

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 2002–NM–165–AD; Amendment 39–13604; AD 2004–09–15]

RIN 2120–AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–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 replacement of the nose landing gear wheel nuts and associated inner and outer seals; and reidentification of the landing gear strut. This action is necessary to prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of control of the airplane during takeoff and landing. This action is intended to address the identified unsafe condition.

**DATES:** Effective June 9, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 9, 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–135 and EMB–145 series airplanes was published in the **Federal Register** on January 5, 2004 (69 FR 282). That action proposed to require replacement of the nose landing gear wheel nuts and associated inner and outer seals; and reidentification of the landing gear strut.

**Comments**

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

**Request To Add Replacement Seal Assembly**

One commenter requests that replacement seal assembly part number (P/N) AEC–68–1498 be added to paragraph (a) of the proposed AD. The commenter states that Aviation Engineering Consultants, Inc. (AECI) has introduced an approved replacement seal assembly P/N AEC–68–1498 per Parts Manufacturer Approval (PMA) No. PQ1685CE, dated September 30, 2002. The commenter notes that P/N AEC–68–1498 is an FAA approved alternative to the P/N 68–1498 seal assembly. The commenter contends that P/N AEC–68–1498 should either be included in paragraph (a) of the proposed AD or be considered an alternative method of compliance (AMOC) for the proposed AD.

The FAA does not agree to add replacement seal assembly P/N AEC–68–1498 to paragraph (a) of the final rule. We recognize that there may be acceptable alternative parts to the manufacturer's specified part (*i.e.*, P/N 68–1498). We consider that the appropriate process for authorizing the use of an alternative replacement part to correct an unsafe condition to be per the provisions of paragraph (d) of the final rule. As stated in paragraph (d) of the final rule, an individual may submit a request for approval of the installation of a replacement seal assembly, such as the one to which the commenter refers, as an AMOC to the final rule. The request should include adequate data to justify that installation of a replacement seal assembly will provide an acceptable level of safety. No change to the final rule is necessary in this regard.

**Explanation of Editorial Change**

The title of Table 1 in paragraph (b) of the final rule has also been revised to indicate the content of the table: “Table 1—Service Bulletins Considered Acceptable for Compliance.”

**Conclusion**

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

**Cost Impact**

The FAA estimates that 365 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Required parts will be provided free of charge by the airplane manufacturer. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$23,725, or \$65 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:

**2004-09-15 Empresa Brasileira de Aeronautica S.A. (EMBRAER):**  
Amendment 39-13604. Docket 2002-NM-165-AD.

**Applicability:** Model EMB-135 and -145 series airplanes having serial numbers (S/N) 145003 through 145373, 146375, 145377 through 145391 inclusive, and 145393 through 145408 inclusive; certificated in any category; equipped with nose landing gear struts, part number (P/N) 1170C0000-01 (including all modifications), P/N 1170C0000-02, or P/N 1170C0000-03.

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

To prevent separation of the wheels from the nose landing gear due to the failure of the outer wheel bearings, and consequent loss of

control of the airplane during takeoff and landing, accomplish the following:

**Replacement and Reidentification**

(a) Within 12 months from the effective date of this AD, replace the nose landing gear wheel nuts, P/N 1170-0007, with new wheel nuts, P/N 170-0082; the associated inner and outer seals, P/N 68-1157 or P/N 72-290, with new seals, P/N 68-1498; and reidentify the struts; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-32-0068, Change 04, dated January 20, 2003; or EMBRAER Service Bulletin 145LEG-32-0006, Change 01, dated January 20, 2003; as applicable.

(b) Actions accomplished before the effective date of this AD per EMBRAER Service Bulletins as listed in the following table are considered acceptable for compliance with the corresponding actions specified in this AD:

TABLE 1.—SERVICE BULLETINS CONSIDERED ACCEPTABLE FOR COMPLIANCE

EMBRAER service bulletin	Change level	Date
145-32-0068 .....	Original .....	May 4, 2001.
145-32-0068 .....	01 .....	January 14, 2002.
145-32-0068 .....	02 .....	April 16, 2002.
145-32-0068 .....	03 .....	November 25, 2002.
145LEG-32-0006 .....	Original .....	November 26, 2002.

**Parts Installation**

(c) As of the effective date of this AD, no person may install nose landing gear wheel nuts, P/N 1170-0007, or the associated inner and outer seals, P/N 68-1157 or P/N 72-290, on any airplane.

**Alternative Methods of Compliance**

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, 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 the following EMBRAER Service Bulletins, as applicable:

TABLE 2.—APPLICABLE SERVICE DOCUMENTS

Service bulletin	Page Nos.	Change level shown on the page	Date shown on page
EMBRAER Service Bulletin 145-32-0068, Change 04, January 20, 2003.	1-2	04 .....	January 20, 2003.
	3-19	01 .....	January 14, 2002.
EMBRAER Service Bulletin 145LEG-32-0006, Change 01, dated January 20, 2003.	1-2	01 .....	January 20, 2003.
	3-19	Original .....	November 26, 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 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 2002-03-01R2, dated April 22, 2003.

**Effective Date**

(f) This amendment becomes effective on June 9, 2004.

Issued in Renton, Washington, on April 26, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-10018 Filed 5-4-04; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. 95-CE-46-AD; Amendment 39-13596; AD 2004-09-07]

RIN 2120-AA64

**Airworthiness Directives; Raytheon Aircraft Company Model 1900, 1900C, 1900C (C-12J), and 1900D Airplanes**

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

**ACTION:** Final rule.