

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 AD.

### Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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 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, Incorporation by reference, Safety.

### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

**2004-25-12 Empresa Brasileira De Aeronautica S.A. (EMBRAER):** Amendment 39-13900. Docket No. FAA-2004-19767; Directorate Identifier 2004-NM-139-AD.

### Effective Date

(a) This airworthiness directive (AD) becomes effective January 13, 2005.

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to all EMBRAER Model EMB-135 and -145 series airplanes, certificated in any category.

### Unsafe Condition

(d) This AD was prompted by reports that passenger service units (PSUs) on two airplanes emitted smoke. We are issuing this AD to prevent failure of a PSU, which could result in smoke or fire in the airplane's passenger cabin.

### 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.

### One-Time Inspection

(f) For airplanes having serial numbers (S/Ns) 001 through 828 inclusive: Within 90 days after the effective date of this AD, inspect each PSU in the passenger cabin and lavatory to determine the part number (P/N) and S/N of the printed circuit board (PCB) installed in the PSU, is in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004.

(1) If the PCB is not P/N 7277220-501 with S/N 2108 through 6008 inclusive: Before further flight, do the applicable related investigative actions and other specified actions in accordance with the Accomplishment Instructions of the service bulletin. No further action is required by this paragraph.

(2) If the PCB is P/N 7277220-501 with S/N 2108 through 6008 inclusive: Before further flight, replace the PCB with a new or serviceable PCB having a S/N that is not within the range of 2108 through 6008 inclusive, and do the applicable related investigative actions and other specified actions, in accordance with the Accomplishment Instructions of the service bulletin.

**Note 1:** EMBRAER Service Bulletin 145-25-0277, Change 02, refers to C&D Aerospace Service Bulletin 7130000-25-79, Revision 2, dated June 17, 2004, as an additional source of service information for doing the required inspection, replacement, and related investigative actions, as applicable. The EMBRAER service bulletin includes the C&D Aerospace service bulletin.

### Actions Done Previously

(g) Inspections, replacements, and related investigative actions done before the effective date of this AD in accordance with EMBRAER Service Bulletin 145-25-0277, dated October 22, 2003; or Change 01, dated November 28, 2003; are acceptable for compliance with the corresponding action required by this AD.

### Parts Installation

(h) As of the effective date of this AD, no person may install a PCB having P/N 7277220-501 with S/N 2108 through 6008 inclusive, on any PSU on any airplane.

### Returning Parts Not Required

(i) Where EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004, specifies to return any PCB with a subject S/N to C&D Aerospace, this AD does not require that action.

### Alternative Methods of Compliance (AMOCs)

(j) 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.

### Related Information

(k) Brazilian airworthiness directive 2004-05-02, dated June 2, 2004, also addresses the subject of this AD.

### Material Incorporated by Reference

(l) You must use EMBRAER Service Bulletin 145-25-0277, Change 02, dated June 28, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on November 30, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-26918 Filed 12-8-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. 2004-NM-33-AD; Amendment 39-13898; AD 2004-25-10]**

**RIN 2120-AA64**

### Airworthiness Directives; Boeing Model 767-300 and -400ER Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767-300 and -400ER series airplanes, that requires replacing the tie rods for the waste tank cradle, related investigative actions, corrective actions, and special retrofit action if necessary. This action is necessary to prevent possible failure of the main deck floor stanchions and consequent collapse of the main floor during an emergency landing, which could result in passenger injury and impede passenger evacuation from the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective January 13, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 13, 2005.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Susan Rosanske, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6448; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767-300 and -400ER series airplanes was published in the **Federal Register** on June 16, 2004 (69 FR 33597). That action proposed to require replacing the tie rods for the waste tank cradle, related investigative actions, corrective actions, and special retrofit action if necessary.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the comment received.

**Request To Revise "Parts Installation" Section**

One commenter requests that we revise paragraph (c) of the proposed AD from "\* \* \* on any airplane" to "\* \* \* on any airplane applicable for this AD." The commenter requests this change in order for the paragraph to be consistent with the rest of the document and to avoid possible misinterpretation.

We agree with the commenter's request to revise paragraph (c) of the AD. All of the requirements stated in this AD are applicable only to the airplanes listed in the applicability statement. However, the phrasing of paragraph (c) in the proposed AD may confuse or mislead some operators. Therefore, we have revised paragraph (c) of this AD to clarify that the paragraph applies to any airplane "to which this AD applies."

