

**Incorporation by Reference**

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80-24A159, Revision 01, dated January 24, 2000. 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 Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; 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).

**Effective Date**

(e) This amendment becomes effective on December 20, 2004.

Issued in Renton, Washington, on November 1, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-24932 Filed 11-12-04; 8:45 am]

**BILLING CODE 4910-13-P**

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

[Docket No. 2002-NM-324-AD; Amendment 39-13862; AD 2004-23-07]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 737-100, -200, -300, -400, and -500 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires modification of certain fuselage support structure for the number 2 galley. This amendment requires modification of the same support structure using new methods based on new calculations. This amendment also expands the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to prevent the galley from shifting, which could limit access to the galley door during emergencies, and result in injury to passengers and

flightcrew. This action is intended to address the identified unsafe condition.

**DATES:** Effective December 20, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 20, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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).

**FOR FURTHER INFORMATION CONTACT:**

Keith Ladderud, Aerospace Engineer, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6435; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95-02-08, amendment 39-9127 (60 FR 8295, February 14, 1995), which is applicable to certain Boeing Model 737 series airplanes, was published in the **Federal Register** on May 7, 2004 (69 FR 25505). The action proposed to require modification of certain fuselage support structure for the number 2 galley. The action also proposed to expand the applicability of the existing AD to include additional 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.

**Requests To Add an Option To Reduce the Weight Limit of the Galley as an Alternative to the Modification**

One commenter states that the wording in the proposed AD and the referenced service bulletin is such that, if the allowable operating weight limit of a given airplane's galley is above a certain threshold value, the proposed modification would be required. The commenter suggests that the proposed AD specify that if a galley has a weight limit above the threshold value, the

operator be given the option of reducing the weight limit to the threshold value and re-placarding the galley with the new limit, instead of modifying the airplane.

Another commenter proposes an option be included for operators to reduce the total weight limit of the galley, as opposed to doing the structural modification. The commenter adds that, for all airplanes other than Group 1, the proposed AD forces the operator to use Table A in the referenced service bulletin to determine the structural configuration of the airplane. Based on that configuration, and the allowable galley weight limit, the operator will do the applicable corrective action. The commenter proposes that the FAA specify a weight limit for all airplane groups which is similar to the Group 1 airplanes listed in the proposed AD. The commenter notes that, by doing this, the operator will have the option of either doing the modification and maintaining the current galley weight limit, or reducing the galley weight limit and avoiding the expensive modification.

We agree. We have added a new paragraph (d) to this AD that allows reducing the galley weight limit to 995 pounds or less as an alternative to doing the required modification. The reduction in the galley weight limit will require re-placarding to specify the maximum capacity limit of 995 pounds for the galley. If necessary, re-placarding is required to specify the load limit for individual compartments, to ensure that the total of the individual compartment weights does not exceed the maximum capacity for the galley.

**Request To Change Applicability**

One commenter states that the applicability section in the proposed AD specifies "as listed in Boeing Special Attention Service Bulletin 737-53-1154, Revision 1, dated October 3, 2002," and paragraph (b) of the proposed AD requires doing the proposed modification within 18 months, per the referenced service bulletin. The commenter adds that the first step specified in the service bulletin is to determine the maximum operating weight of the number 2 galley; the proposed modification is only necessary on airplanes with that galley, and that have an allowable operating weight of more than 995 pounds. The commenter suggests adding further description to the applicability section of the proposed AD to avoid unnecessary research and inspection. The commenter also adds that the applicability specified in AD 95-02-08 includes a description of the galley

weight requirements which is similar to the requirements in this proposed AD.

We agree that the applicability section in this AD could be further clarified. We have changed that section to specify that the proposed AD is applicable to airplanes equipped with intercostal support structures at stringer 5R and having a number 2 galley weight that exceeds 995 pounds (including any attached equipment that imposes loads on the galley).

#### Request for Changes to Paragraph (c)

One commenter states that it would be helpful if the airplanes referenced in paragraph (c) of the proposed AD are identified. The commenter adds that there will be airplanes that are different from the specified configuration and those airplanes can be addressed in the alternative methods of compliance process.

We do not agree. We have determined that the service bulletin clearly identifies the specific group associated with each airplane in this AD. Identifying each airplane that has been modified, as noted in paragraph (c)(2) of this AD, would not relieve any burden on operators because we would still rely on operators to determine if the airplane was modified per the original issue of the referenced service bulletin. No change to the AD is made in this regard.

The same commenter asks that paragraph (c) be changed from “\* \* \* do the modification in paragraph (b) of this AD \* \* \*” to “\* \* \* modify the upper attachment support structure of galley 2 from body station 344 to 360 (inclusive) between right stringers 3 and 7.” The commenter states that this change would prevent confusion.

We agree; we have changed paragraph (c) of this AD, as specified above, for clarification.

#### Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes previously described. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### Cost Impact

There are approximately 583 airplanes of the affected design in the worldwide fleet. We estimate that 170 airplanes of U.S. registry will be affected by this AD.

