

Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

(4) Special Flight Permits: 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 airplane can be modified (if the operator elects to do so), except if two or more center mounting rods or rod ends are heavily corroded or broken, a special flight permit is not permitted.

#### Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2008-10-02, dated October 21, 2008; Embraer Service Bulletin 145-49-0034, Revision 01, dated September 8, 2008; and Embraer Service Bulletin 145LEG-49-0008, Revision 02, dated September 8, 2008, for related information.

Issued in Renton, Washington, on August 7, 2009.

**Stephen P. Boyd,**

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

[FR Doc. E9-19852 Filed 8-18-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0714; Directorate Identifier 2009-NM-041-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145EP, 145ER, -145MP, -145MR, -145XR, and 145LR Airplanes Modified in Accordance With Brazilian Supplemental Type Certificate (STC) 2002S06-09, 2002S06-10, or 2003S08-01**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: It was reported that after commanding the landing gear lever to down the three green landing gear positioning indication was displayed followed by the LG/LEVER DISAGREE EICAS [engine indicating and crew alerting system] message. The crew decided to continue the approach and landing procedure. As soon as the crew identified that the landing gear was not extended properly, a go-around procedure was successfully performed. During maneuver, the airplane settled momentarily onto the flaps and belly.

The unsafe condition is the landing gear remaining in the up and locked position during approach and landing and accompanied by an invalid EICAS landing gear position indication, which could result in landing with gear in the up position, and eliminate controllability of the airplane on ground. This may consequently result in structural damage to the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by September 18, 2009.

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Fax: (202) 493-2251.

- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- Hand Delivery: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227-901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927-5852 or +55 12 3309-0732; fax: +55 12 3927-7546; e-mail: [distrib@embraer.com.br](mailto:distrib@embraer.com.br); Internet: <http://www.flyembraer.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1405; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0714; Directorate Identifier 2009-NM-041-AD" at the beginning of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2009-01-01, effective January 8, 2009, as corrected by Brazilian Airworthiness Directive Errata, effective January 20, 2009 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

It was reported that after commanding the landing gear lever to down the three green landing gear positioning indication was displayed followed by the LG/LEVER DISAGREE EICAS [engine indicating and crew alerting system] message. The crew decided to continue the approach and landing procedure. As soon as the crew identified that the landing gear was not extended properly, a go-around procedure was successfully performed. During maneuver, the airplane settled momentarily onto the flaps and belly.

\* \* \* \* \*

The unsafe condition is the landing gear remaining in the up and locked position during approach and landing and accompanied by an invalid EICAS landing gear position indication, which could result in landing with gear in the up position, and eliminate controllability of the airplane on ground. This may consequently result in structural damage to the airplane. Required actions include replacing the landing gear electronic unit with a new one having a new part number. You may obtain further information by examining the MCAI in the AD docket.

### Relevant Service Information

Embraer has issued Service Bulletins 145-32-0120, Revision 01, dated November 4, 2008; and 145LEG-32-0032, Revision 02, dated February 17, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

### FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another

country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

### Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 711 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$113,760, or \$160 per product.

### 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 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 this 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.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 FAA amends § 39.13 by adding the following new AD:

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket No. FAA-2009-0714; Directorate Identifier 2009-NM-041-AD.

#### Comments Due Date

- (a) We must receive comments by September 18, 2009.

#### Affected ADs

- (b) None.

**Applicability**

(c) This AD applies to EMBRAER Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes, certificated in any category, modified according to Brazilian Supplemental Type Certificate 2002S06-09, 2002S06-10 or 2003S08-01, and equipped with landing gear electronic unit (LGEU) part number (P/N) 355-022-002.

**Subject**

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

**Reason**

(e) The mandatory continuing airworthiness information (MCAI) states: It was reported that after commanding the landing gear lever to down the three green landing gear positioning indication was displayed followed by the LG/LEVER DISAGREE EICAS [engine indicating and crew alerting system] message. The crew decided to continue the approach and landing procedure. As soon as the crew

identified that the landing gear was not extended properly, a go-around procedure was successfully performed.

