

Actions	Compliance	Procedures
<p>Incorporate information into the Limitations Section of the Airplane Flight Manual (AFM) that requires pilot training before further flight into known or forecast icing conditions after a certain date. This AFM limitation consist of the following: "On or before June 15, 2004, no person may serve as pilot-in-command (PIC) of a Mitsubishi MU-2B series airplane in a flight into known or forecast icing conditions, unless the PIC has received the following training since the beginning of the 24th calendar month before the scheduled flight: FAA-approved Mitsubishi Icing Awareness Training (IAT) video YET-01295. If training mandated by AD 97-20-14 has been received in the 24 months before June 15, 2004, then the new training must be done no later than 24 months after the date of the AD 97-20-14 training. This two-hour training has been available since July 2, 2002, and provided by Mitsubishi Heavy Industries at no cost. To sign up for the planned training schedules or to arrange training at a more convenient time and location, contact Turbine Aircraft Services at (972) 248-3108. Training is also available at Sim Com and Reese Howell Enterprises training facilities and some local Flight Standards District Offices (FSDOs). Pilot logbook endorsements are available after completing this training from: Sim Com, Reese Howell Enterprises, Turbine Aircraft Services (TAS), an FAA Aviation Safety Inspector, or other FAA authorized personnel. Please note that all operators of the affected airplanes must initiate action to notify and ensure that flight crewmembers are aware of this requirement".</p>	<p>Do the AFM incorporation within the next 10 days after December 15, 2003 (the effective date of this AD).</p>	<p>The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish the AFM incorporation requirement of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Inserting a copy of this AD into the Limitations Section of the AFM accomplishes this portion of the AD.</p>

**What About Alternative Methods of Compliance?**

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.13. Send your request to the Manager, Standards Office, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4110; facsimile: (816) 329-4090.

(1) For information on any already approved alternative methods of compliance, contact Mr. Paul Pellicano, Aerospace Engineer (Icing Specialist), Atlanta Aircraft Certification Office, FAA, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703-6064; facsimile: (770) 703-6097.

(2) Alternative methods of compliance approved in accordance with AD 97-20-14, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

Issued in Kansas City, Missouri, on October 23, 2003.

**Michael Gallagher,**

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

[FR Doc. 03-27210 Filed 10-28-03; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2003-NM-209-AD; Amendment 39-13353; AD 2003-19-51]**

**RIN 2120-AA64**

**Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2003-19-51 that was sent previously to all known U.S. owners and operators of certain Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) series airplanes by individual notices. This AD requires repetitive detailed inspections for cracking or deformation, or pulled or missing fasteners, on the lower panel of the left- and right-hand main landing gear (MLG) doors, as applicable, and corrective actions if necessary. The actions specified by this AD are intended to prevent failure of the lower panel of the MLG door, the lower panel's departure from the airplane, and consequent damage to airplane structure, which could adversely affect the airplane's continued safe flight and landing. This action is intended to address the identified unsafe condition.

**DATES:** Effective November 3, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003-19-51, issued September 17, 2003, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before November 28, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-209-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-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-209-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.

Information pertaining to this AD may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 10 Fifth Street,

Third Floor, Valley Stream, New York 11581; telephone (516) 256-7512; fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:** On September 17, 2003, the FAA issued emergency AD 2003-19-51, which is applicable to certain Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) series airplanes.

### Background

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) series airplanes. The lower panel of the door of the right-hand main landing gear (MLG) of a Model CL-600-2C10 series airplane departed the airplane during landing. The airplane was able to land safely, though the departed panel damaged the trailing edge flap and punctured the rear fuselage near the floor level, below the engine pylon. Investigation revealed cracking of the hinge lug of the door panel, which led to detachment of adjacent fasteners and increased loading on the remaining fasteners. This condition, if not corrected, could result in failure of the lower panel of the MLG door, the lower panel's departure from the airplane, and consequent damage to airplane structure, which could adversely affect the airplane's continued safe flight and landing.

