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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2005-20883; Directorate Identifier 2005-NM-064-AD; Amendment 39-14047; AD 2005-07-22]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Series Airplanes**

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

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

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 series airplanes. This AD requires revising the Limitations section of the airplane flight manual to advise the flightcrew to make sure the correct instrument landing system (ILS) identifier is included on the flight management system (FMS) flight plan before the flightcrew initiates an approach to landing with the autopilot engaged. This AD is prompted by reports that the airplane's autopilot may apply large-amplitude control inputs while following ILS guidance to a runway that is not included on the FMS flight plan. We are issuing this AD to prevent hazardous maneuvers close to the ground, which could result in an impact with an obstacle or terrain.

**DATES:** Effective April 22, 2005. We must receive comments on this AD by June 6, 2005.

**ADDRESSES:** Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW, Nassif Building, room PL-401, Washington, DC 20590.
- Fax: (202) 493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP 12.225, Sao Jose dos Campos-SP, Brazil.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20883; the directorate identifier for this docket is 2005-NM-064-AD.

### **Examining the Docket**

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the ADDRESSES section. Comments will be available in the AD docket shortly after the DMS receives them.

**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:** The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 series airplanes. The DAC advises that it has received several reports that the airplane's autopilot applied large-amplitude control inputs while following instrument landing system (ILS) guidance to runways that were not included on the flight management system (FMS) flight plan. This condition, if not corrected, could cause hazardous maneuvers close to the ground, and result in an impact with an obstacle or terrain.

### **Brazilian Airworthiness Directive**

The DAC issued Brazilian airworthiness directive 2005-03-01, dated March 21, 2005, which mandates modification of the autopilot-coupled ILS approach procedures by revising the Limitations section of the airplane flight manual to advise the flightcrew to make sure the correct ILS identifier is included on the FMS flight plan before the flightcrew initiates an approach to landing with the autopilot engaged. The DAC issued airworthiness directive 2005-03-01 to ensure the continued airworthiness of these airplanes in Brazil.

### **FAA's Determination and Requirements of This AD**

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. We have examined the DAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to prevent hazardous maneuvers close to the ground, which could result in an impact with an obstacle or terrain. This AD requires revising the Limitations section of the airplane flight manual to advise the flightcrew to make sure the correct ILS identifier is included on the FMS flight plan before the flightcrew initiates an approach to landing with the autopilot engaged.

## **Interim Action**

We consider this AD interim action. If final action is later identified, we may consider further rulemaking then.

## **FAA's Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

## **Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under ADDRESSES. Include "Docket No. FAA-2005-20883; Directorate Identifier 2005-NM-064-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

## **Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## **Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the ADDRESSES section for a location to examine the regulatory evaluation.

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

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

# AIRWORTHINESS DIRECTIVE



Aircraft Certification Service  
Washington, DC

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

*We post ADs on the internet at "www.faa.gov"*

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

**2005-07-22 Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Amendment 39-14047.  
Docket No. FAA-2005-20883; Directorate Identifier 2005-NM-064-AD.

## Effective Date

- (a) This AD becomes effective April 22, 2005.

## Affected ADs

- (b) None.

## Applicability

- (c) This AD applies to all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 series airplanes, certificated in any category.

## Unsafe Condition

- (d) This AD was prompted by reports that the airplane's autopilot may apply large-amplitude control inputs while following instrument landing system (ILS) guidance to a runway that is not included on the flight management system (FMS) flight plan. The FAA is issuing this AD to prevent hazardous maneuvers close to the ground, which could result in an impact with an obstacle or terrain.

## Compliance

- (e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

## Airplane Flight Manual Revision

- (f) Within 15 days after the effective date of this AD, revise the Limitations section of the EMBRAER Model ERJ 170 airplane flight manual (AFM) to include the following statement in the "Autopilot" subsection. This may be done by inserting a copy of this AD in the AFM.

"Before initiating an approach to landing with AUTOPILOT engaged, make sure the correct ILS identifier has been inserted on the FMS PROGRESS PAGE 1/3, Lines 5L and 5R."

**Note 1:** When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

### **Alternative Methods of Compliance (AMOCs)**

(g) The Manager, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

### **Related Information**

(h) Brazilian airworthiness directive 2005-03-01, dated March 21, 2005, also addresses the subject of this AD.

### **Material Incorporated by Reference**

(i) None.

Issued in Renton, Washington, on March 31, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-6909 Filed 4-6-05; 8:45 am]

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