

**Parts Installation**

(g) As of the effective date of this AD, no person may install an APU enclosure having Canadair part number (P/N) 601R97150-13, or Avica P/N 15A104-101, on any airplane, unless the unit has been modified in accordance with paragraph (f) of this AD.

**Alternative Methods of Compliance**

(h) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(i) Canadian airworthiness directive CF-2002-21, dated March 21, 2002, also addresses the subject of this AD.

**Materials Incorporated by Reference**

(j) You must use Bombardier Service Bulletin 601R-49-015, excluding Appendix A, dated November 6, 1998, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information go to the National Archives and Records Administration (NARA). For information on the availability of this material at the 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).

Issued in Renton, Washington, on March 24, 2005.

**Ali Bahrami,**

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

[FR Doc. 05-6686 Filed 4-6-05; 8:45 am]

**BILLING CODE 4910-13-M**

**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.

**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):

**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]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 05-033]

RIN 1625-AA00

#### **Safety Zone; Atlantic Intracoastal Waterway, Fernandina Beach, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary fixed safety zone on the Atlantic Intracoastal Waterway, Fernandina Beach, FL, for the Isle of Eight Flags Shrimp Festival. The safety zone is needed to protect boaters from the hazards associated with fireworks demonstrations. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL.

**DATES:** This rule is effective from 8:30 p.m. to 9:30 p.m. on April 29, 2005. A rain date has been set that would make this rule effective from 8:30 p.m. to 9:30 p.m. on April 30, 2005.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket, are part of docket [COTP Jacksonville 05-033] and are available for inspection and copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Junior Grade Carol Swinson at Coast Guard Marine Safety Office Jacksonville, FL, tel: (904) 232-2640, ext. 155.

**SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a NRPM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date is contrary to

public safety because immediate action is necessary to protect the public and waters of the United States. Moreover, a NPRM is unnecessary due to the limited amount of time this rule will be in effect.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and may place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

#### **Background and Purpose**

This rule is needed to protect spectator craft in the vicinity of the fireworks presentation from the hazards associated with transport, storage, and launching of fireworks. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL. The temporary safety zone encompasses all waters within a 500-yard radius around the fireworks platform during the storage, preparation, transport, and launching of fireworks. During the fireworks show, the platform will be located at approximate position 30°40.00' N, 081°27.00' W.

#### **Regulatory Evaluation**

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has exempted it from review under the order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominate in their field, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605(b) that this rule will not have a significant economic impact upon a substantial number of

small entities because the regulation will only be enforced for approximately one and a half hours the day it is in effect and the impact on routine navigation are expected to be minimal because traffic may transit safely around the zone and traffic may enter upon permission of the Captain of the Port or his representative.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.