

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

[Docket No. 2003–NM–96–AD; Amendment 39–13679; AD 2004–12–18]

RIN 2120–AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 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–120 series airplanes, that requires 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:** Effective July 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 27, 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) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes was

published in the **Federal Register** on April 6, 2004 (69 FR 17991). That action proposed to require installing three new vertical cargo nets in cargo-configured cabins.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

**Conclusion**

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

**Cost Impact**

The FAA estimates that 153 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required installation, and that the average labor rate is \$65 per work hour. Required parts will cost between \$2,250 and \$4,570, depending on the configuration of the airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between \$393,975 and \$748,935, or between \$2,575 and \$4,895 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.

Currently, there are no affected "CTA Version" airplanes on the U.S. Register (as listed in the applicability of EMBRAER Service Bulletin 120–25–0257, dated April 30, 2002). However, if an affected airplane is imported and placed on the U.S. Register in the future, the required actions will take about 9 work hours, at an average labor rate of \$65 per work hour. Required parts will cost about \$6,663 per airplane. Based on these figures, we estimate the cost of this AD to be \$7,248 per airplane.

**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:

**2004–12–18 Empresa Brasileira De Aeronautica S.A. (EMBRAER):**  
Amendment 39–13679. Docket 2003–NM–96–AD.

*Applicability:* Model EMB–120 series airplanes, as listed in EMBRAER Service Bulletin 120–25–0255, dated March 5, 2002; and EMBRAER Service bulletin 120–25–0257, dated April 30, 2002; certificated in any category.

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

To prevent significant movement of cargo during operations, which could result in loss of control of the airplane or injury to the flightcrew, accomplish the following:

**Installation**

(a) Within 30 days after the effective date of this AD: Install three new vertical cargo nets by doing all the actions in and per the Accomplishment Instructions of EMBRAER Service Bulletin 120–25–0255, dated March 5, 2002; or EMBRAER Service Bulletin 120–25–0257, dated April 30, 2002; as applicable.

**Alternative Methods of Compliance**

(b) 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.

**Incorporation by Reference**

(c) The actions shall be done in accordance with EMBRAER Service Bulletin 120-25-0255, dated March 5, 2002; or EMBRAER Service Bulletin 120-25-0257, dated April 30, 2002; 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 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 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).

**Note 1:** The subject of this AD is addressed in Brazilian airworthiness directive 2001-02-02R1, dated April 22, 2003.

**Effective Date**

(d) This amendment becomes effective on July 27, 2004.

Issued in Renton, Washington, on June 9, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-13700 Filed 6-21-04; 8:45 am]

**BILLING CODE 4910-13-P**

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

[Docket No. FAA-2003-16646; Directorate Docket No. 2003-NM-177-AD; Amendment 39-13678; AD 2004-12-17]

**RIN 2120-AA64**

**Airworthiness Directives; Boeing Model 757-200 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757-200 series airplanes, that requires repetitive inspections of the intercostals that back up the door stops and hinges at door 2 left and door 2 right for cracks, and corrective action, if necessary. This amendment also provides for an

optional terminating action for the repetitive inspections. This action is necessary to prevent fatigue cracks from propagating in the intercostals, which could lead to the loss of a door in flight and subsequent rapid decompression. This action is intended to address the identified unsafe condition.

**DATES:** Effective July 27, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of July 27, 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:**

Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6450, fax (425) 917-6590.

**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 Boeing Model 757-200 series airplanes was published in the **Federal Register** on December 11, 2003 (68 FR 69053). That action proposed to require repetitive inspections of the intercostals that back up the door stops and hinges at door 2 left and door 2 right for cracks, and corrective action, if necessary. That action also proposed to provide for an optional terminating action for the repetitive inspections.

**Comments**

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

**Request To Increase Repetitive Inspection Interval**

One commenter requests that the repetitive inspection interval specified in paragraph (c) of the proposed AD be increased from 3,000 flight cycles to

9,000 flight cycles. The commenter states that its in-service experiences demonstrate that a 9,000 flight cycle inspection interval is adequate to ensure that cracks are detected in a timely manner prior to becoming critical. The commenter justifies its recommendation based on its initial visual inspections conducted on 14 airplanes having around 15,000 total flight cycles, during which no cracking was found. Subsequent repeat inspections conducted on those airplanes at about 8,000 flight cycles later (at about 23,000 total flight cycles) found cracking. On average, the commenter found cracks on two out of six intercostals per side, per airplane, and the cracks were generally less than 1.5 inches. The commenter also states that the worst-case safety concern is the loss of cabin pressure, which is a lesser concern than loss of airplane. The commenter notes that access is more difficult than stated in the proposed AD because a lavatory and coat closet must be removed to gain access to the subject area.

The FAA does not agree to increase the repetitive inspection interval required by paragraph (c) of the final rule from 3,000 flight cycles to 9,000 flight cycles. The commenter did not provide enough data to support an inspection interval of 9,000 flight cycles. The commenter's statement that it found multiple cracks occurring within an 8,000 flight cycle inspection interval indicates that an appropriate inspection interval would be less than 8,000 flight cycles. In addition, based on the commenter's findings that an average of two out of six intercostals were cracked per door, it is more than likely that half of the intercostals would be cracked on some airplanes within the commenter's proposed 9,000 flight cycle interval. While a loss of cabin pressure may occur prior to losing a door, the detection of multiple cracked intercostals within the commenter's proposed inspection interval increases the possibility of losing a door. We have determined that the inspection interval of 3,000 flight cycles required by paragraph (c) of the final rule will ensure an acceptable level of safety. In developing an appropriate inspection interval for this AD, we considered the safety issues resulting from the loss of a door in flight and possible subsequent rapid decompression, as well as the recommendations of the manufacturer and the effectiveness of the inspection procedure. Also, the final rule provides optional terminating actions, as stated in paragraphs (g) and (h) of the final rule, for the repetitive inspections required by paragraph (c) of the final