

Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; 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-120 series airplanes was published in the **Federal Register** on March 5, 2003 (68 FR 10415). That action proposed to require either revising the Airplane Flight Manual (AFM) to require a maximum operating altitude of 25,000 feet; or modifying the flight attendant's seat or reworking the oxygen bottle kit, as applicable, and revising the AFM to require a maximum operating altitude of 30,000 feet.

#### Comments

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

#### Request To Revise Maximum Operating Altitude

The commenter requests that the proposed AD be revised to allow for flight above 30,000 feet if a first-row, right-hand aisle seat is reserved for the flight attendant. By way of justification, the commenter explains that this altitude is the cruise phase of the flight, when the flight attendant is usually serving passengers in the cabin. In the event of rapid depressurization of the airplane, the attendant could use one of the extra masks in the cabin. The flight attendant, although unable to reach the interphone from the first-row, right-hand aisle seat to communicate with the flight crew or passengers, could unlatch the seatbelt and move to the flight attendant station to operate the interphone.

The FAA does not concur with the request. During a rapid depressurization of the airplane, the flightcrew would conduct an emergency descent to lower altitudes. The appropriate procedures for the flight attendant during an emergency descent include returning to the flight attendant station, buckling the seatbelt, and establishing communication with the flightcrew or

passengers. Therefore, during an emergency descent, seatbelt removal by a flight attendant seated in the first-row, right-hand aisle seat would be inappropriate, and the interphone would not be readily accessible. No change to the final rule is necessary.

#### 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 as proposed.

#### Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

#### Cost Impact

The FAA estimates that 150 airplanes of U.S. registry will be affected by this AD.

If required, the AFM revision (maximum operating altitude of 25,000 feet) would take approximately 1 work hour per airplane, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of this AFM revision is estimated to be \$60 per airplane.

If required, the modification or rework would take approximately 8 work hours per airplane, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$3,960 per airplane. Based on these figures, the cost impact of the modification/rework is estimated to be \$4,440 per airplane.

If required, the AFM revision (maximum operating altitude of 30,000 feet) would take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of this AFM revision is estimated to be \$60 per airplane.

The cost impact figures discussed above are 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:

#### 2003-12-12 Empresa Brasileira de Aeronautica S.A. (EMBRAER):

Amendment 39-13197. Docket 2003-NM-02-AD.

**Applicability:** Model EMB-120 series airplanes as listed in EMBRAER Service Bulletin 120-25-0264, Change 01, dated July 22, 2002; 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