36 ORIGINAL Standard Instrument Approach procedure (SIAP), RNAV (GPS) RWY 18 ORIGINAL SIAP and VHF Omni-directional Range (VOR)/Distance Measuring Equipment (DME) RWY 18

ORIGINAL SIAP to serve Caruthersville Memorial Airport, Caruthersville, MO. Current Class E airspace at Caruthersville, MO was designed to contain these SIAPs. A recent survey has established a new Airport Reference Point (ARP) for Caruthersville Memorial Airport. This requires that controlled airspace extending upward from 700 feet Above Ground Level (AGL) at Caruthersville, MO be redefined in order to accommodate the SIAPs.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the SIAPs and to aggregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**DATES:** This direct final rule is effective on 0901 UTC, April 17, 2003.

Comments for inclusion in the Rules Docket must be received on or before February 28, 2003.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2002-14089/Airspace Docket No. 02-ACE-13, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Brenda Mumper, Air Traffic Division, Airspace Branch, ACE-520A DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2524.

**SUPPLEMENTARY INFORMATION:** The FAA has RNAV (GPS) RWY 36 ORIGINAL SIAP, RNAV (GPS) RWY 18 ORIGINAL SIAP and VOR/DME RWY 18 ORIGINAL SIAP to serve Caruthersville Memorial Airport, Caruthersville, MO. The amendment to Class E airspace at Caruthersville, MO will provide controlled airspace at and above 700 feet AGL to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the

earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

#### The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified below. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking will be published with a new comment period.

#### Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2002-14089/Airspace