

## 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 removing amendment 39-14577 (71 FR 25919, May 3, 2006) and adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA-2007-27715; Directorate Identifier 2006-NM-140-AD.

### Comments Due Date

(a) The FAA must receive comments on this AD action by July 28, 2008.

### Affected ADs

(b) This AD supersedes AD 2006-09-07.

### Applicability

(c) This AD applies to all Airbus Model A330 and A340 airplanes, certificated in any category.

**Note 1:** This AD requires revisions to certain operator maintenance documents to

include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

### Unsafe Condition

(d) This AD results from the issuance of new and more restrictive service life limits and structural inspections based on fatigue testing and in-service findings. We are issuing this AD to detect and correct fatigue cracking, accidental damage, or corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

### 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.

### Restatement of Requirements of AD 2006-09-07

#### Airworthiness Limitations Revision

(f) Within 3 months after June 7, 2006 (the effective date of AD 2006-09-07): Revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness by incorporating into the ALS the documents in paragraphs (f)(1) and (f)(2) of this AD, as applicable, until paragraph (h) of this AD is accomplished.

(1) Airbus Document AI/SE-M4/95A.0089/97, "A330 Airworthiness Limitations Items," Issue 12, dated November 1, 2003, as specified in Section 9-2 of the Airbus A330 Maintenance Planning Document (MPD).

(2) Section 9-1, "Life limits/Monitored parts," Revision 05, dated April 7, 2005, of the Airbus A330 and A340 MPDs.

(g) Except as provided by paragraph (h) or (j) of this AD: After the actions in paragraph (f) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the documents listed in paragraph (f) of this AD.

### New Requirements of This AD

#### ALS Revision

(h) Within 3 months after the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness to incorporate the documents specified in paragraphs (h)(1) and (h)(2) of this AD, as applicable. Accomplishing the revision in this paragraph terminates the requirements in paragraph (f) of this AD.

(1) Airbus Document AI/SE-M4/95A.0089/97, "A330 Airworthiness Limitation Items (ALI)," Issue 15, dated March 26, 2007; or Airbus Document AI/SE-M4/95A.0051/97, "A340 Airworthiness Limitations Items," Issue 10, dated February 1, 2007.

(2) Sub-part 1-2 "Life Limits," and Sub-part 1-3 "Demonstrated Fatigue Lives," of Airbus A330 or A340 ALS Part 1, "Safe Life Airworthiness Limitation Items," Revision 01, dated March 30, 2007, as applicable.

(i) After accomplishing the actions specified in paragraph (h) of this AD, no alternative inspections/limitation tasks or inspection/limitation task intervals may be used unless the inspections/limitation tasks or inspection/limitation task intervals are part of a later approved revision of the documents specified in paragraphs (h)(1) and (h)(2) of this AD, as applicable, that is approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or unless the inspection/limitation task or inspection/limitation task interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

### Alternative Methods of Compliance (AMOCs)

(j)(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) To request a different method of compliance or a different compliance time for this AD, follow the procedures 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.

### Related Information

(k) European Aviation Safety Agency airworthiness directives 2008-0023, dated February 6, 2008, 2007-0133, dated May 11, 2007, and 2007-0158, dated June 4, 2007; also address the subject of this AD.

Issued in Renton, Washington, on June 13, 2008.

**Ali Bahrami,**

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

[FR Doc. E8-14480 Filed 6-25-08; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. FAA-2007-28377; Directorate Identifier 2007-NM-063-AD]

RIN 2120-AA64

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

Periodic operational check of the firewall hydraulic shutoff valves, made during routine maintenance, has revealed that the failure rate of that component is significantly higher than expected. Such a dormant failure, when combined with further possible failures, such as engine fire, may lead to an unacceptable reduction of safety margins.

The unsafe condition is failure of the firewall hydraulic shutoff valve, which, in combination with an engine fire, could result in loss of hydraulic pressure or spread of an engine fire beyond the firewall. 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 July 21, 2008.

