

**Applicability**

(c) This AD applies to Airbus Model A330 airplanes, and Model A340-200 and -300 series airplanes, certificated in any category; all serial numbers fitted with MLG (main landing gear) retraction link Part Number (PN) 201489311 (LH (left-hand) side) or PN 201489312 (RH (right-hand) side).

**Reason**

(d) The MCAI states that during full-scale fatigue tests, the retraction link failed on the latest growth production standard MLG (main landing gear) prior to its expected life limit. Investigations confirm that the root cause of this premature fracture is due to high lug stress. The retraction link is included in the ALS (Airworthiness Limitation section) Part 1—Safe Life Airworthiness Limitation Item—and currently limited to 35,200 flight cycles (FC). Its fracture causes un-damped extension of the MLG, potentially leading to loss of side stay integrity and then MLG collapse, which constitutes an unsafe condition. The aim of the MCAI is to mandate the reduced retraction link life limit and replacement of any retraction link that has exceeded this new limit.

**Actions and Compliance**

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

(1) Prior to the accumulation of 8,300 total landings on the retraction link assembly or within 39 days after the effective date of this AD, whichever occurs later, replace the retraction link assembly in accordance with the instructions defined in Airbus All Operators Telex A330-32A3208, dated October 18, 2006; or Airbus All Operators Telex A340-32A4252, dated October 18, 2006; as applicable.

(2) Within 39 days after the effective date of this AD, report to Airbus the life accumulation information of each retraction link assembly affected by this AD in accordance with Airbus All Operators Telex A330-32A3208, dated October 18, 2006; or Airbus All Operators Telex A340-32A4252, dated October 18, 2006; as applicable.

**Note 1:** This reduced life limit will be incorporated within the next revision of the Airbus A330/A340 ALS Part 1.

**Other FAA AD Provisions**

(f) 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: Tim Backman, Aerospace Engineer, 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 AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(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**

(g) Refer to MCAI European Aviation Safety Agency Emergency Airworthiness Directive 2006-0324-E, dated October 20, 2006; and Airbus All Operators Telex A330-32A3208, dated October 18, 2006; and Airbus All Operators Telex A340-32A4252, dated October 18, 2006, for related information.

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

**Ali Bahrami,**

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-2006-25419; Directorate Identifier 2006-NM-055-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 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 ERJ 170 airplanes. The original NPRM would have required replacing the mini-latches on certain lavatory waste compartment doors with new, stronger latches, and other specified actions. The original NPRM resulted from reports of certain lavatory waste compartment doors opening during flight due to movement of the waste compartment during takeoff, because the mini-latches installed on the doors of those compartments lose their strength over time. This action revises the original NPRM by adding airplanes to the applicability. We are proposing this supplemental NPRM to prevent the inability of the waste compartment

doors to adequately contain a fire inside the lavatory waste compartment, and consequent uncontained fire and smoke within a lavatory during flight.

**DATES:** We must receive comments on this supplemental NPRM by February 20, 2007.

**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.

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

**FOR FURTHER INFORMATION CONTACT:**

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; 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 in the **ADDRESSES** section. Include the docket number “Docket No. FAA-2006-25419; Directorate Identifier 2006-NM-055-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 that 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 may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

### Examining the Docket

You may 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 Docket Management System 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 ERJ 170 airplanes. The original NPRM was published in the **Federal Register** on July 28, 2006 (71 FR 42776). The original NPRM proposed to require replacing the mini-latches on certain lavatory waste compartment doors with new, stronger latches, and other specified actions.

Since we issued the original NPRM, we have received Revision 01 of EMBRAER Service Bulletin 170-25-0024, dated January 9, 2006. The procedures in EMBRAER Service Bulletin 170-25-0024, Revision 01, are essentially identical to those in the original issue of the service bulletin, dated July 21, 2005, which we referred to as the appropriate source of service information for the proposed latch replacement in the original NPRM. EMBRAER issued Revision 01 of the service bulletin to add airplanes to the effectivity and to transmit Revision 1 of C & D Aerospace Service Bulletin 170-18616-25-023, dated November 29, 2005.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

### Comments

We have considered the following comments on the original NPRM.

#### *Request To Make Service Documents Available to the Public by Incorporation by Reference and Publication in DMS*

The Modification and Replacement Parts Association (MARPA) requests that we incorporate by reference the essential service documents in the NPRM. MARPA states that ADs are typically based upon service information originating with the type certificate holder or its suppliers. MARPA asserts that, if a service document is used as a mandatory element of compliance, it should not only be referred to, but also incorporated into the AD. MARPA adds that manufacturer's service documents are privately authored instruments, generally having copyright protection against duplication and distribution. When a service document is incorporated by reference into a public document, such as an AD, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51, it loses its private, protected status and becomes a public document. MARPA notes that the NPRM is one of these public documents, but does not incorporate by reference that service document. Therefore, the NPRM, as proposed, attempts to require compliance with a public law by reference to a private writing. MARPA believes that public laws, by definition, should be public and that they cannot rely on private writings.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. The final rule for this action will incorporate by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

MARPA also requests that essential service documents be published in the Docket Management System (DMS). MARPA states that service documents incorporated by reference should be made available to the public by publication in either the **Federal Register** or DMS. MARPA also states that the purpose of the incorporation by reference method is brevity, to keep from expanding the **Federal Register** needlessly by publishing documents

already in the hands of the affected individuals. MARPA adds that, traditionally, "affected individuals" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA further adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. This new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and/or organizations repairing or servicing alternatively certified parts under section 21.303 ("Parts Manufacturer Approval") of the Federal Aviation Regulations (14 CFR 21.303). MARPA states that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper.

In regard to the commenter's request that service documents be made available to the public by publication in the **Federal Register**, we agree that incorporation by reference was authorized to reduce the volume of material published in the **Federal Register** and the Code of Federal Regulations. However, as specified in the Federal Register Document Drafting Handbook, the Director of the Office of the Federal Register (OFR) decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the Federal Register Document Drafting Handbook, when documents are filed for public inspection, anyone may inspect or copy filed documents during the OFR's hours of business. Further questions regarding publication of documents in the **Federal Register** or incorporation by reference should be directed to the OFR.

In regard to the commenter's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the final rule is necessary in response to this comment.

#### **Request To Reference Parts Manufacturer Approval (PMA) Parts**

The same commenter, MARPA, also requests that the language in the NPRM

be changed to permit installation of PMA equivalent parts. MARPA asserts that mandating a certain part-numbered part to the exclusion of all other parts, in some cases, prevents installation of perfectly good parts, while also prohibiting development of new parts, “\* \* \* permitted under [14 CFR] 21.303.” MARPA further asserts that this prohibition risks removing the AD out of the realm of safety and into the realm of economics, since prohibiting the development, sale, and use of a perfectly good part has nothing to do with safety. MARPA continues, stating that the NPRM, as written, does not comply with FAA Order 8040.2, which allows replacement parts under section 21.303 of the Federal Aviation Regulations (14 CFR 21.303) based on a finding of identicality.

MARPA goes on to state that it believes “\* \* \* the practice of requiring an [alternative method of compliance] AMOC to install a PMA part should be stopped.” It is “\* \* \* tantamount to illogically stating that all PMA parts are inherently defective and that they all require an additional layer of approval when the [original equipment manufacturer] OEM part is determined to be defective.” MARPA further states that, if the PMA part is deemed defective, it must be deemed so in the AD, not simply implied by a “catch-all AMOC requirement.”

In addition, MARPA refers to differing language used in other ADs addressing the use of PMA parts and asserts that, because the NPRM differs in treatment of PMA parts from other ADs, “\* \* \* the mandates contained in Section 1, paragraph (b)(10) of Executive Order 12866 are not being met.” That paragraph requires that all agencies act uniformly on a given issue.

The NPRM did not address PMA parts, as provided in draft FAA Order

8040.2, because the Order was only a draft that was out for comment at the time. After issuance of the NPRM, the Order was revised and issued as FAA Order 8040.5 with an effective date of September 29, 2006.

FAA Order 8040.5 does not address PMA parts in ADs. We acknowledge the need to ensure that unsafe PMA parts are identified and addressed in ADs related to mandatory continuing airworthiness information (MCAI). We are currently examining all aspects of this issue, including input from industry. Once we have made a final determination, we will consider how our policy regarding PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

The FAA recognizes the need for standardization of this issue and is currently in the process of reviewing issues that address the use of PMAs in ADs at the national level. However, the Transport Airplane Directorate considers that to delay this particular AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

*Request To Replace Only the Lavatory Waste Compartment Latches*

EMBRAER requests that we revise paragraph (f) of the original NPRM to require replacement of only the latches for the lavatory waste compartment door. EMBRAER asserts that only those

latches need to be replaced, because none of the other doors identified in EMBRAER Service Bulletin 170–25–0024, dated July 21, 2005, affect fire containment, the unsafe condition addressed by this AD. EMBRAER states that the wording in paragraph (f) of the original NPRM, the mandatory accomplishment of “\* \* \* all the actions, except for the forward and aft lavatory mirror rework, specified in the Accomplishment Instructions \* \* \*,” will require replacement of several latches that are not associated with the identified unsafe condition. Therefore EMBRAER suggests that we identify the specific paragraphs of the Accomplishment Instructions of the service bulletin that need to be done to replace just the latches for the lavatory waste compartment.

