

# Rules and Regulations

Federal Register

Vol. 69, No. 18

Wednesday, January 28, 2004

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

#### Termination of the Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** The decision to terminate this waiver of the Nonmanufacturer Rule is based on evidence provided to the SBA that there are small businesses which manufacturer items within this class of product. Terminating this waiver will require recipients of contracts set aside for small or 8(a) businesses to provide the product of domestic small business manufacturers or processors where this class of product is required. A notice to terminate a waiver of the Nonmanufacturer Rule appeared in the **Federal Register** on October 29, 2003 (68 FR 61636). Comments from this notice were received from small business manufacturers. Our knowledge of the existence of small business manufacturers requires us to terminate the waiver of the Nonmanufacturer for Ammunition (except small arms) Manufacturing, NAICS 332993, in accordance with 13 CFR 121.1204 (a)(7). **EFFECTIVE DATE:** January 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith G. Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Tel: (202) 619-0422.

**SUPPLEMENTARY INFORMATION:** Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This

requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on a six digit North American Industry Classification System (NAICS) and the four digit Product and Service Code established by the Federal Procurement Data System.

**Barry S. Meltz,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-1603 Filed 1-27-04; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-330-AD; Amendment 39-13437; AD 2004-02-02]

**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 adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB-135 and EMB-145 series airplanes, that requires relocating the pitot 1 and pitot 2 drain valves from the nose landing gear compartment to the forward electronic compartment, and accomplishing follow-on actions. This action is necessary to prevent ice from damaging the pitot drain valves, which could cause airspeed indication errors,

resulting in display of erroneous or misleading information to the flight crew. This action is intended to address the identified unsafe condition.

**DATES:** Effective March 3, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 3, 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**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) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB-135 and EMB-145 series airplanes was published in the **Federal Register** on November 14, 2003 (68 FR 64572). That action proposed to require relocating the pitot 1 and pitot 2 drain valves from the nose landing gear compartment to the forward electronic compartment, and accomplishing follow-on actions.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

#### Conclusion

The FAA has carefully reviewed the available data and determined that air safety and the public interest require the adoption of the rule as proposed.

#### Cost Impact

The FAA estimates that 374 airplanes of U.S. registry will be affected by this

AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Required parts will cost approximately between \$301 and \$304 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between \$161,194 and \$162,316, or between \$431 and \$434 per airplane.

The cost impact figure discussed above is 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 adding the following new airworthiness directive:

**Empresa Brasileira De Aeronautica S.A. (EMBRAER):** Amendment 39-13437. Docket 2002-NM-330-AD.

*Applicability:* Model EMB-135 and -145 series airplanes; as listed in EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; and EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; certificated in any category.

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

To prevent ice from damaging the pitot drain valves, which could cause airspeed indication errors, resulting in display of erroneous or misleading information to the flight crew, accomplish the following:

**Relocation**

(a) Within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs first: Relocate the pitot 1 and pitot 2 drain valves from the nose landing gear compartment to the forward electronic compartment; and install a plug, washers, and a nut to close the hole in the structure where the pitot 1 and pitot 2 drain valves were removed; per the Accomplishment Instructions of EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; or EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; as applicable.

**Installation**

(b) After accomplishment of paragraph (a) of this AD but prior to further flight: Install a new placard and apply sealant on the placard per the Accomplishment Instructions of EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; or EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; as applicable.

**Actions Accomplished Per Previous Issue of Service Bulletin**

(c) Actions accomplished before the effective date of this AD per EMBRAER Service Bulletin 145-34-0070, original issue, dated April 23, 2002; EMBRAER Service Bulletin 145-34-0070, Change 01, dated September 23, 2002; and EMBRAER Service Bulletin 145-34-0070, Change 02, dated December 2, 2002; are considered acceptable for compliance with the corresponding action specified in this AD.

**Alternative Methods of Compliance**

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

**Incorporation by Reference**

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with EMBRAER Service Bulletin 145-34-0070, Change 03, dated July 16, 2003; or EMBRAER Service Bulletin 145LEG-34-0002, dated September 23, 2002; as applicable. EMBRAER Service Bulletin 145-34-0070, Change 03, contains the following effective pages:

Page No.	Change level shown on page	Date shown on page
1, 2, 5, 6 .....	03	7-16-2003
3, 4, 7-15 .....	01	9-23-2002

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 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 1:** The subject of this AD is addressed in Brazilian airworthiness directive 2002-06-01R1, dated November 8, 2002.

**Effective Date**

(f) This amendment becomes effective on March 3, 2004.

Issued in Renton, Washington, on January 14, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-1561 Filed 1-27-04; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[TD 9106]

RIN 1545-AW99

**Awards of Attorney's Fees and Other Cost Based Upon Qualified Offers; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final regulations and removal of temporary regulations.

**SUMMARY:** This document corrects final regulations and the removal of temporary regulations (TD 9106) that were published in the **Federal Register** on December 29, 2003 (68 FR 74848). The document contains final regulations and the removal of temporary