

the glass is controlled to reduce the danger from flying glass shards or pieces. This must be demonstrated by testing to failure.

2. *Component Strength.* The glass component must be strong enough to meet the load requirements for all flight and landing loads including any of the applicable emergency landing conditions in subparts C & D of part 25. Abuse loading without failure, such as impact from occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact must also be demonstrated. This must be demonstrated by static structural testing to ultimate load, except that the critical loading condition must be tested to failure in the as-installed condition. The tested glass must have all features that effect component strength, such as etched surfaces, cut or engraved designs, holes, and so forth. Glass pieces must be non-hazardous.

3. *Component Retention.* The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing. A test must be performed to demonstrate that the occupants would be protected from the effects of the component failing or becoming free of restraint under dynamic loading. The dynamic loading of § 25.562(b)(2) is considered an acceptable dynamic event. The applicant may propose an alternate pulse, however, the impulse and peak load may not be less than that of § 25.562(b)(2). As an alternative to a dynamic test, static testing may be used if the loading is assessed as equivalent or more critical than a dynamic test, based upon validated dynamic analysis. Both the primary directional loading and rebound conditions need to be assessed.

4. *Instruction for Continued Airworthiness.* The instruction for continued airworthiness will reflect the fastening method used and will ensure the reliability of the methods used (e.g., life limit of adhesives, or clamp connection). Inspection methods and intervals will be defined based upon adhesion data from the manufacturer of the adhesive or actual adhesion test data if necessary.

Issued in Renton, Washington, on August 3, 2005.

**Ali Bahrami,**

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. 05-15856 Filed 8-10-05; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-20223; Directorate Identifier 2004-NM-193-AD]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes**

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to certain EMBRAER Model EMB-135 and -145 series airplanes. The original NPRM would have required repetitive detailed inspections for surface bruising of the main landing gear (MLG) trailing arms and integrity of the MLG pivot axle sealant, and corrective actions if necessary; and would also have provided for optional terminating action for the repetitive inspections. The original NPRM was prompted by a report of a fractured axle of the trailing arm of the MLG due to corrosion of the axle. This action revises the original NPRM by expanding the applicability and by providing final terminating action for the repetitive detailed inspections. We are proposing this supplemental NPRM to prevent a broken trailing arm and consequent failure of the MLG, which could lead to loss of control and damage to the airplane during takeoff or landing.

**DATES:** We must receive comments on this supplemental NPRM by September 6, 2005.

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

- 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.

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20223; the directorate identifier for this docket is 2004-NM-193-AD.

#### FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 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 supplemental NPRM. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20223; Directorate Identifier 2004-NM-193-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, 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 supplemental NPRM. Using the search function of our docket 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 can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

#### Examining the Docket

You can 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 in the Nassif Building at the DOT street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

### Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the "original NPRM"). The original NPRM applies to certain EMBRAER Model EMB-135 and -145 series airplanes. The original NPRM was published in the **Federal Register** on February 1, 2005 (70 FR 5076). The original NPRM proposed to require repetitive detailed inspections for surface bruising of the main landing gear (MLG) trailing arms and integrity of the MLG pivot axle sealant, and corrective actions if necessary; and would also have provided for optional terminating action for the repetitive inspections.

### Comments

We have considered the following comments on the original NPRM.

### Request To Revise Applicability

One commenter, the manufacturer, notified us that the applicability as written would not ensure that the unsafe condition would be corrected on all airplanes. The commenter states that the airplanes listed by serial number in the service bulletin have a factory-delivered configuration; therefore, it could be possible to transfer an unsafe MLG from one of those airplanes to another airplane and propagate the unsafe condition. The commenter asserts that the unsafe condition will be corrected on all airplanes if the applicability refers to the MLG, not the actual airplane.

We agree that it is possible to transfer an unsafe MLG from an airplane not listed in the service bulletin. However, in such cases, it is our practice to identify the affected airplane model(s) in the applicability and require an inspection for affected part numbers. Accordingly, we have expanded the applicability of this supplemental NPRM to specify all Model EMB-135 and -145 airplanes and added an inspection of the MLGs of those airplanes to determine if a cardan having a certain part number is installed on the MLGs. In addition, we have added a new paragraph (j) to this

supplemental NPRM to prohibit installation of the affected MLGs, unless certain actions required by this AD have been accomplished, which will preclude the transfer of unsafe MLGs from one airplane to another.

### FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

### Costs of Compliance

This supplemental NPRM would affect about 488 airplanes of U.S. registry.

The proposed part number verification would take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed inspection for U.S. operators is \$31,720, or \$65 per airplane.

The proposed inspection of the MLG trailing arm surface and pivot axle sealant would take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed inspection for U.S. operators is \$31,720, or \$65 per airplane, per inspection cycle.

