FR 34094, June 27, 2001), are approved as AMOCs for the inspection requirements of this AD only at fastener locations where the AMOC provided for installing either BACB30NX or BACB30US fasteners.

Issued in Renton, Washington, on January 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–1794 Filed 1–31–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–120–AD]

RIN 2120–AA64

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

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

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes that would have required initial and repetitive calibration testing of potentiometers to detect noisy signals and replacement of only those with noisy signals. This new action revises the proposed AD by reducing the compliance time for the repetitive calibration testing of the potentiometers and adding the requirement for reporting results of the calibration tests of the potentiometers and the readouts of the flight data recorder (FDR) to the airplane manufacturer. The actions specified by this new proposed AD are intended to prevent the potentiometers that provide information on the positions of the primary flight controls to the FDR from transmitting noisy signals or becoming improperly calibrated, resulting in the transmission of incomplete or inaccurate data to the FDR. This lack of reliable data could hamper discovery of the unsafe condition that caused an accident or incident and prevent the FAA from developing and mandating actions to prevent additional accidents or incidents caused by that same unsafe condition. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 28, 2005.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–120–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*. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–120–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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, S.W., Renton, Washington, 98055–4056; telephone (425) 227–1175; 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 2000–NM–120–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. 2000–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on March 19, 2003 (68 FR 13239), hereafter referred to as the ''first supplemental NPRM.'' That supplemental NPRM would have required initial and repetitive calibration testing of the potentiometers to detect noisy signals and replacement of only those with noisy signals. Potentiometers that provide information on the positions of the primary flight controls to the flight data recorder (FDR) transmitting noisy signals or becoming improperly calibrated, if not corrected, could result in the transmission of incomplete or inaccurate data to the FDR. This lack of reliable data could hamper discovery of the unsafe condition that caused an accident or incident and prevent the FAA from developing and mandating actions to prevent additional accidents or incidents caused by that same unsafe condition.

Comments Received to the First Supplemental NPRM

Due consideration has been given to the comments received in response to the first supplemental NPRM.

Request To Reduce Compliance Time

The commenter, the National Transportation Safety Board (NTSB), requests that the compliance time interval for the repetitive calibration tests of the potentiometers and the readouts of the FDR in the first supplemental NPRM be changed from 12 months back to the 6 months proposed in the original NPRM. The commenter states that it closed Safety Recommendation A–96–34 in 1998 with an acceptable status, because the original NPRM and the FAA Flight Standards Handbook Bulletin for Airworthiness 97–14 (EMBRAER EMB–120 Flight Data Recorder Test), directed potentiometer calibration testing every 6 months. Since the original NPRM was issued, the commenter points out that the FAA reversed its position on these inspections by proposing to require annual inspections in the first supplemental NPRM. The commenter states it has found sensor failures to be intermittent and believes that, because annual inspections are the typical inspection cycle for FDR systems, they may not reveal a problem and will not provide timely feedback on the effectiveness of the corrective action, possibly resulting in a failed sensor remaining in place for a full year.

The FAA agrees. Sensor failures can be intermittent; therefore, we have determined that annual inspections—the typical inspection cycle for FDR systems—may not reveal a problem in a timely manner and could possibly result in a failed sensor remaining in place for up to a year. We have revised paragraph (b) of this second supplemental NPRM to reduce the compliance time interval for the repetitive calibration tests of the potentiometers and the readouts of the FDR from 12 months back to 6 months.

Request To Include Reporting Requirement

The same commenter states that, if the AD is revised as proposed in the first supplemental NPRM, the only way to properly evaluate the effectiveness of the proposed corrective action is to require an FDR readout and evaluation every 6 months for 2 years, and to submit the results to the FAA for evaluation (as prescribed in the original NPRM). The commenter further asserts that removal of the reporting requirement will eliminate the opportunity for a fleet wide evaluation of the continuing problem.

From these statements, we infer that the commenter is requesting that we revise the first supplemental NPRM to again require operators to report results of their calibration tests of the potentiometers and the readouts of the FDR to us every 6 months for 2 years. We partially agree with the commenter's request. As we explained previously, we have reduced the compliance time for the repetitive interval for the calibration tests of the potentiometers and the readouts of the FDR from 12 months to 6 months. We also agree that the calibration testing and readout results will be valuable for determining whether the proposed corrective actions adequately address the noisy signals, loose couplers, and incorrect calibrations that are found, and for determining the extent of these in the affected fleet. Based on the results of these reports, we may determine that further corrective action is warranted. Therefore, we have revised this second supplemental NPRM to add new a paragraph (f) that would require operators to report results of the initial and repetitive calibration tests of the potentiometers and the readouts of the FDR at intervals not to exceed 6 months for 24 months, and reidentified subsequent paragraphs accordingly.

However, we do not agree that these results should be submitted to the FAA. The airplane manufacturer, EMBRAER, continually monitors the effectiveness of corrective actions and reviews both the corrective actions and their effectiveness with the Centro Technico Aeroespacial (CTA), which is a division of the airworthiness authority for Brazil, during quarterly service difficulty reviews. Therefore, we have determined that the calibration testing and readouts of the FDR should be reported directly to EMBRAER. We will work closely with EMBRAER and the CTA to monitor the effectiveness of the corrective actions specified in this second supplemental NPRM and will determine if further corrective action is warranted based on the results of these reports. No additional change to the second supplemental NPRM is necessary in this regard.

Request To Revise the Method of Compliance

The same commenter requests that the first supplemental NPRM be revised to include requirements to conduct the FDR readout and evaluation just before the airplane's scheduled maintenance, with emphasis on observing parameter performance during in-flight and ground operations. The commenter further suggests that the most direct way to detect a sensor failure or out-of-calibration condition would be for a qualified analyst to periodically evaluate the FDR data, conduct a calibration check, and make any necessary sensor replacements during scheduled maintenance. The commenter asserts that the fact that one or more flight control parameters failed in 16 of 17 Model EMB–120 FDR readouts since 1990 suggests that the problem may be systemic and may require a more robust sensor and/or installation. Further, the commenter expresses doubt that all of the failures were caused by storing the sensors for more than 12 months, which the airplane and sensor manufacturers claim caused an oxide film to form on the sensor, resulting in the noisy signals. The commenter supplied no data to support this request.

We do not agree with the commenter's request to revise the compliance method. However, as we explained previously, we have reduced the compliance time for the repetitive interval for calibration testing of the potentiometers and readout of the FDR. We find that installation problems with the sensor's compatibility with the installation environment would more likely appear as (hard) sensor failures, not signal quality problems. The commenter itself points out that noisy signals are rare and most service problems are related to poor maintenance or an improperly executed FD replacement. Therefore, because the potentiometers are sealed and require no maintenance, we still consider oxide coating inside the potentiometers a contributing factor to the source of the noisy signals—most likely a result of prolonged disuse of the sensors. Therefore, we find that these proposed corrective actions will purge any faulty sensors and that no change to the second supplemental NPRM is necessary in this regard.

Clarification of Certain Terms

We have added a new Note 1 to this second supplemental NPRM (and re-numbered subsequent notes accordingly) to clarify our use of the word ''calibration.'' For the purposes of this second supplemental NPRM, we define calibration as the adjustment of the potentiometers, including operational and functional tests of the FDR system, as specified in Section 31–30–00 of the EMBRAER EMB120 Airplane Maintenance Manual (AMM).

Paragraph (a) of this second supplemental NPRM provides procedures for a noise ''check'' to detect potentiometers with noisy signals. We have determined that certified

maintenance personnel must perform the noise check.

Explanation of Additional Changes to the Second Supplemental NPRM

We have added a new paragraph (e) to this second supplemental NPRM (and reidentified subsequent paragraphs accordingly) to state that modification of the flexible couplings done before the effective date of this AD in accordance with Change 01 of EMBRAER Service Bulletin 120–31–0038, dated October 3, 1997, is considered acceptable for compliance with the corresponding action required by paragraph (d) of this second supplemental NPRM.

We have also changed paragraphs (a) and (c) of this second supplemental NPRM to specify that the proposed actions shall be done in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. In addition, the following sections of the EMBRAER EMB–120 AMM are identified as approved methods of compliance for accomplishing the proposed actions specified in the applicable paragraphs:

• Paragraph (a): Section 31–30–00, dated April 10, 2002.

• Paragraph (c): Section 31–30–05, dated July 17, 1998.

Additionally, we have added a new Note 2 to this second supplemental NPRM (and re-numbered subsequent notes accordingly) to clarify that Section 31–30–05 of the EMBRAER EMB120 AMM includes instructions for calibrating the potentiometers (adjusting the potentiometers, including operational and functional tests of the FDR system). The procedures for that calibration are specified in Section 31–30–00 of the EMBRAER EMB120 AMM.

Conclusion

Since some of these changes expand the scope of the first supplemental NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Changes to 14 CFR part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOC). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD. Therefore, paragraph (g) has been revised and paragraph (h) and Notes 1 and 4 of the first supplemental NPRM have been removed from this supplemental NPRM.