The left- and right-hand MLG doors on certain Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) series airplanes are identical to the affected right-hand MLG door on the affected Model CL-600-2C10 series airplane. Therefore, the MLG doors on all of these airplanes may be subject to the same unsafe condition.

TCCA has issued Canadian airworthiness directive CF-2003-23R1, dated September 16, 2003, to ensure the continued airworthiness of these airplanes in Canada.

### FAA's Conclusions

This airplane model is manufactured in Canada and is 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, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and

determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 2003-19-51 to prevent failure of the lower panel of the MLG door, the lower panel's departure from the airplane, and consequent damage to airplane structure, which could adversely affect the airplane's continued safe flight and landing.

The AD requires repetitive detailed inspections for cracking or deformation, or pulled or missing fasteners, on the lower panel of the left- and right-hand MLG doors, as applicable. These inspections are required to be accomplished in accordance with Figures 1, 2, and 3 of this AD.

Necessary corrective action may involve repair of the lower panel of the MLG door, or replacement with a new or serviceable lower panel. The repair of the lower panel of the MLG door, if accomplished, is required to be accomplished in accordance with a method approved by the FAA or TCCA (or its delegated agent). The replacement of the lower panel of the MLG door, if accomplished, is required to be accomplished in accordance with Task Cards 32-12-01-000-801-A01 and 32-12-01-400-801-A01 of the CRJ 700/900 Regional Jet Aircraft Maintenance Manual. In lieu of repair or replacement, this AD provides for removing the affected door panel assembly; revising the Configuration Deviation List (CDL), Appendix 1, of the airplane flight manual to include new limitations; and operating the airplane in accordance with those CDL limitations.

The AD also requires that operators report the results of the inspections to the airplane manufacturer. Because the cause of the cracking is not known, these required inspection reports will help determine the extent of the cracking or other discrepancies in the affected fleet. The need for further corrective action will be evaluated based on the results of these reports.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on September 17, 2003, to all known U.S. owners and operators of certain Bombardier Model CL-600-

2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

### Interim Action

We consider this AD interim action. If final action is later identified, we may consider further rulemaking then.

### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2003-NM-209-AD." The postcard will be date stamped and returned to the commenter.

### Regulatory Impact

The regulations adopted herein will 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. Therefore, it is

determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

**2003-19-51 Bombardier, Inc. (Formerly Canadair):** Amendment 39-13353. Docket 2003-NM-209-AD.

*Applicability:* Model CL-600-2C10 (Regional Jet series 700 & 701) series airplanes, serial numbers (S/Ns) 10003 through 10999 inclusive; and Model CL-600-2D24 (Regional Jet series 900) series airplanes, S/Ns 15002 through 15990 inclusive; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the lower panel of the main landing gear (MLG) door, the lower panel's departure from the airplane, and consequent damage to airplane structure, which could adversely affect the airplane's continued safe flight and landing, accomplish the following:

#### Initial Compliance Time

(a) Perform the initial inspection in paragraph (b) of this AD at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes with less than 1,500 total flight cycles as of the effective date of this AD: Do the inspections before the accumulation of 1,050 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever is later.

(2) For airplanes with 1,500 or more total flight cycles as of the effective date of this AD: Do the inspections within 10 flight cycles after the effective date of this AD.

#### Inspections

(b) Perform detailed inspections of the lower panel, P/N CC670-10520, of the left- and right-hand MLG doors for the conditions and in the areas specified in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD; and Figures 1, 2, and 3 of this AD.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

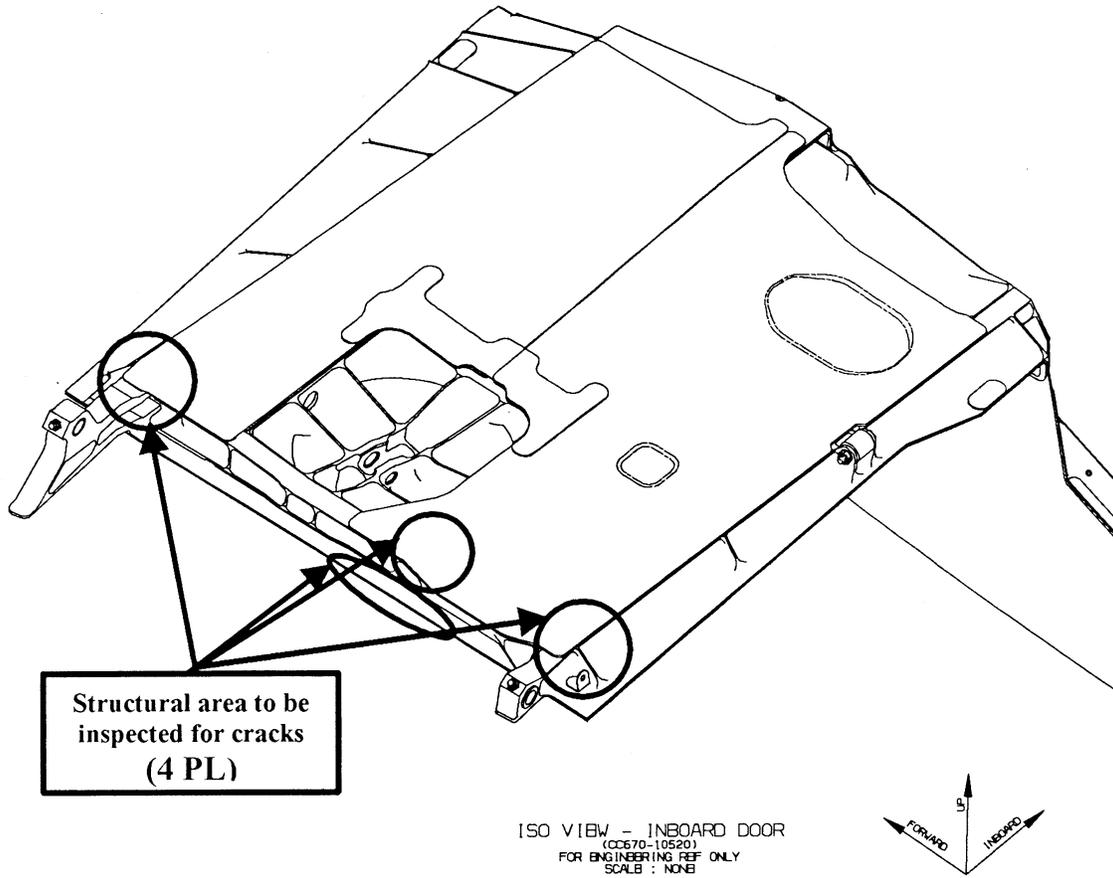
(1) Inspect the cross member, part number (P/N) CC670-10572, of the MLG door lower panel for cracking or deformation, in accordance with Figure 2 of this AD.

(2) Inspect the inner skin, P/N CC670-10577, of the MLG door lower panel at the cross member (P/N CC670-10572) for cracking or deformation, or pulled or missing fasteners, in accordance with Figure 2 of this AD.

