

TABLE 2—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin—	Revision—	Dated—
A330–31–3125 .....	Original .....	December 31, 2008.
A330–31–3146, including Appendix 01 .....	01 .....	May 5, 2010.
A340–31–4111 .....	Original .....	February 5, 2007.
A340–31–4125 .....	01 .....	December 9, 2008.

Issued in Renton, Washington, on December 17, 2010.

**Ali Bahrami,**

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

[FR Doc. 2010–32653 Filed 1–4–11; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD; Amendment 39–16562; AD 2011–01–09]

RIN 2120–AA64

#### **Airworthiness Directives; B/E Aerospace Protective Breathing Equipment (PBE) Part Number 119003–11 Installed on Various Transport Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD requires removing affected PBE units. This AD was prompted by reports of potentially defective potassium superoxide canisters used in PBE units, which could result in an exothermic reaction and ignition. We are issuing this AD to prevent PBE units from igniting, which could result in a fire and possible injury to the flightcrew or other persons.

**DATES:** This AD is effective February 9, 2011.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of February 9, 2011.

**ADDRESSES:** For service information identified in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, KS 66215; telephone (913) 338–7378; fax (913) 469–8419; Internet <http://www.beaerospace.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.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4107; e-mail [David.Fairback@faa.gov](mailto:David.Fairback@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to the specified products. That NPRM published in the **Federal Register** on August 18, 2010 (75 FR 50941). That NPRM proposed to require removing affected PBE units.

##### **Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and the FAA's response to each comment.

##### **Support for the NPRM**

Boeing supported the contents of the NPRM.

##### **Request To Withdraw the NPRM**

Continental Airlines stated that Boeing has indicated in Fleet Team

Digest 737NG–FTD–25–10003 that all defective B/E Aerospace PBEs have been successfully captured. We infer that Continental requested that we withdraw the NPRM.

We disagree with the request to withdraw the NPRM. We have not received assurance of such accomplishment. We contacted B/E Aerospace and it reported that their records show 422 of the 600 affected PBEs were contained, leaving 178 affected PBEs in the field. We have not changed the final rule in regard to this issue.

##### **Request To Clarify Affected Serial Numbers**

ABX Air requested that we clarify that no further action is required for PBEs with serial numbers outside the range. ABX Air suggested adding a new paragraph (g)(3) to the final rule to state "For any PBE not having a serial number from 003–50730M to 003–51329M inclusive: No further action is required."

We agree that no further action is necessary for PBEs with serial numbers outside the range specified in paragraph (g)(1) of this AD. We added a new paragraph (g)(3) to this final rule. We have also clarified paragraph (g)(2) of this AD to state that once the replacement has been done, no further action is required by paragraph (g) of this AD. However, paragraph (h) of this AD prohibits installations of the PBEs within the serial number range.

##### **Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

##### **Costs of Compliance**

We estimate that this AD affects up to 600 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection .....	1 work-hour × \$85 per hour = \$85 .....	\$0	\$85	\$51,000

**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**

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),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) 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.

**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 (AD):

**2011–01–09 B/E Aerospace:** Amendment 39–16562; Docket No. FAA–2010–0797; Directorate Identifier 2010–NM–141–AD.

**Effective Date**

(a) This AD is effective February 9, 2011.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to B/E Aerospace protective breathing equipment (PBE) units having part number (P/N) 119003–11. These PBE units may be installed on (or carried or stowed on board), but not limited to, various transport category airplanes, certificated in any category, identified in but not limited to the airplanes of the manufacturers specified in Table 1 of this AD.

**TABLE 1—AFFECTED MANUFACTURERS**

Manufacturers
Airbus
ATR
Boeing
Bombardier
Embraer
Fokker
Hawker Beechcraft

**Subject**

(d) Air Transport Association (ATA) of America Code 35: Oxygen.

**Unsafe Condition**

(e) This AD results from reports of potentially defective potassium superoxide canisters used in PBE units, which could result in an exothermic reaction and ignition. The Federal Aviation Administration is issuing this AD to prevent PBE units from igniting, which could result in a fire and possible injury to the flightcrew or other persons.

**Compliance**

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Inspection**

(g) Within 120 days after the effective date of this AD, inspect to determine the serial number of the PBE units installed in the aircraft, in accordance with the Accomplishment Instructions of B/E Aerospace Service Bulletin 119003–35–5, dated April 19, 2010. A review of airplane records is acceptable in lieu of this inspection if the serial numbers of the PBE can be conclusively determined from that review.

(1) For any PBE that has a serial number from 003–50730M to 003–51329M inclusive: Before further flight, replace the PBE with a serviceable PBE, except as provided by paragraph (g)(2) of this AD.

(2) For any PBE that has a label showing that it has been restored in accordance with B/E Aerospace Service Bulletin 119003–35–6: The replacement has been done, and no further action is required by paragraph (g) of this AD.

(3) For any PBE not having a serial number from 003–50730M to 003–51329M inclusive: No further action is required by paragraph (g) of this AD.

**Parts Installation**

(h) As of the effective date of this AD, no person may install a PBE unit having P/N 119003–11 with a serial number ranging from 003–50730M to 003–51329M inclusive, unless it has a label showing it has been restored in accordance with B/E Aerospace Service Bulletin 119003–35–6, dated May 21, 2010.

**Alternative Methods of Compliance (AMOCs)**

(i)(1) The Manager, Wichita Aircraft Certification Office (ACO), 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: David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4107; e-mail [David.Fairback@faa.gov](mailto:David.Fairback@faa.gov).

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. 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.

**Related Information**

(j) For more information about this AD, contact David Fairback, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W,

FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4154; fax (316) 946-4107.

#### Material Incorporated by Reference

(k) You must use B/E Aerospace Service Bulletin 119003-35-5, dated April 19, 2010, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of B/E Aerospace Service Bulletin 119003-35-5, dated April 19, 2010, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact B/E Aerospace, Inc., Commercial Aircraft Products Group, RGA Department, 10800 Pflumm Road, Lenexa, KS 66215; telephone (913) 338-7378; fax (913) 469-8419; Internet <http://www.beaerospace.com>.

(3) You may review copies of the 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.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, 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).

Issued in Renton, Washington, on December 17, 2010.

**Ali Bahrami,**

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-2008-1080; Directorate Identifier 2008-NM-118-AD; Amendment 39-16554; AD 2011-01-01]

RIN 2120-AA64

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

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for the products listed above. This 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 earlier MCAI, Brazilian Airworthiness Directive 2007-08-01, effective September 27, 2007, describes the unsafe condition as:

Fuel system reassessment, performed according to RBHA-E88/SFAR-88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. \* \* \*

The new MCAI, Brazilian Airworthiness Directive 2009-08-03, effective August 20, 2009, describes the unsafe condition as:

An airplane fuel tank systems review required by Special Federal Aviation Regulation Number 88 (SFAR 88) and "RBHA Especial Número 88" (RBHA E 88) has shown that additional maintenance and inspection instructions are necessary to maintain the design features required to preclude the existence or development of an ignition source within the fuel tanks of the airplane.

\* \* \* \* \*

We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective February 9, 2011.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 9, 2011.

On July 30, 2008 (73 FR 35908, June 25, 2008), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone 425-227-1175; fax 425-227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That supplemental NPRM was

published in the **Federal Register** on March 23, 2010 (75 FR 13684), and proposed to supersede AD 2008-13-15, Amendment 39-15578 (73 FR 35908, June 25, 2008). That supplemental NPRM proposed to correct an unsafe condition for the specified products. Brazilian Airworthiness Directive 2007-08-01, effective September 27, 2007, describes the unsafe condition as:

Fuel system reassessment, performed according to RBHA-E88/SFAR-88 (Regulamento Brasileiro de Homologacao Aeronautica 88/Special Federal Aviation Regulation No. 88), requires the inclusion of new maintenance tasks in the Critical Design Configuration Control Limitations (CDCCL) and in the Fuel System Limitations (FSL), necessary to preclude ignition sources in the fuel system. \* \* \*

Brazilian Airworthiness Directive 2009-08-03, effective August 20, 2009, describes the unsafe condition as:

An airplane fuel tank systems review required by Special Federal Aviation Regulation Number 88 (SFAR 88) and "RBHA Especial Número 88" (RBHA E 88) has shown that additional maintenance and inspection instructions are necessary to maintain the design features required to preclude the existence or development of an ignition source within the fuel tanks of the airplane.

\* \* \* \* \*

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new limitations for fuel tank systems. You may obtain further information by examining the MCAI in the AD docket.

#### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

#### Request To Consider Additional Service Information

The commenter, EMBRAER, requested that we revise the supplemental NPRM to include Parker Service Bulletin 367-934-28-110, Revision A, dated December 19, 2006, as acceptable for compliance with the proposed requirements. Parker makes the fuel conditioning unit (FCU) and ventral fuel conditioning unit (VFCU). Parker revised certain references within that service bulletin, clarifying all checks and inspections to be performed on the FCU and/or VFCU to ensure that the "safe life" features are maintained. Parker also published certain data substantiating that CUs in compliance with the 10,000-flight-hour inspection in accordance with Parker Service Bulletin 367-934-28-110, Revision A, dated December 19, 2006, have had the equivalent inspection to the safe-life