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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NM-305-AD; Amendment 39-11911; AD 2000-19-10]

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; request for comments.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to all EMBRAER Model EMB-120 series airplanes, that currently requires a one-time inspection of the movable backstop of the elevator pitch trim command system to ensure that it is installed correctly, and corrective action, if necessary. That AD also requires installation of a guide to maintain the movable backstop in its correct position. This amendment adds a requirement for an additional one-time inspection. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent a sudden change in pitch attitude caused by autopilot disconnect, which could result in reduced controllability of the airplane.

**DATES:** Effective October 13, 2000.

The incorporation by reference of EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000, is approved by the Director of the Federal Register as of October 13, 2000.

The incorporation by reference of EMBRAER Alert Service Bulletin 120-27-A081, Change 01, dated October 9,

1997, was approved previously by the Director of the Federal Register as of January 13, 1998 (62 FR 67552, December 29, 1997).

Comments for inclusion in the Rules Docket must be received on or before October 30, 2000.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-305-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-305-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rob Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703-6071; fax (770) 703-6097.

**SUPPLEMENTARY INFORMATION:** On December 19, 1997, the FAA issued AD 97-26-22, amendment 39-10265 (62 FR 67552, December 29, 1997), applicable to all EMBRAER Model EMB-120 series airplanes, to require a one-time inspection of the movable backstop of the elevator pitch trim command system to ensure that it is installed correctly, and corrective action, if necessary. That AD also requires installation of a guide

to maintain the movable backstop in its correct position. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions required by that AD are intended to prevent a sudden change in pitch attitude caused by autopilot disconnect, which could result in reduced controllability of the airplane.

#### Actions Since Issuance of Previous Rule

Since the issuance of AD 97-26-22, the Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, advises that a recent incident occurred that was similar to the event specified in the preamble of AD 97-26-22, which revealed that the unsafe condition may still exist.

The manufacturer has issued EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000. This new service information adds a one-time inspection of the movable backstop of the elevator pitch trim command system and the rigging of the elevator trim to verify proper adjustment of the system and correct rigging of the elevator trim tab, and corrective actions, if necessary. The corrective actions consist of adjusting the system and/or the rigging in accordance with the instructions specified in Chapter 27-32-00 (Flight Controls) of the EMBRAER Maintenance Manual. The new service bulletin also describes procedures for installation of a guide to maintain the movable backstop in position in the spiral groove on the pitch trim right control wheel. That installation was specified in EMBRAER Alert Service Bulletin S.B. 120-27-A081, Change 01, dated October 9, 1997 (referenced as the appropriate source of service information for accomplishment of the actions specified in AD 97-26-22).

The DAC classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in Brazil.

#### FAA's Conclusions

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. The FAA

has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD supersedes AD 97-26-22 to continue to require a one-time inspection of the movable backstop of the elevator pitch trim command system to ensure that it is installed correctly, and corrective action, if necessary. This AD also continues to require installation of a guide to maintain the movable backstop in its correct position. This amendment adds an additional one-time inspection. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

#### Differences Between Rule and Related Service Information

Operators should note that the service bulletin specifies accomplishment of a one-time inspection of the movable backstop of the elevator pitch trim command system and the rigging of the elevator trim tab within the next 400 flight hours; however, the FAA finds that such a compliance time will not ensure that the inspection is accomplished in a timely manner. In developing an appropriate compliance time for the inspection, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, as well as the compliance time for the actions required. The FAA finds accomplishment of the one-time inspection within 100 flight hours after the effective date of this AD to be warranted, in that this represents an appropriate amount of time allowable for affected airplanes to continue to operate without compromising safety.

Operators also should note that, while the service bulletin does not specify the type of inspection of the movable backstop of the elevator pitch trim command system and the rigging of the elevator trim tab to detect discrepancies, this AD would require a general visual inspection to detect such discrepancies. A note has been included in this AD to define that inspection.

#### Interim Action

This is considered to be interim action until final action is identified, at

which time the FAA may consider further rulemaking.

#### Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-305-AD." The postcard will be date stamped and returned to the commenter.

#### 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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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 39-10265 (62 FR 67552, December 29, 1997), and by adding a new airworthiness directive (AD), amendment 39-11911, to read as follows:

**2000-19-10 Empresa Brasileira de Aeronautica S.A. (EMBRAER):**  
Amendment 39-11911. Docket 2000-NM-305-AD. Supersedes AD 97-26-22, Amendment 39-10265.

