

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

[Docket No. FAA-2006-25419; Directorate Identifier 2006-NM-055-AD]

RIN 2120-AA64

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain EMBRAER Model ERJ 170 airplanes. This proposed AD would require replacing the mini-latches on certain lavatory waste compartment doors with new, stronger latches, and other specified actions. This proposed AD results from reports of certain lavatory waste compartment doors opening during flight due to movement of the waste compartment during takeoff, because the mini-latches installed on the doors of those compartments lose their strength over time. We are proposing this AD to prevent the inability of the waste compartment doors to adequately contain a fire inside the lavatory waste compartment, and consequent uncontained fire and smoke within a lavatory during flight.

**DATES:** We must receive comments on this proposed AD by August 28, 2006.

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

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 proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number “FAA-2006-25419; Directorate Identifier 2006-NM-055-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed 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 proposed AD. Using the search function of that 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 may review the DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

**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 DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

**Discussion**

The Departamento de Aviação Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on certain EMBRAER Model ERJ 170 airplanes. The DAC advises that it has received reports of certain lavatory waste compartment doors opening during

flight due to movement of the waste compartment during takeoff. An investigation conducted by the parts manufacturer, C&D Aerospace, revealed that the existing mini-latches installed on certain doors in the lavatory (*i.e.*, forward lavatory waste compartment, aft lavatory amenity door, aft lavatory storage door, and service doors) lose their strength over time. This can cause the doors to open easily with a single flap spring force or movement of the waste compartment during takeoff, or to be easily opened mistakenly by passengers by any kind of involuntary touch. This condition, if not corrected, could result in the inability of the waste compartment door to adequately contain a fire inside the lavatory waste compartment, and consequent uncontained fire and smoke within a lavatory during flight.

**Relevant Service Information**

EMBRAER has issued Service Bulletin 170-25-0024, dated July 21, 2005. The service bulletin describes procedures for replacing the mini-latches on certain lavatory waste compartment doors with new, stronger latches. The DAC mandated the service information and issued Brazilian airworthiness directive 2005-11-01, effective December 8, 2005, to ensure the continued airworthiness of these airplanes in Brazil.

EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005, refers to C&D Aerospace Service Bulletin 170-18616-25-023, dated June 23, 2005, as an additional source of service information for replacing the mini-latches on certain lavatory waste compartment doors. The C&D Aerospace service bulletin describes procedures for replacing the mini-latches on certain lavatory waste compartment doors with new, stronger latches, and other specified actions. The other specified actions include removing/installing inserts, applying bonding, and installing certain placards. This service bulletin also provides procedures for reworking certain lavatory mirrors. (The C&D Aerospace service bulletin is included in the EMBRAER service bulletin).

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

**FAA’s Determination and Requirements of the Proposed 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 airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between Proposed AD, Brazilian

Airworthiness Directive, and Service Information."

**Differences Between Proposed AD, Brazilian Airworthiness Directive, and Service Information**

Brazilian airworthiness directive 2005-11-01, effective December 8, 2005, is applicable to "all EMBRAER ERJ 170() aircraft models in operation." However, this does not agree with EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005, which states that only certain ERJ 170 airplanes are affected and identifies them by serial number. This proposed AD would be applicable only to the airplanes listed in

the service bulletin. This difference has been coordinated with the DAC.

EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005; and C & D Aerospace Service Bulletin 170-18616-25-023, dated June 23, 2005, describe procedures for replacing the forward and aft lavatory mirrors. These procedures were included in the service bulletins at the request of an operator. This proposed AD does not include a requirement for replacing these mirrors.

**Costs of Compliance**

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

ESTIMATED COSTS

| Action   | Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|--|------------|-----------------------------|-------|-------------------|-------------------------------------|------------|
| Replacement of lavatory waste compartment door latches ..... | 4          | \$80                        | \$0   | \$320             | 54                                  | \$17,280   |

**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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 proposed 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 proposed 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, Safety.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

**Airworthiness Brasileira de Aeronautica S.A. (EMBRAER);** Docket No. FAA-2006-25419; Directorate Identifier 2006-NM-055-AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by August 28, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to EMBRAER Model ERJ 170 airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005.

