

# Proposed Rules

Federal Register

Vol. 88, No. 32

Thursday, February 16, 2023

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2023-0167; Project Identifier MCAI-2022-00762-T]

RIN 2120-AA64

#### Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440); CL-600-2C10 (Regional Jet Series 700, 701, & 702); CL-600-2C11 (Regional Jet Series 550); CL-600-2D15 (Regional Jet Series 705); CL-600-2D24 (Regional Jet Series 900); and CL-600-2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a determination that aircraft maintenance manual (AMM) tasks and certification maintenance requirement (CMR) tasks are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AMM and CMR tasks. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by April 3, 2023.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket:* You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-0167; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

*Material Incorporated by Reference:*

- For service information identified in this NPRM, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833-990-7272 or direct-dial telephone 450-990-7272; fax 514-855-8501; email [thd.crj@mhirj.com](mailto:thd.crj@mhirj.com); website [mhirj.com](https://www.mhirj.com).

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

**FOR FURTHER INFORMATION CONTACT:** Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2023-0167; Project Identifier MCAI-2022-00762-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the

following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2022-32, dated June 13, 2022, (Transport Canada AD CF-2022-32) (also referred to after this as the MCAI), to correct an unsafe condition for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440); CL-600-2C10 (Regional Jet Series 700, 701, & 702); CL-600-2C11 (Regional Jet Series 550); CL-600-2D15 (Regional Jet Series 705); CL-600-2D24 (Regional Jet Series 900); and CL-600-2E25 (Regional Jet Series 1000) airplanes. The MCAI states that it was discovered that the 10-year (120 months) periodic hydrostatic tests of the engine and auxiliary power unit (APU)

fire extinguishing bottles on Model CL-600-2B19 airplanes and of the engine, APU, and cargo compartment fire extinguishing bottles for Model CL-600-2C10; CL-600-2C11; CL-600-2D15; CL-600-2D24; and CL-600-2E25 airplanes were not performed. This could mean that the functional test of the pressure switch, which should be performed as part of the hydrostatic tests, may have been omitted on several airplanes in service. Failure to perform the pressure switch test and the 10-year overhaul or restoration of the FIREX bottles could result in a dormant loss of fire extinguishing capability.

The FAA is proposing this AD to address undetected loss of fire extinguishing capability for the engine, APU, or cargo compartment. The unsafe condition, if not addressed, could result in an inability to put out a fire in the engine, APU, or cargo compartment area. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2023-0167.

#### Related Service Information Under 14 CFR Part 51

The FAA reviewed Bombardier Temporary Revisions 2A-73 and 2A-74, both dated June 5, 2020. This service information specifies new or more restrictive CMR tasks.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

#### FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

#### Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AMM and CMR tasks.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been

previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions 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 (j)(1) of this proposed AD.

#### Differences Between This AD and the MCAI or Service Information

Transport Canada AD CF-2022-32 introduces new candidate certification maintenance requirement (CCMR) intervals that the FAA cannot mandate as CCMRs as specified in the MCAI. Therefore, the FAA proposes to mandate two AMM tasks as specified in Figure 1 to paragraph (h)(1) of this proposed AD and four AMM tasks as specified in Figure 2 to paragraph (h)(2) of this proposed AD.

#### Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,114 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be \$7,650 (90 work-hours × \$85 per work-hour).

#### 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.

The FAA is 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

The FAA 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) Would not affect intrastate aviation in Alaska, and

(3) Would 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.

#### 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 airworthiness directive:

**MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.):**  
Docket No. FAA-2023-0167; Project Identifier MCAI-2022-00762-T.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 3, 2023.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to all MHI RJ Aviation ULC (Type Certificate previously held by Bombardier, Inc.) airplanes identified in paragraphs (c)(1) through (6) of this AD, certificated in any category.

(1) Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes.

(2) Model CL-600-2C10 (Regional Jet Series 700, 701, & 702) airplanes.

- (3) Model CL-600-2C11 (Regional Jet Series 550) airplanes.
- (4) Model CL-600-2D15 (Regional Jet Series 705) airplanes.
- (5) Model CL-600-2D24 (Regional Jet Series 900) airplanes.
- (6) Model CL-600-2E25 (Regional Jet Series 1000) airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 26, Fire Protection.

**(e) Reason**

This AD was prompted by a determination that new or more restrictive aircraft maintenance manual (AMM) tasks and certification maintenance requirement (CMR) tasks are necessary. The FAA is issuing this AD to address undetected loss of fire

extinguishing capability for the engine, APU, or cargo compartment. The unsafe condition, if not addressed, could result in an inability to put out a fire in the engine, APU, or cargo compartment area.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Maintenance or Inspection Program Revision for Model CL-600-2B19 Airplanes**

For Model CL-600-2B19 airplanes: Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Bombardier Temporary Revisions 2A-73 and 2A-74, both dated June 5, 2020. The initial compliance

time for doing the tasks is at the time specified in Bombardier Temporary Revisions 2A-73 and 2A-74, both dated June 5, 2020, or within 60 days after the effective date of this AD, whichever occurs later.

**(h) Maintenance or Inspection Program Revision for Other Model Airplanes**

For airplanes identified in paragraphs (c)(2) through (6) of this AD:

- (1) Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Figure 1 to paragraph (h)(1) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (h)(1)(i) or (ii) of this AD.

FIGURE 1 TO PARAGRAPH (h)(1)—AMM TASK FOR THE CARGO FIRE EXTINGUISHER BOTTLE

Effectivity	Interval limitation	AMM task Nos.
All .....	10 years .....	26-25-01-610-801-A01 26-25-01-610-801-A02

(i) If a restoration (previously called a hydrostatic test) of any cargo compartment fire extinguisher bottle was accomplished on or before June 5, 2014, do the applicable maintenance task on that bottle within 48 months after the effective date of this AD, whichever occurs later.

(ii) If a restoration (previously called a hydrostatic test) of any cargo compartment fire extinguisher bottle was accomplished after June 5, 2014, do the applicable maintenance task on that bottle within 10 years after the most recent restoration was accomplished.

- (2) Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Figure 2 to paragraph (h)(2) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (h)(2)(i) or (ii) of this AD.

FIGURE 2 TO PARAGRAPH (h)(2)—AMM TASKS FOR THE ENGINE AND APU FIRE EXTINGUISHER BOTTLES

Effectivity	Interval limitation	AMM task Nos.
All .....	10 years .....	26-21-07-610-801-A01 26-21-07-610-801-A02 26-22-07-610-801-A01 26-22-07-610-801-A02

(i) If a restoration (previously called a hydrostatic test) of any engine or auxiliary power unit (APU) fire extinguisher bottle was accomplished on or before June 5, 2014, do the applicable maintenance task on that bottle within 48 months after the effective date of this AD.

(ii) If a restoration (previously called a hydrostatic test) of any engine or APU fire extinguisher bottle was accomplished after June 5, 2014, do the applicable maintenance task on that bottle within 10 years after the most recent restoration was accomplished.

**(i) No Alternative Actions, or Intervals**

After the existing maintenance or inspection program has been revised as required by paragraphs (g) and (h) of this AD, no alternative actions (*e.g.*, inspections), or intervals may be used unless the actions, and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

- (1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

- (2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch,

FAA; or Transport Canada; or MHI RJ Aviation ULC's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Additional Information**

- (1) Refer to Transport Canada AD CF-2022-32, dated June 13, 2022, for related information. This Transport Canada AD may be found in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-0167.

- (2) For more information about this AD, contact Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

**(l) Material Incorporated by Reference**

- (1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Temporary Revision 2A–73, dated June 5, 2020.

(ii) Bombardier Temporary Revision 2A–74, dated June 5, 2020.

(3) For service information identified in this AD, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833–990–7272 or direct-dial telephone 450–990–7272; fax 514–855–8501; email [thd.crj@mhirj.com](mailto:thd.crj@mhirj.com); website [mhirj.com](http://mhirj.com).

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on February 10, 2023.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023–03298 Filed 2–15–23; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2023–0114]

RIN 1625–AA87

### Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to amend the established security zone extending 50 yards into the navigable waters of the Oakland Estuary, Alameda, California, surrounding the Coast Guard Island Pier. The proposed security zone change would include the entire perimeter of Coast Guard Island and 50 yards on either side of the Coast Guard Island causeway (Dennison Street Bridge). This action is necessary to provide for the continued security of the military service members on board vessels moored at the pier, as well as all military members and government property on Coast Guard Island. This security zone would prohibit all persons and vessels from entering, transiting

through or anchoring within a portion of the Oakland Estuary surrounding Coast Guard Island, and prohibit all persons and vessels from loitering within 50 yards of the Coast Guard Island causeway, unless authorized by the Captain of the Port (COTP) or his designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before March 20, 2023.

**ADDRESSES:** You may submit comments identified by docket number USCG–2023–0114 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LT William Harris, Sector San Francisco Waterways Management Division, U.S. Coast Guard; telephone 415–399–7443, email [SFWaterways@uscg.mil](mailto:SFWaterways@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background, Purpose, and Legal Basis

The Captain of the Port (COTP) San Francisco has identified a need to amend the existing security zone to address the security concerns to the military base on Coast Guard Island and the Coast Guard Island causeway. Over the past three years, Coast Guard Island has had over 20 security incidents. Additionally, the Coast Guard no longer uses the Security barrier around the pier and this proposed rulemaking will account for that change.

The purpose of this rulemaking is to ensure the security of Coast Guard facilities, personnel, and vessels, at all times within the navigable waters of the Oakland Estuary surrounding Coast Guard Island and the Coast Guard Island causeway. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70051 and 70124.

##### III. Discussion of Proposed Rule

The Coast Guard is proposing to amend the currently established security zone at Coast Guard Island, 33

CFR 165.1190, to cover all navigable waters of the Oakland Estuary beginning at 37°46′42.5″ N, 122°14′51.4″ W; thence to 37°46′46.6″ N, 122°14′59.7″ W; thence to 37°46′51.8″ N, 122°15′7.4″ W; thence to 37°46′56.3″ N, 122°15′12.1″ W; thence to 37°47′2.2″ N, 122°15′16.4″ W; thence to 37°47′8″ N, 122°15′16.6″ W; thence to 37°47′10″ N, 122°15′12.8″ W; thence to 37°47′10.1″ N, 122°15′5.7″ W; thence to 37°47′7.8″ N, 122°15′0.1″ W; thence to 37°47′5.2″ N, 122°14′53.7″ W; thence to 37°47′2.1″ N, 122°14′49.5″ W; thence to 37°46′58.9″ N, 122°14′46.2″ W; thence to 37°46′57.1″ N, 122°14′44.6″ W; thence to 37°46′52.9″ N, 122°14′42.6″ W; thence to 37°46′50.2″ N, 122°14′42.9″ W; thence to 37°46′47.9″ N, 122°14′43.6″ W; thence to 37°46′42.3″ N, 122°14′44.1″ W; thence to the beginning, and all navigable waters of the Oakland Estuary 50 yards on either side of a line beginning at 37°46′48.1″ N, 122°14′45.8″ W; thence to 37°46′46.1″ N, 122°14′41.5″ W; thence to 37°46′45.4″ N, 122°14′36.6″ W.

The purpose of the proposed change to the security zone is to adapt to the current security needs of the military facilities on Coast Guard Island, and to provide the level of security and protection for national interest with all U.S. Coast Guard personnel, facilities, vessels located on and within the waters surrounding Coast Guard Island.

Additionally, the proposed change would also include the Coast Guard Island causeway, a bridge, that facilitates pedestrian and vehicle access to Coast Guard Island, and therefore is considered critical infrastructure. Recent increases to the illegal anchoring of vessels in the vicinity of the bridge represent a serious risk for U.S. Coast Guard members and physical security of Coast Guard Island.

No vessel or person would be permitted to enter the security zone surrounding Coast Guard Island, and no vessel or person would be permitted to loiter in the zone surrounding the causeway bridge, unless authorized by the COTP. Vessel operators and persons would be able to transit the waters surrounding the causeway bridge without COTP permission, but they would not be allowed to loiter in those waters without the COTP permission. The regulatory text we are proposing appears at the end of this document.

##### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.