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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA-2006-24696; Directorate Identifier 2006-NM-038-AD; Amendment 39-15052; AD 2007-10-11]**

**RIN 2120-AA64**

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145LR, -145XR, and -145MP Airplanes; and Model EMB-135BJ and -135LR Airplanes**

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

**ACTION:** Final rule.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain EMBRAER Model EMB-145LR, -145XR, and -145MP airplanes; and Model EMB-135BJ and -135LR airplanes. This AD requires replacing the electrical bonding clamps inside the fuel tanks and adjacent areas. This AD results from a report of the failure of a fitting clamp of an electrical bonding cable for the fuel tubing. We are issuing this AD to prevent loss of bonding protection in the interior of the fuel tanks or adjacent areas, and a consequent potential source of ignition in a fuel tank and possible fire or explosion.

**DATES:** This AD becomes effective June 21, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 21, 2007.

**ADDRESSES:** You may examine the 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., Nassif Building, Room PL-401, Washington, DC.

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

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

## **SUPPLEMENTARY INFORMATION:**

### **Examining the Docket**

You may 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 street address stated in the ADDRESSES section.

### **Discussion**

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain EMBRAER Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes; and Model EMB-135BJ, -135ER, -135KE, -135KL, and -135LR airplanes. That supplemental NPRM was published in the Federal Register on December 6, 2006 (71 FR 70648). That supplemental NPRM proposed to require replacing the electrical bonding clamps inside the fuel tanks and adjacent areas. That supplemental NPRM also proposed to add airplanes to the applicability.

### **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment received.

### **Request To Remove Airplanes From the Applicability of the Supplemental NPRM**

ExpressJet points out that the supplemental NPRM specified that the newly added EMBRAER Model EMB-135BJ, -135ER, -135KE, -135KL, and -135LR airplanes accomplish the required actions in accordance with EMBRAER Service Bulletin 145LEG-28-0030, dated April 19, 2006. ExpressJet asserts that this service bulletin is not applicable to any of these airplanes, except the Model EMB-135BJ airplanes. Therefore, ExpressJet states that EMBRAER Model EMB-135ER, -135KE, -135KL, and -135LR airplanes should not be included in the applicability of the supplemental NPRM.

From this comment, we infer that ExpressJet is requesting that EMBRAER Model EMB-135ER, -135KE, -135KL, and -135LR airplanes be removed from the applicability of the AD. We partially agree. As we stated in the supplemental NPRM, the Agência Nacional de Aviação Civil (ANAC), which is the airworthiness authority for Brazil, notified us that the unsafe condition identified in the original NPRM might exist on EMBRAER “Model EMB-135 airplanes,” in addition to the airplanes identified in the original NPRM. ANAC subsequently issued Brazilian airworthiness directive 2006-02-03R2, effective October 8, 2006, to address the subject unsafe condition on “Model EMB-135 airplanes.”

However, we have verified the effectivity of EMBRAER Service Bulletins 145-28-0028, dated November 7, 2005; and 145LEG-28-0030, dated April 19, 2006; with EMBRAER. EMBRAER Service Bulletin 145LEG-28-0030 applies only to Model EMB-135BJ airplanes. EMBRAER Service Bulletin 145-28-0028 applies only to Model EMB-135LR airplanes, and to Model EMB-145LR, -145XR, and -145MP airplanes. Therefore, we agree that Model EMB-135ER, -135KE, and -135KL airplanes are not subject to the requirements of this AD and we have removed those airplanes from the applicability of this AD. We do not agree to remove Model EMB-135LR airplanes from the applicability of this AD, but we do agree that these airplanes are not subject to EMBRAER Service Bulletin 145LEG-28-0030. Therefore, we have revised Tables 1 and 2 of this AD to specify that these airplanes are identified in and must use EMBRAER Service Bulletin 145-28-0028 to accomplish the actions required by this AD.

In addition, we have removed Model EMB-145, -145ER, -145MR, and -145EP airplanes from the applicability of this AD. These airplanes are not identified in EMBRAER Service Bulletin 145-28-0028 and are not subject to the requirements of this AD.

**Conclusion**

We have carefully reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this AD.

**Estimated Costs**

<b>Action</b>	<b>Work hours</b>	<b>Average labor rate per hour</b>	<b>Parts</b>	<b>Cost per airplane</b>	<b>Number of U.S.-registered airplanes</b>	<b>Fleet cost</b>
Replacement of bonding clamp (all airplane groups)	2	\$80	Between \$33 and \$87, per kit (depending on kit/airplane group)	Between \$193 and \$247 (depending on kit/airplane group)	20	Between \$3,860 and \$4,940 (depending on kit/airplane group)

**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 this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. 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, Incorporation by reference, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):



**2007-10-11 Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Amendment 39-15052.  
Docket No. FAA-2006-24696; Directorate Identifier 2006-NM-038-AD.

**Effective Date**

(a) This AD becomes effective June 21, 2007.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to the airplanes identified in Table 1 of this AD, certificated in any category.

**Table 1 – Applicability**

<b>EMBRAER Model -</b>	<b>As identified in -</b>
EMB-145LR, -145XR, -145MP, and -135LR airplanes	EMBRAER Service Bulletin 145-28-0028, dated November 7, 2005
EMB-135BJ airplanes	EMBRAER Service Bulletin 145LEG-28-0030, dated April 19, 2006

**Unsafe Condition**

(d) This AD results from a report of the failure of a fitting clamp of an electrical bonding cable for the fuel tubing. We are issuing this AD to prevent loss of bonding protection in the interior of the fuel tanks or adjacent areas, and a consequent potential source of ignition in a fuel tank and possible fire or explosion.

**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.

**Electrical Bonding Clamp Replacement**

(f) At the time specified in paragraph (f)(1) or (f)(2) of this AD, as applicable: Replace the electrical bonding clamps having part numbers AN735D6 and AN735D4 inside the forward fuel tank or the ventral, wing stub, and wing fuel tanks, and adjacent areas, as applicable; by accomplishing all actions specified in the Accomplishment Instructions of the applicable service bulletin identified in Table 2 of this AD.

**Table 2 – Applicable Service Information**

<b>For EMBRAER Model -</b>	<b>Use -</b>
EMB-145LR, -145XR, -145MP, and -135LR airplanes	EMBRAER Service Bulletin 145-28-0028, dated November 7, 2005
EMB-135BJ airplanes	EMBRAER Service Bulletin 145LEG-28-0030, dated April 19, 2006

(1) For Model EMB-145LR, -145XR, and -145MP airplanes; and Model EMB-135LR airplanes: Within 5,000 flight hours after the effective date of this AD.

(2) For Model EMB-135BJ airplanes: Within 4,000 flight hours or 48 calendar months after the effective date of this AD, whichever occurs first.

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

(g)(1) The Manager, International Branch 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

### **Related Information**

(h) Brazilian airworthiness directive 2006-02-03R2, effective October 8, 2006, also addresses the subject of this AD.

### **Material Incorporated by Reference**

(i) You must use EMBRAER Service Bulletin 145-28-0028, dated November 7, 2005; or EMBRAER Service Bulletin 145LEG-28-0030, dated April 19, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil, for a copy of this service information. You may review copies 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/cfr/ibr-locations.html>.

Issued in Renton, Washington, on May 7, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-9401 Filed 5-16-07; 8:45 am]