**Unsafe Condition**

(d) This AD results from reports of certain lavatory waste compartment doors opening during flight due to movement of the waste compartment during takeoff, because the mini-latches installed on those doors lose their strength over time. We are issuing this AD to prevent the inability of the waste compartment doors to adequately contain a fire inside the lavatory waste compartment, and consequent uncontained fire and smoke within a lavatory during flight.

**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.

**Replacement of Mini-Latches on Certain Lavatory Waste Compartments Doors**

(f) Within 700 flight hours after the effective date of this AD: Replace the mini-latches for the forward and aft lavatory waste compartment doors by accomplishing all the actions, except for the forward and aft lavatory mirror rework, specified in the Accomplishment Instructions of EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005.

**Note 1:** EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005, refers to C&D Aerospace Service Bulletin 170-18616-25-

023, dated June 23, 2005, as an additional source of service information for replacing the mini-latches on certain lavatory waste compartment doors required by paragraph (f) of this AD.

#### 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 2005-11-01, effective December 8, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on July 20, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E6-12106 Filed 7-27-06; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

[USCBP-2006-0015]

### 19 CFR Parts 24, 113, and 128

RIN 1505-AB39

#### Fees for Customs Processing at Express Consignment Carrier Facilities

**AGENCY:** Customs and Border Protection, Homeland Security; Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes amendments to title 19 of the Code of Federal Regulations (19 CFR) to reflect changes to the customs user fee statute made by section 337 of the Trade Act of 2002 and section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004. The statutory amendments made by section 337 concern the fees payable for customs services provided in connection with the informal entry or release of shipments at express consignment carrier facilities and centralized hub facilities, and primarily serve to replace the annual lump sum payment procedure with a quarterly payment procedure based on a specific fee for

each individual air waybill or bill of lading. Section 2004(f) amended the user fee statute to authorize, for merchandise that is formally entered at these sites, the assessment of merchandise processing fees provided for in 19 U.S.C. 58c(a)(9), in addition to the fees that are currently assessed on individual air waybills or bills of lading. Lastly, pursuant to the authority established in 19 U.S.C. 58c(b)(9)(B)(i), this document proposes to raise the existing \$0.66 fee assessed on individual air waybills or bills of lading to \$1.00 to more equitably align it with the actual costs incurred by CBP in processing these items.

**DATES:** Comments must be received on or before August 28, 2006.

**ADDRESSES:** You may submit comments, identified by *docket number*, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2006-0015.

- Mail: Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the electronic docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Jackson, Office of Field Operations, Trade Enforcement and Facilitation, Tel.: (202) 344-1196.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation

Interested persons are invited to participate in this rulemaking by

submitting written data, views, or arguments on all aspects of the proposed rule. The Bureau of Customs and Border Protection (CBP) also invites comments that relate to the economic effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

#### Background

##### I. Statutory Changes Made by Section 337(a) of the Trade Act of 2002

On August 6, 2002, the President signed into law the Trade Act of 2002, Public Law 107-210, 116 Stat. 933. Section 337(a) of the Trade Act of 2002 amended section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) by adding new requirements for the payment of user fees for customs services provided by CBP to express consignment carrier facilities and centralized hub facilities in connection with imported letters, documents, shipments or other merchandise to which informal entry procedures apply. The principal changes involve the following:

1. In the introductory text of section 58c(b)(9)(A), which refers to reimbursements and payments required from a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the words "the processing of merchandise that is informally entered or released" were replaced by the words "the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than \$2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation." [It is noted that the statutory monetary amount was subsequently amended to "\$2,000 or less \* \* \*" as discussed later in this document.]

2. Section 58c(b)(9)(A)(ii) was replaced by new text identifying, in the case of an express consignment carrier facility or a centralized hub facility, a fee of \$0.66 per individual air waybill or bill of lading. Prior to this amendment, clause (ii) required an express consignment carrier facility or a centralized hub facility to make the following reimbursements and payments: