

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 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.

- *By 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.

For service information identified in this proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20221; the directorate identifier for this docket is 2004-NM-173-AD.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2797; fax (425) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

#### **Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20221; Directorate Identifier 2004-NM-173-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of 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 with FAA personnel concerning this proposed AD. Using the search function of our docket website, 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 can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

#### **Examining the Docket**

You can 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 of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

#### **Discussion**

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on all Airbus Model A330, A340-200, and A340-300 series airplanes. The DGAC advises that operators have found areas on the top skin panel of the right-hand elevator that have disbanded due to moisture penetration. The disbanded areas were adjacent to inboard actuator attach fittings. Investigation identified a serial-number range of elevators that had not been tested for water leaks in production. Disbanded of the elevator assembly, if not corrected, could reduce the structural integrity of the elevator, which could result in reduced controllability of the airplane.

Affected parts may be installed on either the left- or right-hand elevator assembly. Thus, the left-hand elevator assembly may be subject to the same unsafe condition revealed on the right-hand elevator assembly.

#### **Relevant Service Information**

Airbus has issued Service Bulletins A330-55-3032 (for Model A330 series airplanes) and A340-55-4029 (for Model A340-200 and -300 series airplanes), both dated December 22, 2003. Those service bulletins describe procedures for investigative and corrective actions related to inspecting/testing the left- and right-hand elevator assemblies for evidence of moisture penetration. The inspection procedures include:

- Performing an inspection of the inner skin of the upper and lower elevator panels using an endoscope to detect damage (such as a scratch, disbonding, or a tear) of the Tedlar film.
- Performing a tap test to detect moisture penetration in the inner side of the upper and lower elevator panels.
- Performing a thermographic inspection to detect moisture penetration in the upper and lower elevator panels.

If damage is detected, corrective actions include repeating the thermographic inspection to determine the size of the damaged area, performing a tap test around the areas where

moisture is indicated, and repairing the areas affected by moisture penetration. The service bulletins specify contacting Airbus for repair instructions for certain conditions.

The service bulletins also specify procedures for re-protecting the elevator assembly, regardless of whether damage is detected. These procedures include visually inspecting the drainage holes to determine if they are clean, cleaning the drainage holes if necessary, inspecting to determine the condition of the sealant covering the static discharges contour, and reapplying sealant if necessary.

Accomplishing the actions specified in the applicable service bulletin is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F-2004-118 R1, dated October 13, 2004, to ensure the continued airworthiness of these airplanes in France.

#### **FAA's Determination and Requirements of the Proposed AD**

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require inspecting to determine the part number and serial number of the left- and right-hand elevator assemblies. This proposed AD also would require, if necessary, performing the investigative/corrective actions specified in the service information described previously, except as discussed under "Differences Among the Proposed AD, the French Airworthiness Directive, and the Service Information."

#### **Differences Among the Proposed AD, the French Airworthiness Directive, and the Service Information**

The effectivity of the French airworthiness directive includes only airplanes that have elevator assemblies having certain part number and serial number combinations. This proposed AD would apply to all airplanes of the affected models, and would require performing an initial inspection to determine if elevator assemblies having

the part number and serial number combinations specified in the French airworthiness directive are installed. (No further action would be required if no elevator assembly having the subject part number and serial number combination is installed.) We find that it is necessary to expand the applicability to ensure that the related investigative actions that would be required by this proposed AD are performed if an elevator assembly having an affected part number and serial number combination is installed in the future. (Paragraph (i) of this proposed AD would prohibit installation of an elevator assembly having an affected part number and serial number unless the related investigative actions required by paragraph (h) of this AD are accomplished.)

French airworthiness directive F-2004-118 R1 specifies an inspection threshold of the earlier of 10 years or 12,000 flight cycles since the first flight of the airplane. However, paragraph (g) of this proposed AD specifies an inspection threshold of the earlier of 10 years after the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, or 12,000 total flight cycles. This decision is based on our determination that "first flight of the airplane" may be interpreted differently by different operators. We find that our proposed terminology is generally understood within the industry, and records will always exist that establish these dates with certainty.

The French airworthiness directive and the Accomplishment Instructions of the referenced service bulletins specify that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair that we or the DGAC approve would be acceptable for compliance with this proposed AD.

The French airworthiness directive and the Accomplishment Instructions of the referenced service bulletins describe procedures for submitting certain information to the manufacturer. This proposed AD would not require that action.

#### Clarification of Inspection Terminology

In this proposed AD, the visual inspection of the drain holes and the

inspection to determine the condition of the sealant covering the static discharges contour are referred to as "general visual inspections." We have included the definition for a general visual inspection in a note in the proposed AD.

