

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, Incorporation by reference, 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:

**Airbus:** Docket No. FAA-2009-0649; Directorate Identifier 2008-NM-218-AD.

#### Comments Due Date

(a) We must receive comments by August 14, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Airbus Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320-111, -211, -212, -214, -231, -232, and -233 airplanes; and Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes; certificated in any category; all manufacturer serial numbers (MSN); equipped with Electronic Instrument System 1 (EIS1) standard V32 (Display Management Computer (DMC) Part Number (P/N) 9615325032), EIS1 standard V40 (DMC P/N 9615325040), or EIS1 standard V50 (DMC P/N 9615325050).

#### Subject

(d) Air Transport Association (ATA) of America Code 31: Instruments.

#### Reason

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

Two incidents [of near mid-air collision] have occurred on Airbus A320 Family aircraft during [a] Resolution Advisory [from the] Traffic Alert and Collision Avoidance System (TCAS). One of the Human-Machine Interface (HMI) factors was the lack of visibility of relevant information on the Primary Flight Display (PFD).

This condition, if not corrected, could result in erroneous interpretation of TCAS Resolution Advisories, leading to an increased risk of mid-air collision.

EIS1 software standard V60 introduces modifications to the vertical speed indication

to further improve the legibility in the case of TCAS Resolution Advisory. This modification consists of a change in the needle colour and thickness and an increase in width of the TCAS green band.

For the reasons described above, this AD requires the introduction of the new software standard V60 and prohibits reinstallation of earlier software versions V32, V40 and V50.

#### Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within 60 months after the effective date of this AD, modify the airplane by installing EIS1 software standard V60 (DMC P/N 9615325060) in accordance with the instructions of Airbus Mandatory Service Bulletin A320-31-1286, dated January 22, 2008.

(2) After modifying an airplane as required by paragraph (f)(1) of this AD, no person shall install EIS1 software standard V32 (DMC P/N 9615325032), EIS1 software standard V40 (DMC P/N 9615325040), or EIS1 software standard V50 (DMC P/N 9615325050) on that airplane.

#### FAA AD Differences

**Note 1:** 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, International Branch, ANM-116, 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: Tim Dulin, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2141; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008-0198, dated November 4, 2008; and Airbus Mandatory Service Bulletin A320-31-1286,

dated January 22, 2008, for related information.

Issued in Renton, Washington, on July 9, 2009.

**Ali Bahrami,**

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

[FR Doc. E9-16778 Filed 7-14-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0610; Directorate Identifier 2009-NM-021-AD]

RIN 2120-AA64

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

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. 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:

The result of re-assessment of rotor burst analysis has shown the possibility of loss of electrical power supply to the following aircraft systems: Air Data System (ADS), Ailerons, Multifunctional spoilers and rudder, which result in loss of the aircraft pitch and yaw control.

\* \* \* \* \*

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 August 14, 2009.

**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.

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227-901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927-5852 or +55 12 3309-0732; fax: +55 12 3927-7546; e-mail: *distrib@embraer.com.br*; Internet: *http://www.flyembraer.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

**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:** Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; 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-2009-0610; Directorate Identifier 2009-NM-021-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**

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2008-09-01, dated September 30, 2008 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

The result of re-assessment of rotor burst analysis has shown the possibility of loss of electrical power supply to the following aircraft systems: Air Data System (ADS), Ailerons, Multifunctional spoilers and rudder, which result in loss of the aircraft pitch and yaw control.

\* \* \* \* \*

Required actions include modifying the electrical wiring in the overhead panel of the cockpit, modifying the air data smart probe 3B power supply bus, and modifying the Aeronautical Radio Incorporated (ARINC) 429 data bus, as applicable. You may obtain further information by examining the MCAI in the AD docket.

**Relevant Service Information**

Embraer has issued the service bulletins listed in the “Service Information” table.

**SERVICE INFORMATION**

Embraer Service Bulletin—	Revision—	Dated—
170-24-0019 .....	Original .....	December 6, 2006.
170-24-0020 .....	Original .....	November 30, 2006.
170-31-0020 .....	01 .....	May 21, 2008.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

**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.

**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 77 products of U.S. registry. We also estimate that it would take

about 62 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$668 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$433,356, or \$5,628 per product.

**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, Incorporation by reference, 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-2009-0610; Directorate Identifier 2009-NM-021-AD.

#### Comments Due Date

(a) We must receive comments by August 14, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes; certificated in any category; as identified in Embraer Service Bulletins 170-24-0019, dated December 6, 2006; 170-24-0020, dated November 30, 2006; and 170-31-0020, Revision 01, dated May 21, 2008.

#### Subject

(d) Air Transport Association (ATA) of America Codes 24 and 31: Electrical power and Instruments, respectively.

#### Reason

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

The result of re-assessment of rotor burst analysis has shown the possibility of loss of electrical power supply to the following aircraft systems: Air Data System (ADS), Ailerons, Multifunctional spoilers and rudder, which result in loss of the aircraft pitch and yaw control.

\* \* \* \* \*

Required actions include modifying the electrical wiring in the overhead panel of the cockpit, modifying the air data smart probe 3B power supply bus, and modifying the Aeronautical Radio Incorporated (ARINC) 429 data bus, as applicable.

#### Actions and Compliance

(f) Unless already done, do the following actions as applicable.

(1) For airplanes identified in Embraer Service Bulletin 170-24-0019, dated December 6, 2006: Within 6,000 flight hours after the effective date of this AD, modify the electrical wiring in the overhead panel of the cockpit in accordance with Embraer Service Bulletin 170-24-0019, dated December 6, 2006.

(2) For airplanes identified in Embraer Service Bulletin 170-24-0020, dated November 30, 2006: Within 6,000 flight hours after the effective date of this AD, change the Air Data Smart Probe 3 channel B power supply bus from ESS2 to ESS3 in accordance with Embraer Service Bulletin 170-24-0020, dated November 30, 2006.

(3) For airplanes identified in Embraer Service Bulletin 170-31-0020, Revision 01, dated May 21, 2008: Within 6,000 flight hours after the effective date of this AD,

duplicate the Aeronautical Radio Incorporated (ARINC) 429 airspeed signal for an extension longer than the rotor burst impact area; change the primary power source for the modular avionics unit (MAU) 2 from DC BUS 2 to DC ESS BUS 2 to include an additional ground and to provide dual electrical power to MAU 2; and change the wiring of the slat/flap actuators control electronics (SF-ACE) 1 and 2 to primary actuator control electronics (P-ACE) 1, 2, and 3; in accordance with Embraer Service Bulletin 170-31-0020, Revision 01, dated May 21, 2008.

(4) Actions accomplished before the effective date of this AD according to Embraer Service Bulletin 170-31-0020, dated July 20, 2007, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### FAA AD Differences

**Note 1:** 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, International Branch, ANM-116, 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2848; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI Agência Nacional de Aviação Civil (ANAC) Airworthiness Directive 2008-09-01, dated September 30, 2008, and the service information identified in Table 1 of this AD, for related information.

TABLE 1—SERVICE INFORMATION

Embraer Service Bulletin—	Revision—	Dated—
170–24–0019 .....	Original .....	December 6, 2006.
170–24–0020 .....	Original .....	November 30, 2006.
170–31–0020 .....	01 .....	May 21, 2008.

Issued in Renton, Washington, on July 8, 2009.

**Ali Bahrami,**

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

[FR Doc. E9–16779 Filed 7–14–09; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### 32 CFR Part 865

[Docket No. USAF–2008–0002]

RIN 0701–AA74

#### Personnel Review Boards

**AGENCY:** Department of the Air Force,  
Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Air Force is proposing to amend part 865 of Chapter VII, Title 32, Code of Federal Regulations, by revising Subpart A, Air Force Board for Correction of Military Records. Subpart A establishes procedures for the consideration of applications for the correction of military records and provides guidance to applicants and others interested in the process. This revision incorporates format changes and clarifies various minor provisions of the subpart. The public is invited to participate in this rulemaking by submitting comments to the point of contact listed below.

**DATES:** Interested parties should submit written comments on or before September 14, 2009.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301–1160.

**Instructions:** All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other

submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr Algie Walker Jr. at (240) 857–5380, [al.walker@afncr.af.mil](mailto:al.walker@afncr.af.mil)

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, “Regulatory Planning and Review”

It has been determined that 32 CFR part 865 is not a significant regulatory action. This rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

#### Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR Part 865 does not contain a Federal Mandate that may result in the expenditure by State, local and Tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

#### Public Law 95–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 865 does not impose any additional

reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Existing reporting and recordkeeping requirements approved under OMB Control Number 0704–0003, Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552, will be used.

#### Federalism (Executive Order 13132)

It has been certified that 32 CFR Part 865 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 865

Administrative practices and procedures, Military personnel, Records.

Accordingly, 32 CFR Part 865, Subpart A, is proposed to be revised to read as follows:

#### PART 865—PERSONNEL REVIEW BOARDS

1. The authority citation for 32 CFR part 865 continues to read as follows:

**Authority:** 10 U.S.C. 1034, 1552.2.

2. Revise Subpart A to read as follows:

#### Subpart A—Air Force Board for Correction of Military Records

Sec.

- 865.0 Purpose.
- 865.1 Setup of the Board.
- 865.2 Board responsibilities.
- 865.3 Application procedures.
- 865.4 Board actions.
- 865.5 Decision of the Secretary of the Air Force.
- 865.6 Reconsideration of applications.
- 865.7 Action after final decision.
- 865.8 Miscellaneous provisions.

#### Subpart A—Air Force Board for Correction of Military Records

##### § 865.0 Purpose.

This subpart sets up procedures for correction of military records to remedy error or injustice. It tells how to apply for correction of military records and how the Air Force Board for Correction