Increase in Labor Rate

After the first supplemental NPRM was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Cost Impact

The FAA estimates that 587 airplanes of U.S. registry would be affected by this proposed AD. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost of parts per airplane	Cost per airplane
Calibration and FDR readout, per calibration cycle (3 potentiometers per airplane).	1 per potentiometer (for digital-type FDRs), per calibration cycle; or 25 per potentiometer (for tape-type FDRs), per calibration cycle.	$65	Negligible	$65, potentiometer (for digital-calibration type FDRs), per calibration cycle; or $1,625, per potentiometer (for tape-type FDRs), per calibration cycle.
Application of adhesive	1	65	Negligible	$65.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the 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.

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 proposed AD. 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, 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 adding the following new airworthiness directive:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2000–NM–120–AD.

Applicability: Model EMB–120 series airplanes), certificated in any category, that are required by 14 CFR 135 to operate with a flight data recorder (FDR).

Compliance: Required as indicated, unless accomplished previously.

To prevent the potentiometers that provide information on the positions of the primary flight controls to the FDR from transmitting noisy signals or becoming improperly calibrated, resulting in the transmission of incomplete or inaccurate data to the FDR, accomplish the following:

Initial Potentiometer Calibration Testing and FDR Readout

(a) Within 6 months after the effective date of this AD: Calibrate the potentiometers to the ailerons, elevators, and rudder; perform a noise check of the potentiometers; and obtain a readout of the FDR; in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Section 31–30–00, dated April 10, 2002, of the EMBRAER EMB–120 Airplane Maintenance Manual (AMM) is one approved method. The noise check must be performed by certificated maintenance personnel.

Note 1: For the purposes of this AD, calibration is defined as the adjustment of the potentiometers, including operational and functional tests of the FDR system, as specified in Section 31–30–00 of the EMBRAER EMB120 AMM.

Repetitive Potentiometer Calibration Testing and FDR Readout

(b) Repeat the calibration and noise check of the potentiometers and obtain a readout of the FDR, as required by paragraph (a) of this AD, at intervals not to exceed 6 months.

Replacement of Potentiometers

(c) If any readout of the FDR, conducted in accordance with paragraph (a) or (b) of this AD, indicates a potentiometer with a noisy signal: Within 20 days after obtaining the readout, replace the potentiometer with one that has a date of manufacture no greater than 12 months from the date of installation, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Section 31–30–05, dated July 17, 1998, of the EMBRAER EMB–120 AMM is one approved method.

Note 2: Section 31–30–05 of the EMBRAER EMB120 AMM includes instructions for calibrating the potentiometers. The procedures for the calibration are specified in Section 31–30–00 of the EMB120 AMM.

Modification of Flexible Couplers

(d) Prior to further flight, after accomplishing paragraph (a) of this AD: Apply locktite adhesive over the threads of the screws of the flexible couplers that attach the shafts of the potentiometers to the shafts of the primary flight controls, in accordance with EMBRAER Service Bulletin 120–31–0038, dated February 22, 1997; or Change 02, dated June 25, 1998.

Modification Accomplished Per Previous Issue of Service Bulletin

(e) Modification of the flexible couplers done before the effective date of this AD in accordance with EMBRAER Service Bulletin 120–31–0038, Change 01, dated October 3, 1997, is considered acceptable for compliance with the corresponding action specified in paragraph (d) of this AD.

Reporting Requirement

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Submit a report of the calibration tests of the potentiometers and the readouts of the FDR to Empresa Brasileira de Aeronautica S.A. (EMBRAER), Certification—Continued Airworthiness, Av. Brig. Faria Lima, 2170, P.C. 179, 12227–901, Sao Jose dos Campos—SP, Brazil; fax (12) 3927–1184. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For calibration tests, noise checks, and FDR readouts done after the effective date of this AD: Submit the report within 30 days after performing each test, check, and readout required by paragraphs (a) and (b) of this AD.

(2) For calibration tests, noise checks, and FDR readouts done before to the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Alternative Methods of Compliance

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

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 97–08–01, dated August 29, 1997.

Issued in Renton, Washington, on January 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–1795 Filed 1–31–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20221; Directorate Identifier 2004–NM–173–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330, A340–200, and A340–300 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A330, A340–200, and A340–300 series airplanes. This proposed AD would require inspecting to determine the part number and serial number of the left- and right-hand elevator assemblies, performing related investigative and corrective actions if necessary, and re-protecting the elevator assembly. This proposed AD is prompted by reports that areas on the top skin panel of the right-hand elevator have disbonded due to moisture penetration. We are proposing this AD to prevent disbonding of the elevator assembly, which could reduce the structural integrity of the elevator and result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by March 3, 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.