During maneuver, the airplane settled momentarily onto the flaps and belly.

\* \* \* \* \*

The unsafe condition is the landing gear remaining in the up and locked position during approach and landing and accompanied by an invalid EICAS landing gear position indication, which could result in landing with gear in the up position, and eliminate controllability of the airplane on ground. This may consequently result in structural damage to the airplane. Required actions include replacing the LGEU with a new one having a new part number.

**Actions and Compliance**

(f) Unless already done, do the following actions:

(1) Within 12 months after the effective date of this AD, replace any LGEU P/N 355-022-002 having a serial number (S/N) 1000 through 1999 inclusive with a new LGEU having P/N 355-022-003, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145-32-0120, Revision 01,

dated November 4, 2008; or 145LEG-32-0032, Revision 02, dated February 17, 2009; as applicable.

(2) As of 12 months after the effective date of this AD, no person may install on any airplane an LGEU having a P/N 355-022-002 and S/N 1000 through 1999 inclusive.

(3) Within 30 months after the effective date of this AD, replace any LGEU P/N 355-022-002 having a serial number not identified in paragraph (f)(1) of this AD, with a new LGEU having a P/N 355-022-003, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 145-32-0120, Revision 01, dated November 4, 2008; or 145LEG-32-0032, Revision 02, dated February 17, 2009; as applicable.

(4) As of 30 months after the effective date of this AD, no person may install on any airplane an LGEU having a P/N 355-022-002.

(5) Replacement of the LGEU is also acceptable for compliance with the requirements of paragraph (f) of this AD if done before the effective date of this AD in accordance with one of the service bulletins identified in Table 1 of this AD:

TABLE 1—CREDIT SERVICE BULLETINS

Embraer Service Bulletin—	Revision—	Dated—
145LEG-32-0032 .....	Original .....	October 8, 2008.
145LEG-32-0032 .....	01 .....	November 4, 2008.
145-32-0120 .....	Original .....	September 15, 2008.

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows:

Although Embraer Service Bulletins 145LEG-32-0032, Revision 02, dated February 17, 2009; and 145-32-0120, Revision 01, dated November 4, 2008; specify that no person may install on any airplane an LGEU P/N 355-022-002 as of 30 months after the effective date of this AD, we have determined that no LGEU P/N 355-022-002 with a S/N 1000 through 1999 inclusive may be installed 12 months after the effective date of this AD. Allowing installation of those serial numbers beyond 12 months would not address the identified unsafe condition and ensure an adequate level of safety. This difference has been coordinated with the Agência Nacional de Aviação Civil (ANAC).

**Other FAA AD Provisions**

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective

actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

**Related Information**

(h) Refer to MCAI ANAC Airworthiness Directive 2009-01-01, effective January 8, 2009, as corrected by Brazilian Airworthiness Directive Errata, effective January 20, 2009; and the service bulletins listed in Table 2 of this AD; for related information.

TABLE 2—RELATED SERVICE BULLETINS

Embraer Service Bulletin—	Revision—	Dated—
145-32-0120 .....	01	November 4, 2008.
145LEG-32-0032 .....	02	February 17, 2009.

Issued in Renton, Washington, on August 7, 2009.

**Stephen P. Boyd,**

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

[FR Doc. E9-19853 Filed 8-18-09; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0686; Directorate Identifier 2009-NM-044-AD]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model MD-11 and MD-11F airplanes. This proposed AD would require a one-time inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank and marking the location, if necessary; a one-time inspection of all wire bundles above the center upper auxiliary fuel tank for splices and damage; a one-time inspection for damage to the fuel vapor barrier seal and upper surface of the center upper auxiliary fuel tank; and corrective actions, if necessary. This proposed AD would also require installation of nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** We must receive comments on this proposed AD by October 5, 2009.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; e-mail [dse.boecom@boeing.com](mailto:dse.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5262; fax (562) 627-5210.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0686; Directorate Identifier 2009-NM-044-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

#### Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination