

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

[Docket No. 2001–NM–262–AD; Amendment 39–12392; AD 2001–17–01]

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 adopts a new airworthiness directive (AD) that is applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 series airplanes. This action requires measuring the gap between the bellcrank and the body of the rotary variable inductive transducers (RVITs) of the aileron and elevator, performing corrective action if necessary, and torquing the bolt that attaches the bellcrank to the RVIT shaft. This action is necessary to prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 17, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–262–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. 2001–NM–262–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:** The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–120 series airplanes. The DAC advises that there has been a recent instance of interference between the bellcrank of the aileron rotary variable inductive transducer (RVIT) and the head of the hinge pin that attaches the RVIT support. Restricted movement of the aileron or elevator, if not corrected, could result in reduced controllability of the airplane.

The design of the elevator and aileron RVIT bellcranks on these airplanes is similar in their potential for interference with flight control. Therefore, both the elevator and aileron RVITs are addressed in this AD.

**Explanation of Relevant Service Information**

EMBRAER has issued Alert Service Bulletin 120–31–A046, dated July 13, 2001, which describes procedures for measuring the gap between the bellcrank and the body of the elevator/aileron RVITs and torquing the bolt that attaches the bellcrank to the RVIT shaft. Corrective actions include inspecting to detect damage of the connecting rod; replacing any damaged rod with a new part having the same part number; and adjusting the gap between the bellcrank and the RVIT body. The DAC classified this alert service bulletin as mandatory and issued Brazilian emergency airworthiness directive 2001–07–01, dated July 26, 2001, to ensure 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 is being issued to prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously.

**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 2001-NM-262-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 adding the following new airworthiness directive:

#### 2001-17-01 Empresa Brasileira de Aeronautica S.A. (EMBRAER):

Amendment 39-12392. Docket 2001-NM-262-AD.

**Applicability:** Model EMB-120 series airplanes, certificated in any category; serial numbers 120004 and 120006 through 120355 inclusive; that have been modified in accordance with EMBRAER Service Bulletin 120-31-0039, 120-31-0040, 120-31-0041, or 120-31-0042.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (b) 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 restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 50 flight hours after the effective date of this AD, measure the gap between the bellcrank and the body of the rotary variable inductive transducers (RVITs) of the elevator and aileron, in accordance with EMBRAER Alert Service Bulletin 120-31-A046, dated July 13, 2001.

(1) If the gap is within the limits specified by the alert service bulletin: Prior to further flight, tighten the bolt that attaches the bellcrank to the RVIT shaft to a torque of 40-45 inch pounds, in accordance with the alert service bulletin.

(2) If the gap is not within the limits specified by the alert service bulletin: Prior to further flight, accomplish all applicable corrective actions (including inspecting to detect damage of the connecting rod; replacing any damaged rod with a new rod having the same part number; and adjusting the gap between the bellcrank and the RVIT body), and tighten the bolt that attaches the bellcrank to the RVIT shaft to a torque of 40-45 inch pounds; in accordance with the alert service bulletin.

### Alternative Methods of Compliance

(b) 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.

**Note 2:** 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

(c) 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

(d) The actions shall be done in accordance with EMBRAER Alert Service Bulletin 120-31-A046, dated July 13, 2001. 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 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.

**Note 3:** The subject of this AD is addressed in Brazilian emergency airworthiness directive 2001-07-01, dated July 26, 2001.

### Effective Date

(e) This amendment becomes effective on August 27, 2001.

Issued in Renton, Washington, on August 10, 2001.

**Vi L. Lipski,**

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. 01-20701 Filed 8-16-01; 8:45 am]

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