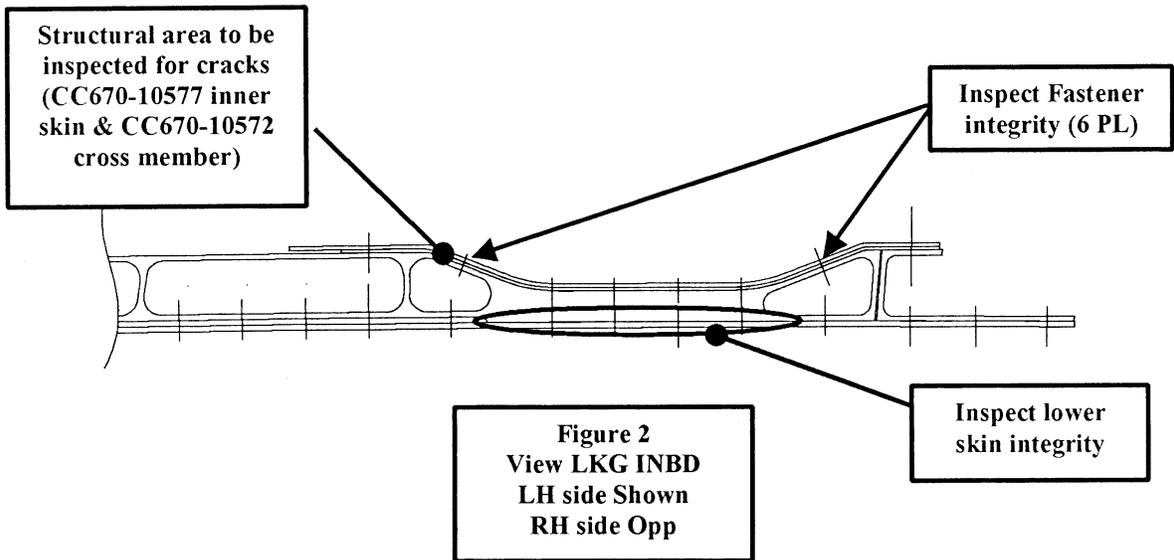
(3) Inspect the outer skin, P/N CC670-10574, of the MLG door lower panel at the cross member (P/N CC670-10572) for cracking or deformation, or pulled or missing fasteners, in accordance with Figure 2 of this AD.

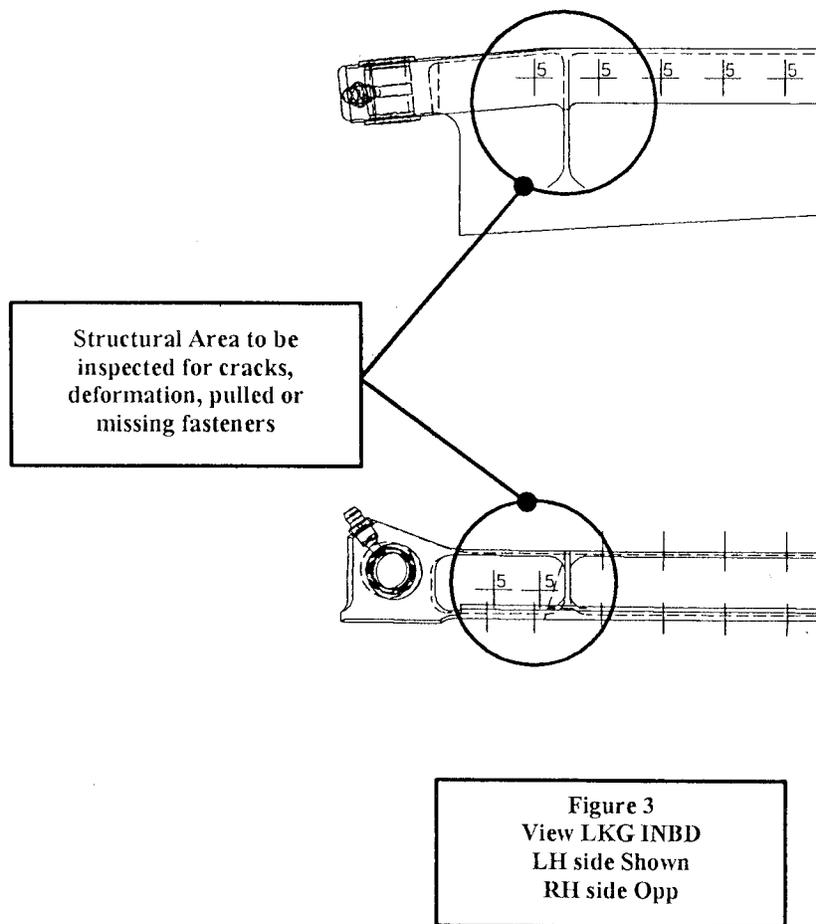
(4) Inspect the forward member, P/N CC670-10570, and aft member, P/N CC670-10571, of the MLG door lower panel, for cracking or deformation, or pulled or missing fasteners, in accordance with Figure 3 of this AD. Figures 1 through 3 of this AD follow.