The proposed replacement of the MLG cardan and inspection of the internal surface of the MLG trailing arm pivot axle would take about 1 work hour per MLG (two MLGs per airplane), at an average labor rate of \$65 per work hour. Required parts would cost about \$3,500 per cardan. Based on these figures, the estimated cost of the proposed actions for U.S. operators is \$3,479,440, or \$7,130 per airplane.

### 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 supplemental NPRM. 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 FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Docket No. FAA-2005-20223; Directorate Identifier 2004-NM-193-AD.

#### Comments Due Date

- (a) The Federal Aviation Administration must receive comments on this AD action by September 6, 2005.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to all EMBRAER Model EMB-135BJ, -135ER, -135KE, -135KL,

–135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by a report of a fractured axle of the trailing arm of the main landing gear (MLG) due to corrosion of the axle. We are issuing this AD to prevent a broken trailing arm and consequent failure of the MLG, which could lead to loss of control and damage to the airplane during takeoff or landing.

#### 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.

#### Part Number Verification

(f) Within 600 flight hours or 180 days after the effective date of this AD, whichever occurs first, inspect the left and right MLG to determine whether cardan assembly part number (P/N) 2309–2041–003 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the P/N of the cardan assembly can be conclusively determined from that review. If cardan P/N 2309–2041–003 is not installed in the MLG, no further action is required for that MLG, except as provided by paragraph (i) of this AD. If cardan P/N 2309–2041–003 is installed in the MLG, continue with paragraph (g) of this AD.

#### Inspection

(g) Within 600 flight hours or 180 days after the effective date of this AD, whichever occurs first, perform a detailed inspection for surface bruising of the MLG trailing arms and integrity of the MLG pivot axle sealant; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–32–0091, Change 01, dated July 1, 2004. If no sign of sealant failure or bruising of the trailing arm is found, repeat the inspection thereafter at intervals not to exceed 5,500 flight hours or 24 months, whichever occurs first, until paragraph (h) of this AD has been accomplished.

**Note 1:** For the purposes of this AD, a detailed inspection is: “An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.”

#### Corrective/Terminating Actions

(h) If any sign of sealant failure or bruising of either trailing arm surface is found, prior to further flight, do paragraphs (h)(1), (h)(2), and (h)(3) of this AD. Do the actions in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–32–0091, Change 01, dated July 1, 2004. Accomplishment of paragraph (h) of this AD for any MLG ends the repetitive inspections required by paragraph (g) of this AD for that MLG.

(1) Repair any bruising of the trailing arm surface.

(2) Replace the MLG cardan with a new, improved cardan having P/N 2309–2041–401.

(3) Perform a detailed inspection for corrosion of the internal surface of the trailing arm pivot axle.

(i) If no corrosion is found, prior to further flight, apply protective paint and corrosion inhibitors.

(ii) If corrosion is found, prior to further flight, replace the pivot axle with a new pivot axle and apply corrosion inhibitors.

**Note 2:** EMBRAER Service Bulletin 145–32–0091, Change 01, dated July 1, 2004, refers to Embraer Liebherr Equipamentos do Brasil S.A. (ELEB) Service Bulletin 2309–2002–32–04, Revision 01, dated May 24, 2004, as an additional source of service information for the inspection and repair of the MLG components. The ELEB service bulletin is included within the EMBRAER service bulletin.

#### Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to EMBRAER Service Bulletin 145–32–0091, dated February 19, 2004, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### Parts Installation

(j) As of the effective date of this AD, no person may install an MLG having a cardan assembly, part number 2309–2041–003, on any affected airplane, unless the requirements of paragraphs (f), (g), and (h) of this AD, as applicable, have been accomplished.

#### Alternative Methods of Compliance (AMOCs)

(k) 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.

#### Related Information

(l) Brazilian airworthiness directive 2004–08–02, dated September 3, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on August 3, 2005.

**Kevin M. Mullin,**

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

[FR Doc. 05–15880 Filed 8–10–05; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2005–22062; Directorate Identifier 2003–NM–219–AD]

RIN 2120–AA64

#### Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all McDonnell Douglas airplanes identified above. This proposed AD would require a one-time inspection of the aft attach fitting assembly of the spoiler link to determine the part number, and further investigative action and replacement of the assembly with a new or serviceable assembly, if necessary. This proposed AD results from a determination that the holes of certain aft attach fitting assemblies of the spoiler link were not cold-worked during production. We are proposing this AD to prevent fatigue cracking of the aft attach fitting of the spoiler link and consequent failure of the fitting. Failure of the fitting could result in an asymmetrical lift condition and consequent reduced controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by September 26, 2005.

**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.

- By 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 Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach,