

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

[Docket No. FAA-2011-0713; Directorate Identifier 2011-CE-023-AD; Amendment 39-16810; AD 2011-20-01]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronáutica S.A. (EMBRAER) Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Empresa Brasileira de Aeronáutica S.A. (EMBRAER) Model EMB-505 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 has been found the possibility of free-play between the mass balance weight and the elevator structure. This condition if not corrected could lead to elevator flutter and possible loss of airplane control.

We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective October 31, 2011.

On October 31, 2011, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

For service information identified in this AD, contact EMBRAER S.A., Phenom Maintenance Support, Av. Brig. Faria Lima, 2170, Sao Jose dos Campos-SP, CEP: 12227-901—PO Box: 36/2, Brasil; telephone: ++55 12 3927-5383; fax: ++55 12 3927-2619; E-mail: [phenom.reliability@embraer.com.br](mailto:phenom.reliability@embraer.com.br); Internet: <http://www.embraer.com.br>. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of

this material at the FAA, call (816) 329-4148.

**FOR FURTHER INFORMATION CONTACT:** Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4165; fax: (816) 329-4090; e-mail: [jim.rutherford@faa.gov](mailto:jim.rutherford@faa.gov).

**SUPPLEMENTARY INFORMATION:****Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 8, 2011 (76 FR 40286). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found the possibility of free-play between the mass balance weight and the elevator structure. This condition if not corrected could lead to elevator flutter and possible loss of airplane control.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 40286, July 8, 2011) or on the determination of the cost to the public.

**Conclusion**

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

**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 required 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 AD.

**Costs of Compliance**

We estimate that this AD will affect 8 products of U.S. registry. We also estimate that it will take about 38 work-hours per product to comply with the

basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts will cost about \$3,490 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be \$53,760, or \$6,720 per product.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

**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 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 this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

### 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 the NPRM (76 FR 40286, July 8, 2011), 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.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 AD:

**2011–20–01 Empresa Brasileira de Aeronáutica S.A. (EMBRAER):** Amendment 39–16810; Docket No. FAA–2011–0713; Directorate Identifier 2011–CE–023–AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective October 31, 2011.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Empresa Brasileira de Aeronáutica S.A. (EMBRAER) Model EMB–505 airplanes, all serial numbers (SN) through 50500023, certificated in any category.

#### Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found the possibility of free-play between the mass balance weight and the elevator structure. This condition if not corrected could lead to elevator flutter and possible loss of airplane control.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus,

sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires replacement of the bolts that attach the balance mass weights to the elevator structure.

#### Actions and Compliance

(f) Unless already done, within 12 calendar months after October 31, 2011 (the effective date of this AD), replace the bolts that attach the balance mass weights to the elevator structure following EMBRAER S.A. Phenom Service Bulletin No.: 505–55–0002, dated January 14, 2011.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: The MCAI applies to SN 50500004 through 50500023. This AD applies to all SN through 50500023.

#### Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, 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: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; e-mail: [jim.rutherford@faa.gov](mailto:jim.rutherford@faa.gov). 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, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave., SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

#### Related Information

(h) Refer to MCAI Agência Nacional De Aviação Civil—Brazil (ANAC) AD No.: 2011–

05–05, effective date June 16, 2011; and EMBRAER S.A. Phenom Service Bulletin No.: 505–55–0002, dated January 14, 2011, for related information. For service information related to this AD, contact EMBRAER S.A., Phenom Maintenance Support, Av. Brig. Faria Lima, 2170, Sao Jose dos Campos—SP, CEP: 12227–901—PO Box: 36/2, Brasil; telephone: ++55 12 3927–5383; fax: ++55 12 3927–2619; E-mail: [Phenom.Reliability@Embraer.Com.Br](mailto:Phenom.Reliability@Embraer.Com.Br); Internet: <http://www.embraer.com.br>. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

#### Material Incorporated by Reference

(i) You must use EMBRAER S.A. Phenom Service Bulletin No.: 505–55–0002, dated January 14, 2011, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact EMBRAER S.A., Phenom Maintenance Support, Av. Brig. Faria Lima, 2170, Sao Jose dos Campos—SP, CEP: 12227–901—PO Box: 36/2, Brasil; telephone: ++55 12 3927–5383; fax: ++55 12 3927–2619; E-mail: [phenom.reliability@embraer.com.br](mailto:phenom.reliability@embraer.com.br); Internet: <http://www.embraer.com.br>.

(3) You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at 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 Kansas City, Missouri, on September 12, 2011.

#### Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–23768 Filed 9–23–11; 8:45 am]

**BILLING CODE 4910–13–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 30

#### RIN 3038–AC54

### Foreign Futures and Options Contracts on a Non-Narrow-Based Security Index; Commission Certification Procedures

**AGENCY:** Commodity Futures Trading Commission.