The new actions that are required by this AD will take between 8 and 22 work hours per airplane to accomplish, depending on the airplane's

configuration. The average labor rate is \$65 per work hour. Required parts will cost between \$5,200 and \$23,790 per airplane, depending on the airplane's configuration. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be between \$5,720 and \$25,220 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the 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 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.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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, Incorporation by reference, 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 removing amendment 39–9127 (60 FR 8295, February 14, 1995), and by adding a new airworthiness directive (AD), amendment 39–13862, to read as follows:

**2004–23–07 Boeing:** Amendment 39–13862. Docket 2002–NM–324–AD. Supersedes AD 95–02–08, Amendment 39–9127.

**Applicability:** Model 737–100, –200, –300, –400, and –500 series airplanes; certificated in any category; equipped with intercostal support structures at stringer 5R and having a number 2 galley weight of 996 pounds or more (including any attached equipment that imposes loads on the galley).

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

To prevent the galley from shifting, which could limit access to the galley door during emergencies, and result in injury to passengers and flightcrew, accomplish the following:

#### Service Bulletin Reference

(a) The term “service bulletin,” as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1154, Revision 1, dated October 3, 2002.

#### Modification

(b) Except as provided by paragraph (c) or (d) of this AD, as applicable: Within 18 months after the effective date of this AD, modify the upper attachment support structure of galley 2 from body station 344 to 360 inclusive, between right stringers 3 and 7, in accordance with the service bulletin.

(c) For airplanes listed in paragraphs (c)(1) through (c)(3) of this AD: Within 18 months after the effective date of this AD, modify the upper attachment support structure of galley 2 from body station 344 to 360 inclusive, between right stringers 3 and 7. Do the modification in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a modification method to be approved, the approval must specifically reference this AD.

(1) Airplanes listed as Group 1 in the service bulletin, on which the galley has an allowable operating weight of 996 pounds or more.

(2) Airplanes listed as Group 2 in the service bulletin, on which the modifications specified in the initial release of the service bulletin have been incorporated.

(3) Airplanes listed as Groups 3 through 9 in the service bulletin for which the service bulletin specifies to contact Boeing.

**Alternative to Accomplishing Modification**

(d) Instead of accomplishing the modification required by paragraph (b) or (c) of this AD, as applicable: Within 18 months after the effective date of this AD, do the actions specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD, in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings.

(1) Reduce the total weight limit of the galley to a maximum capacity of 995 pounds or less.

(2) Re-placard to specify the maximum capacity limit for the galley.

(3) Re-placard to specify the load limit for individual compartments, as necessary, to ensure that the total of the individual compartment weights does not exceed the maximum capacity for the galley.

**Alternative Methods of Compliance**

(e) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

**Incorporation by Reference**

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Special Attention Service Bulletin 737-53-1154, Revision 1, dated October 3, 2002. 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. 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).

**Effective Date**

(g) This amendment becomes effective on December 20, 2004.

Issued in Renton, Washington, on November 1, 2004.

**Ali Bahrami,**

Manager, Transport Airplane Directorate,  
Airframe Certification Service.

[FR Doc. 04-24931 Filed 11-12-04; 8:45 am]

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

[Docket No. 2002-NM-346-AD; Amendment 39-13864; AD 2004-23-09]

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.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain EMBRAER Model EMB-135 and -145 series airplanes, that currently requires determining whether a defective auxiliary power unit (APU) exhaust silencer is installed on the airplane; and corrective actions if necessary. For certain airplanes, this amendment requires modification of the APU exhaust silencer, and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. For certain other airplanes, this amendment requires repetitive inspections to determine the structural integrity of the APU exhaust silencer; corrective actions, if necessary; eventual modification of the APU exhaust silencer, which terminates the repetitive inspections; and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. This amendment also adds airplanes to the applicability of the existing AD. The actions specified by this AD are intended to prevent separation of the aft baffle assembly from the APU exhaust silencer and consequent separation of the assembly from the airplane, which could cause damage to other airplanes during takeoff and landing operations, or injury to people on the ground. This action is intended to address the identified unsafe condition.

**DATES:** Effective December 20, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 20, 2004.

**ADDRESSES:** The service information referenced in this AD 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 Federal Aviation

Administration (FAA), Transport Airplane Directorate, Rules Docket, 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).

**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:**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2002-16-06, amendment 39-12845 (67 FR 52398, August 12, 2002), which is applicable to certain EMBRAER Model EMB-135 and -145 series airplanes, was published in the **Federal Register** on April 6, 2004 (69 FR 17993). For certain airplanes, the action proposed to require modification of the APU exhaust silencer, and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. For certain other airplanes, the action proposed to require repetitive inspections to determine the structural integrity of the APU exhaust silencer; corrective actions, if necessary; eventual modification of the APU exhaust silencer, which terminates the repetitive inspections; and reidentification of the part number for the APU exhaust silencer once the modification is accomplished. That action also proposed to add airplanes to the applicability of the existing AD.

**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 Accomplish Terminating Action Without First Doing the Inspections**

The commenter, an operator, requests that the proposed AD be revised to allow operators to "bypass" the inspections in Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145-49-0021, Change 03, dated September 12, 2003, and do just the modification in Part II of the Accomplishment Instructions of that service bulletin. The modification is the terminating action