

**Related Information**

(i) Refer to MCAI Brazilian Airworthiness Directive 2009–04–01, dated April 29, 2009; and the TRs to Appendix A—Part 2 of the Embraer 170 Maintenance Review Board Report MRB–1621, identified in Table 2 of this AD; for related information.

TABLE 2—TEMPORARY REVISIONS

Temporary revisions	Date
TR 4–1 .....	October 15, 2007.
TR 4–3 .....	December 6, 2007.
TR 4–4 .....	January 18, 2008.

Issued in Renton, Washington, on February 25, 2010.

**Jeffrey E. Duven,**

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

[FR Doc. 2010–4504 Filed 3–3–10; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2010–0175; Directorate Identifier 2009–NM–187–AD]

**RIN 2120–AA64**

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 STD,–100 LR,–100 IGW,–200 STD,–200 LR, and–200 IGW 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: During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals. Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could

adversely affect the structural integrity of these airplanes.

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 April 19, 2010.

**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](mailto: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–2010–0175; Directorate Identifier 2009–NM–187–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 have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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 2009–04–02, effective April 29, 2009 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

\* \* \* \* \*

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new and modified structural inspections. You may obtain further information by examining the MCAI in the AD docket.

**Relevant Service Information**

Embraer has issued Temporary Revision (TR) 2–5, dated December 6, 2007; and TR 2–6, dated February 12,

2008; to Appendix A, Part 2, Airworthiness Limitation Inspections, of the Embraer 190 Maintenance Review Board Report MRB-1928. 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 65 products of U.S. registry. We also estimate that it would take about 1 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$5,525, or \$85 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-2010-0175; Directorate Identifier 2009-NM-187-AD.

#### Comments Due Date

(a) We must receive comments by April 19, 2010.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190-100 STD, -100 LR, -100 IGW, -200 STD, -200 LR, and -200 IGW airplanes, certificated in any category.

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

#### Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage; 57: Wings.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states: During ERJ 190 airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the airplane Airworthiness Limitation Items (ALI), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these components according to the new tasks, thresholds and intervals could prevent a timely detection of fatigue cracks. Undetected fatigue cracks in these areas could adversely affect the structural integrity of these airplanes.

\* \* \* \* \*

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate new and modified structural inspections.

#### Actions and Compliance

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

(1) Within 90 days after the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness to include the tasks specified in Table 1 of this AD. These tasks are identified in Embraer Temporary Revision (TR) 2-5, dated December 6, 2007; and Embraer TR 2-6, dated February 12, 2008; to Appendix A, Part 2, Airworthiness Limitation Inspections (ALI), of the Embraer 190 Maintenance Review Board Report (MRBR) MRB-1928.

**Note 2:** The actions required by paragraph (f)(1) of this AD may be done by inserting a copy of TR 2-5 and TR 2-6 into the ALS of

Embraer 190 MRBR MRB-1928. When these TRs have been included in general revisions of the Embraer 190 MRBR MRB-1928, the general revisions may be inserted in the Embraer 190 MRBR MRB-1928, provided the relevant information in the general revision is identical to that in TR 2-5 and TR 2-6, and the TRs may be removed.

(2) The initial compliance times for the tasks specified in Embraer TR 2-5, dated December 6, 2007; and Embraer TR 2-6, dated February 12, 2008; start at the later of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD. For certain tasks, the compliance times depend on the pre-modification and post-modification

condition of the associated service bulletin, as specified in the "Applicability" column of the TRs.

(i) Within the applicable threshold times specified in the TRs.

(ii) At the applicable compliance time specified in Table 1 of this AD.

TABLE 1—MRBR TRS AND TASKS, WITH COMPLIANCE TIMES

MRBR TR	Subject	MRBR task No.	Compliance time
TR 2-5	Wing stub main box lower skin and splices—internal.	57-01-002-0002	250 flight cycles after effective date of this AD.
TR 2-5	Wing stub spar 3—internal/external	57-01-008-0003	500 flight cycles after effective date of this AD.
TR 2-5	Wing stub spar 3—external	57-01-008-0004	500 flight cycles after effective date of this AD.
TR 2-5	Wing lower skin panel stringers—internal	57-10-007-0004	500 flight cycles after effective date of this AD.
TR 2-5	Wing main box rib 11—internal	57-10-012-0003	500 flight cycles after effective date of this AD.
TR 2-6	Nose landing gear wheel well metallic structure.	53-10-021-0004	500 flight cycles after effective date of this AD.

(iii) Thereafter, except as provided in paragraph (g) of this AD, no alternative replacement times or structural inspection intervals may be approved for these tasks.

**FAA AD Differences**

**Note 3:** This AD differs from the MCAI and/or service information as follows:

Although the MCAI specifies both revising the airworthiness limitations and doing repetitive inspections, this AD only specifies the revision. Requiring revision of the airworthiness limitations, rather than requiring individual repetitive inspections, is advantageous for operators because it allows them to record AD compliance status only at the time that they make the revision, rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

**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: 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. The AMOC approval letter must specifically reference this AD.

(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 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

**Related Information**

(h) Refer to MCAI Brazilian Airworthiness Directive 2009-04-02, dated April 29, 2009; TR 2-5, dated December 6, 2007; and TR 2-6, dated February 12, 2008; for related information.

Issued in Renton, Washington, on February 24, 2010.

**Jeffrey E. Duven,**

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

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**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2010-0174; Directorate Identifier 2009-NM-186-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and ERJ 190 Airplanes**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. 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 for EMBRAER Model ERJ 170 describes the unsafe condition as: It has been found the occurrence of an engine in-flight shutdown caused by the LPCV [low pressure check valves] failing to close due to excessive wear, which leads to the concern that such fault may be present in both engines of a given aircraft. The MCAI for EMBRAER Model ERJ 190 describes the unsafe condition as: An occurrence of an uncommanded engine in-flight shutdown (IFSD) was reported, which was caused by an ERJ 170 defective LPCV. The valve failed to close due to excessive wear. Despite