

in accordance with Airbus Service Bulletin A320–27A1179, dated January 12, 2007; and, if any installation deviations or metallic particles are found, before further flight, contact Airbus for repair instructions and repair.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: No Difference.

#### 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; 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.

#### Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0178, dated June 22, 2007, and Airbus Service Bulletin A320–27A1179, dated January 12, 2007, for related information.

Issued in Renton, Washington, on October 12, 2007.

**Stephen P. Boyd,**

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

[FR Doc. E7–21006 Filed 10–24–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2007–27785; Directorate Identifier 2006–NM–267–AD]

RIN 2120–AA64

#### **Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes and Model ERJ 190 Airplanes**

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

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

**SUMMARY:** We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. 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 has been found that some “caution” messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with [certain] EPIC software load[s] \* \* \*. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected \* \* \*. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

A command hardover is a sudden roll, pitch, or yaw movement, which could result in reduced controllability of 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 November 19, 2007.

**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.

#### 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:

Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; 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–2007–27785; Directorate Identifier 2006–NM–267–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://dms.dot.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

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on April 6, 2007 (72 FR 17042). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, EMBRAER Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes have been added to the U.S. type certificate data sheet. We have determined that these airplane models are subject to the unsafe condition and are included in the MCAI for Model 190 airplanes.

## Comments

We have considered the following comments received on the earlier NPRM.

### Request to Add Optional Terminating Action

Two commenters, EMBRAER and the Air Transport Association (ATA) on behalf of its member US Airways, have requested that an optional method of compliance be added to the AD.

EMBRAER states that PRIMUS EPIC Field-Loadable Software Version 19.3 is available and that instructions for uploading this new software are described in Service Bulletins 170-31-0019 and 190-31-0009, both issued on May 4, 2007. EMBRAER continues that, as soon as this upload is accomplished, the repetitive inspections described by service bulletins 170-22-0003 and 190-22-0002 (cited in the original NPRM as appropriate sources of service information) are no longer needed. Consequently EMBRAER suggests that we revise the NPRM to include an optional installation of software version 19.3 in lieu of the repetitive inspections.

US Airways states that Embraer Service Bulletin 190-22-0002, dated November 9, 2006, mandates testing of the FGCS channel engagement until MAU PRIMUS EPIC software LOAD version 19.1 has been installed. US Airways therefore requests that upload of PRIMUS EPIC Software Version 19.1 or higher be added to the final rule as an option to the compliance requirements already stated in the NPRM.

We partially agree with this request. We have determined that software LOAD version 19.1 will not address the unsafe condition described in the supplemental NPRM. However, we have confirmed with Embraer that software LOAD version 19.3 or higher is acceptable as an optional terminating action for the repetitive functional checks. We have therefore revised paragraph (f) into paragraph (f)(1) and paragraph (f)(2) in the supplemental NPRM to provide for the optional terminating action.

### Request to Clarify Procedures

One commenter, Ranamdeep Singh, asks that we clarify or remove the following statement from paragraph (f) of the NPRM: "Before further flight, do all applicable replacements of the actuator input-output processor in accordance with the applicable service bulletin." The commenter states that the MCAI specifies a functional check within 300 hours after the effective date of the MCAI, with repetitions every 600

hours thereafter, in accordance with EMBRAER Service Bulletin 190-22-0002, dated November 9, 2006, but does not require replacing the actuator input-output processor before further flight. The commenter continues that Service Bulletin 190-22-0002 provides an alternative procedure to perform the functional check with the airplane in flight rather than on the ground. The commenter states an intent to use this alternative method due to a lack of ground equipment, but asserts that the words "before further flight" in paragraph (f) of the NPRM mean that the alternative method can not be used, which, therefore, causes an excessive burden by forcing operators to perform the functional check on the ground. The commenter therefore requests that we clarify or remove the specified statement.

We partially agree with this request. It appears there is some confusion regarding the procedures described in Service Bulletin 190-22-0002. The original NPRM requires replacing the actuator input-output processor before further flight after it has been determined that replacement is applicable. The functional checks described in the service bulletin, in paragraph 3.A.2 of the ground check and paragraphs 3.B.6(a) and (b) of the alternative check, all specify replacing the actuator input-output processor if certain messages are displayed during the functional check. The operator may use the alternative method and perform the functional check in flight, but after the check has been done, any defective actuator input-output processor must be replaced before further flight after the airplane has landed. It is not necessary to change the supplemental NPRM in this regard.

### 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.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional

opportunity for the public to comment on this proposed AD.

### 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 98 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. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$15,680, 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, 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-2007-27785;

Directorate Identifier 2006-NM-267-AD.

#### Comments Due Date

(a) We must receive comments by November 19, 2007.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, and Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes; certificated in any category.

#### Subject

(d) Air Transport Association (ATA) of America Code 22: Auto Flight.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) for Model ERJ 170 airplanes states:

It has been found that some "caution" messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load 17.3 or 17.5. Therefore, following a possible

failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

The MCAI for Model ERJ 190 airplanes states:

It has been found that some "caution" messages issued by the Flight Guidance Control System (FGCS) are not displayed on aircraft equipped with EPIC software load 4.3, 4.4 or 4.5. Therefore, following a possible failure on one FGCS channel during a given flight, such a failure condition will remain undetected or latent in subsequent flights. If another failure occurs on the second FGCS channel, the result may be a command hardover by the autopilot.

A command hardover is a sudden roll, pitch, or yaw movement, which could result in reduced controllability of the airplane. The MCAI mandates a functional test of the flight guidance control system channels engagement. The corrective action is replacement of the actuator input-output processor if necessary.

#### Actions and Compliance

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

(1) Within 300 flight hours after the effective date of this AD, do a functional check of the flight guidance control system (FGCS) channels engagement, in accordance with EMBRAER Service Bulletin 170-22-0003 or EMBRAER Service Bulletin 190-22-0002, both dated November 9, 2006, as applicable. Repeat the functional check thereafter at intervals not to exceed 600 flight hours, until the optional terminating action described by paragraph (f)(2) of this AD had been done. If any malfunction of the FGCS is discovered during any functional check required by this paragraph, before further flight, do all applicable replacements of the actuator input-output processor in accordance with the applicable service bulletin.

**Note 1:** For the purpose of this AD, a functional check is: "A quantitative check to determine if one or more functions of an item perform within specified limits."

(2) Installing PRIMUS EPIC Field-Loadable Software Version 19.3, in accordance with EMBRAER Service Bulletin 170-31-0019, Revision 01, dated June 25, 2007; or Service Bulletin 190-31-0009, Revision 02, dated June 29, 2007, as applicable, ends the repetitive functional checks required by paragraph (f)(1) of this AD. If any software versions higher than 19.3 are available, the latest of any such versions is acceptable for the installation described in this paragraph.

#### FAA AD Differences

**Note 2:** This AD differs from the MCAI and/or service information as follows: We have provided optional terminating action in paragraph (f)(2) of this AD; 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, Transport Airplane Directorate, FAA, Attn: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. 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.

#### Related Information

(h) Refer to MCAI Brazilian Airworthiness Directives 2006-11-02 and 2006-11-03, both effective November 16, 2006; EMBRAER Service Bulletins 170-22-0003 and 190-22-0002, both dated November 9, 2006; EMBRAER Service Bulletin 170-31-0019, Revision 01, dated June 25, 2007; and EMBRAER Service Bulletin 190-31-0009, Revision 02, dated June 29, 2007; for related information.

Issued in Renton, Washington, on October 13, 2007.

**Stephen P. Boyd,**

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

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-0083; Directorate Identifier 2006-NM-266-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), DOT.