**BILLING CODE 4910-13-P**



**Figure 1**  
LH side shown  
RH side opposite



**BILLING CODE 4910-13-C****Repetitive Inspections**

(c) If no cracking or deformation, or pulled or missing fastener, as applicable, is found during any inspection required by paragraph (b) or (c) of this AD, repeat the inspections thereafter at intervals not to exceed 100 flight cycles.

**Corrective Actions**

(d) If any cracking or deformation, or pulled or missing fastener, as applicable, is found during any inspection in accordance with paragraph (b) or (c) of this AD: Before further flight, accomplish paragraph (d)(1), (d)(2), or (d)(3) of this AD.

(1) Repair the damage in accordance with a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (or its delegated agent); and accomplish repetitive inspections in accordance with a method and at a repetitive interval approved by same.

(2) Replace the lower panel assembly, P/N CC670-10520, of the affected MLG door with a new or serviceable lower panel assembly having the same P/N, in accordance with Task Cards 32-12-01-000-801-A01 and 32-12-01-400-801-A01 of the CRJ 700/900 Series Regional Jet Aircraft Maintenance Manual; and repeat the inspections specified in paragraph (b) of this AD at intervals not to exceed 100 flight cycles.

(3) Remove the lower panel assembly, P/N CC670-10520, of the affected MLG door, and accomplish paragraph (d)(3)(i) or (d)(3)(ii), as applicable.

(i) For Model CL600-2C10 (Regional Jet series 700 & 701) series airplanes: Revise the Configuration Deviation List (CDL), Appendix 1, of the airplane flight manual (AFM), to include the following limitations. This may be accomplished by inserting a copy of this AD into the CDL of the AFM.

“For Model CL600-2C10 series airplanes: If one or both door panel assemblies, part number CC670-10520, is missing:

(1) Take-off Weight is reduced by 202.5 kg/door, or 450 lb/door

(2) Enroute Climb is reduced by 445.5 kg/door, or 990 lb/door

(3) Landing Weight is reduced by 202.5 kg/door, or 450 lb/door

(4) Fuel Consumption is increased by +3.42% on fuel used/door

(5) Cruise Airspeed is limited to not more than 0.78 Mach.”

(ii) For Model CL-600-2D24 (Regional Jet series 900) series airplanes: Revise the CDL, Appendix 1, of the AFM, to include the following limitations. This may be accomplished by inserting a copy of this AD into the CDL of the AFM.

“For Model CL600-2D24 series airplanes: If one or both door panel assemblies, part number CC670-10520, is missing:

(1) Take-off Weight is reduced by 245 kg/door, or 540 lb/door

(2) Enroute Climb is reduced by 551 kg/door, or 1,215 lb/door

(3) Landing Weight is reduced by 245 kg/door, or 540 lb/door

(4) Fuel Consumption is increased by +3.42% on fuel used/door

(5) Cruise Airspeed is limited to not more than 0.78 Mach.”

**Reporting Requirement**

(e) Submit a report of the findings (both positive and negative) of the inspections required by paragraph (b), (c), or (d) of this AD, as applicable, to Bombardier Aerospace Technical Help Desk; fax (514) 855-8501; at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120 0056.

(1) If the inspection is done after the effective date of this AD: Submit the report within 5 days after the inspection.

(2) If the inspection was done prior to the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

**Parts Installation**

(f) As of the effective date of this AD, no person may install a lower panel assembly, P/N CC670-10520, on the left- or right-hand MLG door on any airplane, unless the lower panel assembly has been inspected as required by paragraph (b) of this AD and found to be free of cracking or deformation, or pulled or missing fasteners.

**Alternative Methods of Compliance**

(g) In accordance with 14 CFR 39.19, the Manager, New York ACO, is authorized to approve alternative methods of compliance for this AD.

**Note 2:** The subject of this AD is addressed in Canadian airworthiness directive CF-2003-23R1, dated September 16, 2003.

**Effective Date**

(h) This amendment becomes effective on November 3, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003-19-51, issued September 17, 2003, which contained the requirements of this amendment.