#### Costs of Compliance

This proposed AD would affect about 20 airplanes of U.S. registry. The proposed inspection to determine the part number and serial number of installed elevator assemblies would take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$1,300, or \$65 per airplane.

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, the FAA is charged 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 proposed AD.

#### 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, 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 airworthiness directive (AD):

**Airbus:** Docket No. FAA-2005-20221; Directorate Identifier 2004-NM-173-AD.

#### Comments Due Date

- (a) The Federal Aviation Administration must receive comments on this AD action by March 3, 2005.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to all Airbus Model A330, A340-200, and A340-300 series airplanes; certificated in any category.

#### Unsafe Condition

- (d) This AD was prompted by reports that areas on the top skin panel of the right-hand elevator have disbanded due to moisture penetration. We are issuing this AD to prevent disbanding of the elevator assembly, which could reduce the structural integrity of the elevator and result in reduced controllability 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.

#### Service Bulletin References

- (f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of Airbus Service Bulletin A330-55-3032 (for Model A330 series airplanes) or Airbus Service Bulletin A340-55-4029 (for Model A340-200 and -300 series airplanes), both dated December 22, 2003, as applicable.

(1) Where the service bulletins recommend contacting Airbus for appropriate action: Before further flight, repair the condition according to a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent).

- (2) Although the service bulletins specify submitting certain information to the

manufacturer, this AD does not include that requirement.

#### Determining Part Number, Serial Number

(g) At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Perform an inspection to determine the part number and serial number of the left- and

right-hand elevator assemblies. If neither elevator assembly has a part number and serial number combination identified in Table 1 of this AD, no further action is required by this paragraph. If either elevator assembly has a part number and serial number combination identified in Table 1 of this AD, do paragraph (h) of this AD.

(1) Within 10 years after the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, or before the accumulation of 12,000 total flight cycles, whichever is first.

(2) Within 18 months after the effective date of this AD.

TABLE 1.—AFFECTED ELEVATOR PART NUMBERS AND SERIAL NUMBERS

Part	Affected part numbers	Affected serial numbers
Left-hand elevator assembly .....	F55280000000, F55280000004	CG1002 through CG1091 inclusive, CG1093, CG1094, CG2001.
Right-hand elevator assembly .....	F55280000001, F55280000005	CG1002 through CG1094 inclusive, CG2001.

#### Inspections

(h) If the left- or right-hand elevator assembly has a part number and serial number combination identified in Table 1 of this AD: Before further flight after accomplishing paragraph (g) of this AD, do the actions in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(1) Perform an endoscopic inspection to detect damage (such as a scratch, disbonding, or a tear), and a tap test and a thermographic inspection to detect signs of moisture penetration, to the upper and lower elevator panels on both sides of the airplane, in accordance with the service bulletins.

(2) If any damage is found, before further flight, do all applicable corrective actions (including but not limited to repeating the thermographic inspection to determine the size of the damaged area, and performing a tap test around the areas where moisture is indicated), in accordance with the service bulletin.

(3) Re-protect the elevator assembly (including performing a general visual inspection to determine if the drainage holes are clean, a general visual inspection to determine the condition of the sealant covering the static discharges contour, and applicable corrective actions), in accordance with the service bulletin.

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

#### Parts Installation

(i) As of the effective date of this AD, no person may install, on any airplane, an elevator assembly having a part number and serial number combination identified in Table 1 of this AD unless the actions required

by paragraph (h) of this AD are accomplished.

#### Alternative Methods of Compliance (AMOCs)

(j) The Manager, International Branch, ANM-116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Related Information

(k) French airworthiness directive F-2004-118 R1, dated October 13, 2004, also addresses the subject of this AD.

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

**Ali Bahrami,**

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

[FR Doc. 05-1806 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-2005-20223; Directorate Identifier 2004-NM-193-AD]

**RIN 2120-AA64**

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain EMBRAER Model EMB-135 and -145 series airplanes. This proposed AD would require repetitive detailed inspections for surface bruising of the main landing gear (MLG) trailing arms and integrity of the MLG pivot axle

sealant, and corrective actions if necessary. This proposed AD would also provide for optional terminating action for the repetitive inspections. This proposed AD is prompted by a report of a fractured axle of the trailing arm of the MLG due to corrosion of the axle. We are proposing this AD to prevent a broken trailing arm and consequent failure of the MLG, which could lead to loss of control and damage to the airplane during take-off or landing.

**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.

- By 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.

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

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-