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#### Effective Date

(e) This amendment becomes effective on August 13, 2004.

Issued in Renton, Washington, on June 24, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-15378 Filed 7-8-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-149-AD; Amendment 39-13725; AD 2004-14-16]

RIN 2120-AA64

#### **Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, that requires repetitive detailed and eddy current inspections on the main fittings of the main landing gears (MLG) to detect discrepancies, and related investigative/corrective actions if necessary. This action also requires servicing the shock strut of the MLGs; inspecting the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage; and servicing any discrepant strut. This action is necessary to detect and correct premature cracking of the main fittings of the MLGs, which could result in failure of the fittings and consequent collapse of the MLGs during landing. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 13, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of August 13, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may

be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; 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:**

Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228-7312; fax (516) 794-5531.

#### **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 Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes was published in the **Federal Register** on March 17, 2004 (69 FR 12587). That action proposed to require repetitive detailed and eddy current inspections on the main fittings of the main landing gears (MLG) to detect discrepancies, and related investigative/corrective actions if necessary. That action also proposed to require servicing the shock strut of the MLGs; inspecting the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage; and servicing any discrepant strut.

#### **Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### **Request To Change Fax Number for Reporting Requirement**

One commenter, the manufacturer, requests that the fax number for reporting inspection results, as specified in paragraph (f) of the proposed AD, be revised.

The FAA agrees. We have revised the fax number specified in paragraph (f) of the final rule accordingly.

#### **Request To Require Reporting of Only Positive Eddy Current Inspection Findings**

The other commenter requests that the reporting requirement of the proposed AD be changed to require reporting of only the positive eddy

current inspection findings. The commenter states that the repetitive detailed inspection interval of every 100 flight hours occurs within one week for many operators. Additionally, it estimates that there will be nearly 15,000 positive and negative findings as a result of the current requirement, an amount it considers to be excessive for the manufacturer's review and analysis of relevant data. The commenter asserts that reporting negative findings would serve no useful purpose.

We agree with the commenter that reporting of negative findings serves no useful purpose. Also, Transport Canada Civil Aviation, which is the airworthiness authority for Canada, has informed us that reporting of the positive findings of only the eddy current inspections is sufficient for the requirements of this AD. Therefore, we have changed paragraph (f) of the final rule accordingly.

#### **Editorial Change**

In the heading for paragraph (d) of the proposed rule, we inadvertently added the words “\* \* \*and Serving If Necessary.” For clarification purposes, we have removed that phrase from the final rule.

#### **Conclusion**

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

#### **Cost Impact**

The FAA estimates that 288 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$74,880, or \$260 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. Manufacturer warranty remedies may be available for certain 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:

**2004-14-16 Bombardier, Inc. (Formerly Canadair):** Amendment 39-13725. Docket 2003-NM-149-AD.

**Applicability:** Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, equipped with main fittings, part numbers (P/N) 601R85001-81 and 601R85001-82 (Messier Dowty Incorporated P/N 17064-105 and 17064-106), of the main landing gears (MLG); certificated in any category.

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

To detect and correct premature cracking of the main fittings of the MLGs, which could result in failure of the fittings and consequent collapse of the MLGs during landing, accomplish the following:

**Note 1:** Where this AD differs from the referenced service bulletin, the AD prevails.

#### Detailed Inspection of Main Fittings of the MLGs

(a) Before the accumulation of 2,500 total flight cycles on the MLGs, or within 250 flight cycles after the effective date of this AD, whichever occurs later: Do a detailed inspection on the main fittings of the MLGs to detect discrepancies (*i.e.*, linear paint cracks or lack of paint (paint peeling), any other paint damage, adhesion, paint bulging, or corrosion), in accordance with Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin (ASB) A601R-32-088, dated February 20, 2003. Repeat the inspection thereafter at intervals not to exceed 100 flight cycles.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Related Investigative/Corrective Actions

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD, before further flight: Do the related investigative/corrective actions in accordance with Part B or F of the Accomplishment Instructions of Bombardier ASB A601R-32-088, including Appendices A and C, dated February 20, 2003. If an eddy current inspection (a related investigative action specified in Part B) is used to confirm the detailed inspection findings, the next eddy current required by paragraph (c) of this AD must be conducted within 500 flight cycles after the eddy current inspection specified in this paragraph, and thereafter at intervals not to exceed 500 flight cycles.

#### Eddy Current Inspection of Main Fittings of the MLGs

(c) At the time specified in paragraph (a) of this AD, do an eddy current inspection on the main fittings of the MLGs to detect cracks in accordance with Part B of the Accomplishment Instructions of Bombardier ASB A601R-32-088, including Appendix A, dated February 20, 2003. Repeat the eddy current inspection thereafter at intervals not to exceed 500 flight cycles. If any crack is found, before further flight, replace the affected main fittings of the MLGs with new or serviceable fittings in accordance with paragraph E.(5) of Part B of the Accomplishment Instructions of service bulletin.

### Servicing of Shock Struts

(d) Before the accumulation of 2,500 total flight cycles on the MLGs, or within 500 flight cycles after the effective date of this AD, whichever occurs later, service the shock strut of the MLGs in accordance with Part C or D, as applicable, of the Accomplishment Instructions of Bombardier ASB A601R-32-088, including Appendix B, dated February 20, 2003.

### Shock Strut Inspection

(e) Within 500 flight cycles after completing the servicing required by paragraph (d) of this AD, inspect the shock strut of the MLGs for nitrogen pressure, visible chrome dimension, and oil leakage in accordance with Part E of the Accomplishment Instructions of Bombardier ASB A601R-32-088, including Appendix B, dated February 20, 2003. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles. If the nitrogen pressure and visible chrome dimensions are found outside the limits (the service bulletin refers to the airplane maintenance manual as the source of defined limits) and/or oil leakage is found, before further flight, service the affected shock strut of the MLGs in accordance with Part C or D, as applicable, of the Accomplishment Instructions of the service bulletin.

### Reporting

(f) Submit a report of any positive finding of any eddy current inspection done per paragraph (b) or (c) of this AD, after each such inspection required by this AD, to Bombardier Aerospace, In-Service Engineering, attention Jean Gauthier, fax (514) 855-7708, e-mail [jean.gauthier@notes.canadair.ca](mailto:jean.gauthier@notes.canadair.ca), at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120-0056.

(1) If any eddy current inspection is done after the effective date of this AD: Submit the report within 30 days after the applicable inspection.

(2) If any eddy current inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(g) Although the Accomplishment Instructions of the service bulletin referenced in this AD specifies to submit a comment sheet related to service bulletin quality and a sheet recording compliance to the airplane manufacturer, this AD does not include such a requirement.

### Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

### Incorporation by Reference

(i) The actions shall be done in accordance with Bombardier Alert Service Bulletin

A601R-32-088, including Appendices A, B, and C, dated February 20, 2003. 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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; 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).

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF-2003-09, dated April 23, 2003.

#### Effective Date

(j) This amendment becomes effective on August 13, 2004.

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

**Kalene C. Yanamura,**

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

[FR Doc. 04-15511 Filed 7-8-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 383

[Docket No. OST-2004-18560]

RIN 2105-AD40

#### Civil Penalties

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Final rule.

**SUMMARY:** The recently enacted Vision 100—Century of Aviation Reauthorization Act revised the civil penalty provisions applicable to violations of the aviation economic requirements of Title 49. By this rule, the Department is revising 14 CFR Part 383 to reflect these revised civil penalties.

**DATES:** *Effective Date:* This rule is effective on August 9, 2004. However, the statutory amendments it reflects became effective on December 12, 2003, by their own terms.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Lowry, Attorney, Office of Aviation Enforcement and Proceedings (C-70), Office of the General Counsel, Department of Transportation, 400 7th

St., SW., Washington, DC 20590, (202) 366-9349.

**SUPPLEMENTARY INFORMATION:** Vision 100 revised the civil penalty provisions applicable to violations of Title 49. With respect to violations of economic requirements contained in Title 49, chapters 401 through 421, and rules and orders issued thereunder, the new civil penalty provisions are as follows:

(1) A general civil penalty of not more than \$25,000 (or \$1,100 for individuals or small businesses) instead of the prior general penalty of \$1,000 (adjusted by regulation to \$1,100 to reflect inflation), applies to violations of statutory provisions and rules or orders issued under those provisions, other than those listed below. (see 49 U.S.C. 46301(a)(1));

(2) With respect to small businesses and individuals, notwithstanding the general \$1,100 civil penalty, the statute provides for:

(a) A maximum civil penalty of \$10,000 for violations of most provisions of Chapter 401, including the anti-discrimination provisions of sections 40127 (general provision), and 41705 (discrimination against the disabled) or rules or orders issued thereunder (see 49 U.S.C. 46301 (a)(5) (A));

(b) A maximum civil penalty of \$5,000 for violations of section 41719 or rules or orders issued thereunder (49 U.S.C. 46301 (a)(5)(C); and

(c) A maximum civil penalty of \$2,500 for violations of section 41712 or consumer protection rules or orders (49 U.S.C. 46301 (a)(5)(D)).

This amendment incorporates these Vision 100 penalty revisions into 14 CFR Part 383, the regulatory codification of the related civil penalty provisions.

#### Regulatory Analyses and Notices

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act (APA) (5 U.S.C. 553). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures when they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking is consistent with the statutory authority set forth in Vision 100, and raises no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing these revised regulations as a final rule.

This final rule is exempt from review by the Office of Management and

Budget (OMB) in accordance with provisions of Executive Order 12866, because it is limited to the adoption of statutory language, without interpretation. The great majority of persons covered by these regulations do not engage in the prohibited conduct subject to the revised civil penalty provisions, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those who do not comply with the pertinent statutes or regulations. As a result, this final rule should have no effect on Federal or State expenditures.

In addition, we must prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (5 U.S.C. 601-602) unless we certify that a regulation will not have a significant economic impact on a substantial number of small entities. In this case the revision of the civil penalty amounts will raise potential penalties for all aviation businesses; however, there are special reduced penalties for individuals and small businesses with regard to specific kinds of violations. It is primarily the nature of the violations that has determined OST enforcement action in the past, although the size of an entity has been taken into account in determining what, if any, civil penalty is appropriate. The aggregate economic impact of this rulemaking on small entities should, therefore, be minimal, affecting only those who engage in conduct prohibited by statute or the related regulations.

Therefore, we have concluded and certify that this final rule will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is not required for this rulemaking.

#### Paperwork Reduction Act

This final rule imposes no new reporting or record keeping requirements necessitating paperwork clearance by OMB.

#### Unfunded Mandates Reform Act of 1995

OST has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

#### List of Subjects in 14 CFR Part 383

Administrative practice and procedures, Penalties.

■ Accordingly, the Department of Transportation revises Part 383 of Title 14, as set forth below: