

## Inspections and Measurements

(a) Except as provided by paragraph (b) of this AD: Within 250 flight hours after the effective date of this AD, do general visual inspections of the MLG outboard doors for evidence of impact with the surrounding structure, measure door gap clearances, and do any related investigative and corrective actions, as applicable, by accomplishing all of the actions per Part A of the Accomplishment Instructions of Gulfstream Service Bulletin 100-32-223, Revision 2, dated June 2, 2003. Do the applicable related investigative and corrective actions prior to further flight following the inspections.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

## Repair of Cracks or Delamination, if Necessary

(b) If any evidence of cracking or delamination is found on any MLG door during the inspection for delamination or cracking required by paragraph (a) of this AD: Before further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Civil Aviation Administration of Israel (CAAI) (or its delegated agent).

## No Reply Requirement

(c) Although the service bulletin describes procedures for completion and submission of a service reply card, this AD would not require those actions.

## Actions Accomplished per a Previous Release of the Service Bulletin

(d) Actions accomplished before the effective date of this AD per Gulfstream Service Bulletin 100-32-223, Revision 1, dated May 22, 2003, are considered acceptable for compliance with the corresponding actions specified in paragraph (a) of this AD.

## Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Israeli airworthiness directive 32-03-03-04 R3, dated June 24, 2003.

Issued in Renton, Washington, on April 21, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-9901 Filed 4-30-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-81-AD]

RIN 2120-AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 series airplanes, that currently 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 would require replacing the aileron and elevator RVIT bellcranks with new, improved bellcranks. The actions specified by the proposed AD are intended 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:** Comments must be received by June 2, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-81-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-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain

"Docket No. 2003-NM-81-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 or 2000 or ASCII text.

The service information referenced in the proposed rule 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.

**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:

#### Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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 proposed 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 proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket Number 2003-NM-81-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-81-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

On August 10, 2001, the FAA issued AD 2001-17-01, amendment 39-12392 (66 FR 43076, August 17, 2001), applicable to certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 series airplanes, to require measuring the gap between the bellcrank and the body of the rotary variable inductive transducer (RVITs) of the aileron and elevator, performing corrective action if necessary, and torquing the bolt that attaches the bellcrank to the RVIT shaft. That action was prompted by a report of interference between the bell crank of the aileron RVIT and the head of the hinge pin that attaches the RVIT support. The design of the elevator and aileron RVIT bellcranks are similar in their potential for interference with flight control. Therefore, both the elevator and aileron RVITS were addressed in that AD. The requirements of that AD are intended to prevent restricted movement of the aileron or elevator, which could result in reduced controllability of the airplane.

#### Actions Since Issuance of Previous Rule

The preamble to AD 2001-17-01 explains that we considered the requirements "interim action" and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

#### Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin (SB) 120-31-0046, Revision 01, dated December 27, 2002, which describes procedures for measuring the gap between the bellcrank and the body of the elevator/aileron RVITs; torquing the bolt that attaches the bellcrank to the RVIT shaft; and replacing the bellcranks with new, improved bellcranks. The measurement and torquing action procedures described in Revision 01 of the service bulletin are identical to those described in EMBRAER Alert Service Bulletin (ASB) 120-31-A046, dated July 13, 2001 (which was

referenced in AD 2001-17-01 as the appropriate source of service information for the required actions). However, Revision 01 of Service Bulletin 120-31-0046 adds procedures for replacing the bellcrank. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued 2001-07-01R1, dated February 10, 2003, 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 Proposed 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, the proposed AD would supersede AD 2001-17-01 to continue to require 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. The proposed AD also would require replacing the aileron and elevator RVIT bellcranks with new, improved bellcranks. The actions would be required to be accomplished in accordance with Revision 01 of the service bulletin described previously.

#### Cost Impact

There are approximately 201 Model EMB-120 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 2001-17-01 take approximately 1 or 2 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be \$13,065 or \$26,130; or \$65 or \$130 per airplane.

The new actions that are proposed in this AD action would take approximately 1 or 2 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Required parts would cost approximately \$810 per airplane. Based on these figures, the cost impact of the new proposed requirements of this AD on U.S. operators is estimated to be \$175,875 or \$188,940; or \$875 or \$940 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed 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 proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 removing amendment 39–12392 (66 FR 43076, August 17, 2001), and by adding a new airworthiness directive (AD), to read as follows:

#### **Empresa Brasileira de Aeronautica S.A.**

(EMBRAER): Docket 2003–NM–81–AD.  
Supersedes AD 2001–17–01,  
Amendment 39–12392.

**Applicability:** Model EMB–120 series airplanes, certificated in any category; with 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.

**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:

#### **Restatement of the Requirements of AD 2001–17–01**

##### *Inspection and Corrective Action, if Necessary*

(a) Within 50 flight hours after August 27, 2001 (the effective date of AD 2001–17–01, amendment 39–12392), 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.

#### **New Actions Required by This AD**

##### *Corrective Action*

(b) Within 4,000 flight hours after the effective date of this AD: Replace the aileron and elevator RVIT bellcranks having part number (P/N) 123–82549–007 or P/N 123–82549–009, as applicable, with new, improved bellcranks having P/N 145–51146–

001 or P/N 145–51147–001, respectively, in accordance with Paragraph 2.8 of the Accomplishment Instructions of EMBRAER Service Bulletin 120–31–0046, Revision 01, dated December 27, 2002.

(c) Replacement of the bellcranks accomplished before the effective date of this AD per EMBRAER Service Bulletin 120–31–0046, dated February 20, 2002, are considered acceptable for compliance with the corresponding action specified in this AD.

#### **Alternative Methods of Compliance**

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

**Note 1:** The subject of this AD is addressed in Brazilian airworthiness directive 2001–07–01R1, dated February 10, 2003.

Issued in Renton, Washington, on April 22, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04–9900 Filed 4–30–04; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–116564–03]

RIN 1545–BC05

#### **Determination of Basis of Stock or Securities Received In Exchange for, or With Respect to, Stock or Securities in Certain Transactions**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations under section 358 that provide guidance regarding the determination of the basis of stock or securities received in exchange for, or with respect to, stock or securities in certain transactions. These proposed regulations affect shareholders of corporations.

**DATES:** Written or electronic comments must be received by August 2, 2004.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG–116564–03), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–116564–03), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent

electronically, via the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs) or via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG–116564–03).

#### **FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Theresa Kolish, Emidio J. Forlini, Jr. or Reginald Mombrun, (202) 622–7930, concerning submissions of comments, Treena Garrett, (202) 622–7180 (not toll-free numbers).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background and Explanation of Provisions**

Section 1012 of the Internal Revenue Code (Code) provides that the basis of property is generally the cost of such property. Section 1.1012–1(c) provides that, if shares of stock are sold or transferred by a taxpayer who purchased or acquired lots of stock on different dates or at different prices, and the lot from which the stock was sold or transferred cannot be adequately identified, the stock sold or transferred is charged against the earliest of such lots purchased or acquired in order to determine the basis of such stock.

Under this rule, a shareholder has greater flexibility in planning the tax consequences of the sale by specifically identifying the shares sold. The rules for adequate identification operate differently depending on the manner in which the shares are held and actions taken by the shareholder. For example, when shares are held through a broker, an adequate identification is effected by giving the proper instructions to the broker. This rule allows identification without regard to the particular shares physically transferred by the broker. The rule also allows identification when several lots are represented by a single share certificate. However, if a shareholder holds a different share certificate for each lot, the identity of the shares is determined by the specific certificate sold.

Section 358(a)(1) generally provides that the basis of property received pursuant to an exchange to which section 351, 354, 355, 356, or 361 applies is the same as that of the property exchanged, decreased by the fair market value of any other property (except money) received by the taxpayer, the amount of any money received by the taxpayer, and the amount of loss to the taxpayer which was recognized on such exchange, and increased by the amount which was treated as a dividend, and the amount of gain to the taxpayer which was recognized on such exchange (not including any portion of such gain