**Conclusion**

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

**Cost Impact**

There are approximately 97 airplanes of the affected design in the worldwide fleet. The FAA estimates that 42 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Required parts will cost approximately \$2,471 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$109,242, or \$2,601 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The

manufacturer may cover the cost of replacement parts associated with this AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this AD. As a result, the costs attributable to the AD may be less than stated above.

**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.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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, Incorporation by reference, 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:

**2004-25-10 Boeing:** Amendment 39-13898. Docket 2004-NM-33-AD.

**Applicability:** Model 767-300 series airplanes, as listed in Boeing Alert Service Bulletin 767-38A0062, dated August 15, 2002; and Model 767-400ER series airplanes, as listed in Boeing Alert Service Bulletin 767-38A0063, dated August 15, 2002; certificated in any category.

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

To prevent failure of the main deck floor stanchions and consequent collapse of the main floor during an emergency landing, which could result in passenger injury and impede passenger evacuation from the airplane, accomplish the following:

#### Replacement and Related Investigative and Corrective Actions and Retrofit Action

(a) Within 18 months after the effective date of this AD: Replace the four tie rods for the waste tank cradle with new tie rods and do all applicable related investigative actions, corrective actions, and special retrofit actions by accomplishing all the actions in the Accomplishment Instructions of Boeing Alert Service Bulletins 767-38A0062 (for Model 767-300 series airplanes) and 767-38A0063 (for Model 767-400ER series airplanes), both dated August 15, 2002; as applicable. Do the actions in accordance with the applicable service bulletin except as provided by paragraph (b) of this AD. Accomplish any related investigative, corrective, or special retrofit action before further flight.

(b) If any deformation, crack, or other damage is found during any related investigative action required by paragraph (a) of this AD, and the bulletin specifies contacting Boeing for appropriate action: Before further flight, perform the special retrofit action per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a retrofit method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

#### Parts Installation

(c) As of the effective date of this AD, no person may install any tie rod for the waste tank cradle having part number 251T0100-1401, 251T0100-1402, 251T0100-1403, or 251T0100-1404, on any airplane to which this AD applies.

#### Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

#### Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767-38A0062, dated August 15, 2002; and Boeing Alert Service Bulletin 767-38A0063, dated August 15, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/](http://www.archives.gov/federal_register/)

[code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_regulations/ibr_locations.html).

#### Effective Date

(f) This amendment becomes effective on January 13, 2005.

Issued in Renton, Washington, on November 30, 2004.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-26917 Filed 12-8-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19023; Directorate Identifier 2004-NM-123-AD; Amendment 39-13899; AD 2004-25-11]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 series airplanes. This AD requires removing two maintenance lights in the hydraulics bay, disconnecting the wiring for the lights, and modifying the switches. This AD is prompted by underlying safety issues involved in fuel tank explosions on several large transport airplanes. We are issuing this AD to prevent an ignition source for fuel vapor in the hydraulics bay, which could result in fire or explosion in the adjacent center wing fuel tank.

**DATES:** This AD becomes effective January 13, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of January 13, 2005.

**ADDRESSES:** For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or 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.

#### FOR FURTHER INFORMATION CONTACT:

**Technical information:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**Plain language information:** Marcia Walters, [marcia.walters@faa.gov](mailto:marcia.walters@faa.gov).

#### Examining the Docket

The AD docket contains the proposed AD, comments, and any final disposition. 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.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR Part 39 with an AD for certain Airbus Model A318, A319, A320, and A321 series airplanes. The proposed AD was published in the **Federal Register** on September 7, 2004 (69 FR 54055), to require removing two maintenance lights in the hydraulics bay, disconnecting the wiring for the lights, and modifying the switches.

#### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD.

#### Request To Include a Terminating Action

One commenter states that it has no objection to the proposed AD but requests that we revise the proposed AD to include a terminating action that includes installation of an explosion-proof lighting system.

We acknowledge the commenter's request but do not concur. The commenter's request did not include any technical information about an explosion-proof lighting system, nor did it describe the procedures associated with installing such a system. Further, we do not know of any service information at this time that provides procedures for installing this type of system. Once such service information is available and approved, we may consider approving a request for an alternative method of compliance