**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:** Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; 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-2007-28377; Directorate Identifier 2007-NM-063-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://www.regulations.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 June 25, 2007 (72 FR 34648). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, we added Model 190-200 STD, -200 LR, and -200 IGW airplanes to the U.S. type certificate data sheet (TCDS). We determined that this model is also affected by the identified unsafe condition. We revised paragraph (c) of this supplemental NPRM to include this model. In addition, we revised the Costs of Compliance paragraph of this supplemental NPRM to include additional U.S.-registered airplanes of this model.

In addition, Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2007-02-01R1 and 2007-02-02R1, both effective August 27, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The revised MCAI adds a reference to hydraulic shutoff valve, P/N 975287-5. (This reference is explained in a comment from EMBRAER, which is discussed below.) The MCAI states:

Periodic operational check of the firewall hydraulic shutoff valves, made during routine maintenance, has revealed that the failure rate of that component is significantly higher than expected. Such a dormant failure, when combined with further possible failures, such as engine fire, may lead to an unacceptable reduction of safety margins.

The unsafe condition is failure of the firewall hydraulic shutoff valve, which, in combination with an engine fire, could result in loss of hydraulic pressure or spread of an engine fire beyond the firewall. The MCAI requires repetitive operational checks of the firewall hydraulic shutoff valve, and if necessary, replacement of the valve. You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

EMBRAER has issued Service Bulletins 170-29-0013 and 190-29-0008, both Revision 01, both dated July 24, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### Comments

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

#### Request To Add New Affected Part Number

EMBRAER requests that we add P/N 975287-5 to the applicability statement. EMBRAER states that P/N 975287-3 (specified in the original NPRM) is re-identified to P/N 975287-5 without any changes in its design when doing the actions of EMBRAER Service Bulletins 170-29-0015 and 190-29-0011, both dated May 11, 2007 (these service bulletins were not referenced in the NPRM).

We agree to add a reference to the new part number to this supplemental NPRM since hydraulic shutoff valves having that part number are subject to the identified unsafe condition. As discussed previously, ANAC has issued revised MCAI to address this new part number. Accordingly, we have revised paragraphs (c) and (f) of this supplemental NPRM to include a reference to P/N 975287-5.

#### 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 145 products of U.S. registry. We also estimate that it would take about 1 work-hour 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 \$11,600, or \$80 per product, per inspection cycle.

#### 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-2007-28377; Directorate Identifier 2007-NM-063-AD.

#### Comments Due Date

- (a) We must receive comments by July 21, 2008.

#### 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; and Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes; equipped with firewall hydraulic shutoff valves having part number (P/N) 975287-3 or P/N 975287-5.

#### Subject

(d) Air Transport Association (ATA) of America Code 29: Hydraulic power.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Periodic operational check of the firewall hydraulic shutoff valves, made during routine maintenance, has revealed that the failure rate of that component is significantly higher than expected. Such a dormant failure, when combined with further possible failures, such as engine fire, may lead to an unacceptable reduction of safety margins. The unsafe condition is failure of the firewall hydraulic shutoff valve, which, in combination with an engine fire, could result in loss of hydraulic pressure or spread of an engine fire beyond the firewall. The MCAI requires repetitive operational checks of the firewall hydraulic shutoff valve, and if necessary, replacement of the valve.

#### Actions and Compliance

(f) Unless already done, within the next 600 flight hours after the effective date of this AD, perform an operational test for proper operation of the firewall hydraulic shutoff valves P/N 975287-3 or P/N 975287-5, as applicable, in accordance with the applicable service bulletin listed in Table 1 of this AD. If the valve does not operate properly, before further flight, replace the faulty hydraulic shutoff valve with another one bearing P/N 975287-3 or P/N 975287-5. Repeat the test thereafter at intervals that do not exceed 600 flight hours.

**Note 1:** For the purpose of this AD, an operational check is: "A task to determine that an item is fulfilling its intended purpose. The check does not require quantitative tolerances. This is a failure finding task."