**Applicability:** All Model EMB-120 series airplanes, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent a sudden change in pitch attitude caused by autopilot disconnect, which could result in reduced controllability of the airplane, accomplish the following:

#### **Restatement of Requirements of AD 97-26-22**

##### *One-Time Inspection*

(a) Within 20 flight hours after January 13, 1998 (the effective date of AD 97-26-22, amendment 39-10265), perform a one-time general visual inspection of the movable backstop of the elevator pitch trim command system to ensure that it is installed correctly, in accordance with Part I of the Accomplishment Instructions of EMBRAER Alert Service Bulletin 120-27-A081, Change 01, dated October 9, 1997. If any discrepancy is found, before further flight, accomplish follow-on corrective actions, in accordance with the alert service bulletin.

##### *Modification*

(b) Within 75 flight hours after January 13, 1998, install a guide for the movable backstop of the elevator pitch trim command system, in accordance with Part II of the Accomplishment Instructions of EMBRAER Alert Service Bulletin 120-27-A081, Change 01, dated October 9, 1997, or EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000. As of the effective date of this AD, only EMBRAER Service Bulletin S.B. 120-27-0081 may be used for accomplishment of this paragraph.

#### **New Requirements of This AD**

##### *One-Time Inspection*

(c) Within 100 flight hours after the effective date of this AD: Perform a one-time general visual inspection of the movable backstop of the elevator pitch trim command system to verify proper adjustment of the system and correct rigging of the elevator trim tab in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000. If any discrepancy is detected, before further flight, accomplish follow-on corrective actions in accordance with the service bulletin.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-

light and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

##### *Alternative Methods of Compliance*

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 97-26-22, amendment 39-10265, are approved as alternative methods of compliance with this AD.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

##### *Special Flight Permits*

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

##### *Incorporation by Reference*

(f) The actions shall be done in accordance with EMBRAER Alert Service Bulletin 120-27-A081, Change 01, dated October 9, 1997; and EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000.

(1) The incorporation by reference of EMBRAER Service Bulletin S.B. 120-27-0081, dated September 1, 2000, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of EMBRAER Alert Service Bulletin 120-27-A081, Change 01, dated October 9, 1997 was approved previously by the Director of the Federal Register as of January 13, 1998 (62 FR 67552, December 29, 1997).

(3) 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 FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

##### *Effective Date*

(g) This amendment becomes effective on October 13, 2000.

Issued in Renton, Washington, on September 21, 2000.

**Donald L. Riggins,**

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

[FR Doc. 00-24745 Filed 9-27-00; 8:45 am]

**BILLING CODE 4910-13-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 74**

[Docket No. 99C-1455]

#### **Listing of Color Additives for Coloring Sutures; D&C Violet No. 2; Confirmation of Effective Date**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA) is confirming the effective date of August 29, 2000 (65 FR 46342), for the final rule that appeared in the **Federal Register** of July 28, 2000, and that amended the color additive regulations to provide for the safe use of D&C Violet No. 2 as a color additive in absorbable sutures prepared from homopolymers of glycolide for general surgery. The agency also revised the nomenclature "polyglactin 910 (glycolic-lactic acid polyester)" to the generic nomenclature "copolymers of 90 percent glycolide and 10 percent L-lactide."

**DATES:** Effective date confirmed: August 29, 2000.

#### **FOR FURTHER INFORMATION CONTACT:**

Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3089.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of July 28, 2000 (65 FR 46342), FDA amended the color additive regulations in 21 CFR 74.3602 *D&C Violet No. 2* to provide for the safe use of D&C Violet No. 2 as a color additive in absorbable sutures prepared from homopolymers of glycolide for general surgery. The agency also revised the nomenclature "polyglactin 910 (glycolic-lactic acid polyester)" to the generic nomenclature "copolymers of 90 percent glycolide and 10 percent L-lactide."

FDA gave interested persons until August 28, 2000, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the effective date of the final rule that published in the **Federal Register** of July 28, 2000, should be confirmed.

#### **List of Subjects in 21 CFR Part 74**

Color additives, Cosmetics, Drugs, Foods, Medical devices.