We agree that only the latches for the lavatory waste compartment need to be replaced to address the subject unsafe condition. Therefore, as EMBRAER suggests, we have revised paragraph (f) of this supplemental NPRM to refer to the specific paragraphs of the Accomplishment Instructions of the service bulletin necessary to replace only the latches for the lavatory waste compartment door.

**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**

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	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Replacement of lavatory waste compartment door latches .....	2	\$80	\$0	\$160	75	\$12,000

**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 and placed it in the AD docket. 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Empresa Brasileira De Aeronautica S.A. (EMBRAER):** Docket No. FAA-2006-25419; Directorate Identifier 2006-NM-055-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by February 20, 2007.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, certificated in any category; as identified in EMBRAER Service Bulletin

170-25-0024, Revision 01, dated January 9, 2006.

#### Unsafe Condition

(d) This AD results from reports of certain lavatory waste compartment doors opening during flight due to movement of the waste compartment during takeoff, because the mini-latches installed on those doors lose their strength over time. We are issuing this AD to prevent the inability of the waste compartment doors to adequately contain a fire inside the lavatory waste compartment, and consequent uncontained fire and smoke within a lavatory during flight.

#### 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.

#### Replacement of Mini-Latches on Certain Lavatory Waste Compartment Doors

(f) Within 700 flight hours after the effective date of this AD: Replace the mini-latches for the forward and aft lavatory waste compartment doors by accomplishing all the actions, except for the forward and aft lavatory mirror rework, specified in paragraphs 3.B. and 3.G. of paragraph 4., "Appendix 1," of EMBRAER Service Bulletin 170-25-0024, Revision 01, dated January 9, 2006.

**Note 1:** EMBRAER Service Bulletin 170-25-0024, Revision 01, dated January 9, 2006, refers to C & D Aerospace Service Bulletin 170-18616-25-023, Revision 1, dated November 29, 2005, as an additional source of service information for replacing the mini-latches on certain lavatory waste compartment doors required by paragraph (f) of this AD.

#### Credit for Actions Done Using Previous Issue of Service Information

(g) Replacements done before the effective date of this AD in accordance with paragraphs 3.B. and 3.G. of paragraph 4., "Appendix 1," of EMBRAER Service Bulletin 170-25-0024, dated July 21, 2005, are considered acceptable for compliance with the corresponding action specified in this AD.

#### Alternative Methods of Compliance (AMOCs)

(h)(1) 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Related Information

(i) Brazilian airworthiness directive 2005-11-01, effective December 8, 2005, also addresses the subject of this AD.

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

**Ali Bahrami,**

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

[FR Doc. E7-1215 Filed 1-25-07; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-27012; Directorate Identifier 2006-NM-188-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Airbus Model A300 B4-601, A300 B4-603, A300 B4-605R, A300 C4-605R Variant F, A310-204, A310-304, and A310-308 Airplanes Equipped With General Electric CF6-80C2 Engines**

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

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

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model A300 B4-600, B4-600R, C4-605R Variant F, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes. The existing AD currently requires a one-time inspection for damage of the integrated drive generator (IDG) electrical harness and pyramid arm, and repair if necessary. This proposed AD would add new repetitive inspections, which, when initiated, would terminate the inspection required by the existing AD. This proposed AD would also require repairing damage and protecting the harness. The proposed AD would also provide for optional terminating action for the repetitive inspections. This proposed AD also removes certain airplanes from the applicability of the existing AD. This proposed AD results from a report of structural damage on the forward pyramid arm of an engine pylon due to chafing of the IDG electrical harness against the structure of the pyramid arm. We are proposing this AD to prevent electrical arcing in the engine pylon, which could result in loss of the relevant alternating current (AC) bus bar, reduced structural integrity of the engine pylon, and possible loss of control of the airplane.

**DATES:** We must receive comments on this proposed AD by February 26, 2007.