TABLE 1.—EMBRAER SERVICE INFORMATION

EMBRAER Service Bulletin	Revision level	Date
170-29-0013 .....	Original .....	December 13, 2006.
170-29-0013 .....	01 .....	July 24, 2007.
190-29-0008 .....	Original .....	December 13, 2006.

TABLE 1.—EMBRAER SERVICE INFORMATION—Continued

EMBRAER Service Bulletin	Revision level	Date
190–29–0008 .....	01 .....	July 24, 2007.

**FAA AD Differences**

**Note 2:** This AD differs from the MCAI and/or service information as follows: No Differences.

**Other FAA AD Provisions**

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, 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:* Sanjay Ralhan, Aerospace Engineer, International Branch,

ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1405; 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 Brazilian Airworthiness Directives 2007–02–01R1 and 2007–02–02R1, both effective August 27, 2007; and the service information listed in Table 2 of this AD for related information.

TABLE 2.—EMBRAER SERVICE INFORMATION

EMBRAER Service Bulletin	Revision level	Date
170–29–0013 .....	Original .....	December 13, 2006.
170–29–0013 .....	01 .....	July 24, 2007.
190–29–0008 .....	Original .....	December 13, 2006.
190–29–0008 .....	01 .....	July 24, 2007.

Issued in Renton, Washington, on June 12, 2008.

**Ali Bahrami,**

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

[FR Doc. E8–14476 Filed 6–25–08; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 88

#### Office of Global Health Affairs; Regulation on the Organizational Integrity of Entities Implementing Leadership Act Programs and Activities

**AGENCY:** Office of Global Health Affairs, HHS.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Office of Global Health Affairs within the U.S. Department of Health and Human Services (HHS) is reopening the period to submit comments on the proposed rule, published in the **Federal Register** of April 17, 2008. The proposed rule describes the separation that must exist between a recipient of HHS funds to implement HIV/AIDS programs and activities under the United States Leadership Against HIV/AIDS,

Tuberculosis and Malaria Act of 2003 (the “Leadership Act”), Public Law No. 108–25 (May 27, 2003), and an affiliate organization that engages in activities that are not consistent with a policy opposing prostitution and sex trafficking, as required under section 301(f) of the Leadership Act.

**DATES:** Submit written or electronic comments on the proposed rule by July 28, 2008.

**ADDRESSES:** You may submit written comments to the following address: U.S. Department of Health and Human Services, Office of Global Health Affairs, Room 639H, 200 Independence Avenue, SW., Washington, DC 20201. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m., at Room 639H, 200 Independence Avenue, SW., Washington, DC 20201. Please call ahead to 1–202–690–6174, and ask for a representative in the Office of Global Health Affairs to schedule your visit.

Written comments are also accepted electronically via the Internet at <http://www.regulations.gov>. You can also download an electronic version of the NPRM at <http://www.regulations.gov>. HHS/OGHA has also posted the NPRM and related materials to its Web site at the following Internet address: <http://www.globalhealth.gov/>.

**FOR FURTHER INFORMATION CONTACT:**

William R. Steiger, PhD, Office of Global

Health Affairs, Hubert H. Humphrey Building, Room 639H, 200 Independence Avenue, SW., Washington, DC 20201.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 17, 2008 (73 FR 20901), HHS published a proposed rule that describes the separation that must exist between a recipient of HHS funds to implement HIV/AIDS programs and activities under the Leadership Act and an affiliate organization that engages in activities that are not consistent with a policy opposing prostitution and sex trafficking, as required under section 301(f) of the Leadership Act. HHS invited stakeholders and other interested parties to comment on the proposed rule by May 19, 2008. One commenter noted a technical error in the proposed rule. HHS issued a notice of correction in the **Federal Register** of May 20, 2008 (73 FR 29096). Since HHS was unable to issue the notice of correction before the comment period ended, HHS is reopening the comment period for 30 days in order to allow the commenter and other interested persons to submit supplemental comments.