Issued in Renton, Washington, on October 23, 2003.

**Ali Bahrami,**

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

[FR Doc. 03-27209 Filed 10-28-03; 8:45 am]

**BILLING CODE 4910-13-P**

**RAILROAD RETIREMENT BOARD****20 CFR Part 200****RIN 3220-AB47****Freedom of Information Act Requests**

**AGENCY:** Railroad Retirement Board.

**ACTION:** Direct final rule.

**SUMMARY:** The Railroad Retirement Board (Board) hereby amends its regulations to provide that all requests under the Freedom of Information Act be made to the General Counsel. In addition, the regulation is updated to account for changes in the Freedom of Information Act enacted in the Electronic Freedom of Information Act Amendments of 1996.

**DATES:** This rule shall be effective on January 27, 2004, without further action, unless adverse comment is received by November 28, 2003. If adverse comment is received, the Railroad Retirement Board will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

**FOR FURTHER INFORMATION CONTACT:** Marguerite P. Dadabo, Assistant General

Counsel, (312) 751-4945, TDD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:** The Board has directed that the General Counsel shall respond to all requests under the Freedom of Information Act. In addition, the regulation is updated to account for changes in the Freedom of Information Act enacted in the Electronic Freedom of Information Act Amendments of 1996, Public Law 104-231. Nomenclature changes and updates for amendments to the Freedom of Information Act make no substantive changes in the Board's handling of requests under the Freedom of Information Act.

In § 200.4(d), the names of the various offices where various publications are made available have been amended for name changes within the agency. In § 200.4(h), the official designated to receive a Freedom of Information Act request has been amended to the General Counsel. In addition, the Board will accept such requests by e-mail. Section 200.4(i) has been amended to state that the General Counsel or his or her designee shall respond to all Freedom of Information Act requests. In addition, this section is amended to conform to the time limit, 20 work days, set forth in the Electronic Freedom of Information Act Amendments of 1996, Public Law 104-231. Sections 200.4(j), (k), (l), and (n)(2) are amended to change the official responsible for action to the General Counsel. Section 200.4(m) is amended to state that the annual Freedom of Information Act report shall be made to the Attorney General no later than February 1, as required by the Electronic Freedom of Information Act Amendments of 1996, Public Law 104-231.

**Collection of Information Requirements**

Pursuant to the Paperwork Reduction Act of 1995, the information collection that was associated with section 200.4(n) of this rule, concerning special procedures for handling requests for business information, had been approved by the Office of Management and Budget under control number 3220-0150. The currently-published version of § 200.4 states that: "(The information collection requirements for paragraph (n) were approved by the Office of Management and Budget under control number 3220-0150)". We are now informed that OMB control number 3220-0150 is not an active number, and that the Board's historical files that might have explained the background for that number have been destroyed. Also, the information collection is not an information collection that requires

OMB approval because it is not the same question, seeking the same information, from at least 10 people. Rather, paragraph (n) asks a provider of business information if any of that information should be withheld in response to a FOIA request for the business information. In light of this background, the sentence that referenced an OMB clearance number which no longer exists, is removed.

**Regulatory Impact Statement**

Prior to publication of this direct final rule, the Board submitted the rule to the Office of Management and Budget for review pursuant to Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of \$100 million or more annually. This direct final rule is not a major rule in terms of the aggregate costs involved. Specifically, we have determined that this direct final rule is not a major rule with economically significant effects because it would not result in increases in total expenditures of \$100 million or more per year.

The amendments made by this direct final rule are not significant. The amendments provide that requests for information under the Freedom of Information Act should be directed to the Board's General Counsel. The revisions also update the agency's regulations to account for changes in the Freedom of Information Act enacted in the Electronic Freedom of Information Act Amendments of 1996.

Both the Regulatory Flexibility Act and the Unfunded Mandates Act of 1995 define "agency" by referencing the definition of "agency" contained in 5 U.S.C. 551(l). Section 551(l)(E) excludes from the term "agency" an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct