

[Federal Register, Volume 89 Number 123 (Wednesday, June 26, 2024)]

[Rules and Regulations]

[Pages 53346-53349]

From the Federal Register Online via the Government Publishing Office [www.gpo.gov]

[FR Doc No: 2024-13938]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1688; Project Identifier MCAI-2024-00299-T; Amendment 39-22772; AD 2024-12-08]

RIN 2120-AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY:

Federal Aviation Administration (FAA), DOT.

ACTION:

Final rule; request for comments.

SUMMARY:

The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 airplanes. This AD was prompted by a report of a landing gear not locked indication during the final approach, which led the flight crew to declare an emergency. This AD requires reviewing maintenance records of the main landing gear (MLG) assemblies to determine whether the MLG was modified according to a certain service bulletin or restored during overhaul maintenance; inspecting the left and right MLG locking-stay bracket assemblies to verify that the correct attaching hardware is correctly installed on the brackets; replacing nuts having certain part numbers (P/Ns); replacing the locking-stay bracket assembly, if necessary; and prohibits the installation of affected parts on the MLG locking-stay bracket assembly; as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES:

This AD is effective July 11, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 11, 2024.

The FAA must receive comments on this AD by August 12, 2024.

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*. 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* under Docket No. FAA-2024-1688; 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 final rule, 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 ANAC material, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find this material on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.
- You may view this material 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. It is also available at *regulations.gov* under Docket No. FAA-2024-1688.

FOR FURTHER INFORMATION CONTACT:

Krista Greer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3221; email krista.greer@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the “Docket No. FAA-2024-1688; Project Identifier MCAI-2024-00299-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, 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 this final rule 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*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Krista Greer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3221; email krista.greer@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

ANAC, which is the aviation authority for Brazil, has issued ANAC Emergency AD E2024-05-09R01, effective May 29, 2024 (ANAC AD E2024-05-09R01) (also referred to as the MCAI), to correct an unsafe condition for certain Embraer S.A. Model ERJ 170 airplanes. The MCAI states that a landing gear not locked indication during the final approach led the flight crew to declare an emergency. Although the event did not result in serious consequences, it was found that a failure could occur in the MLG locking-stay bracket assembly, due to the installation of a particular self-locking nut (P/N MS17826-5) installed during modification according to Embraer Service Bulletin 170-32-0089 or during restoration in overhaul maintenance.

The FAA is issuing this AD to address failure of the MLG locking-stay bracket assembly due to failure of this self-locking nut, which can result in uncommanded retraction of the landing gear and consequent loss of directional control of the airplane on the ground if the landing gear collapses.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2024-1688.

Related Material Under [1 CFR Part 51](#)

ANAC AD E2024-05-09R01 specifies checking the airplane maintenance records to identify whether the MLG was modified according to a certain service bulletin or restored during overhaul maintenance. ANAC AD E2024-05-09R01 also specifies procedures for a general visual inspection of the left and right MLG locking-stay bracket assemblies to verify that the correct screws, washers, nuts, and cotter pins are correctly installed on the bracket; replacement of nuts having certain part numbers; and replacement of the locking-stay bracket assembly if any anomaly (looseness, missing parts, bending, cracking, or other damage) is detected in any attachment parts installed on the bracket.

ANAC AD E2024-05-09R01 further prohibits the installation of nuts having P/N MS17826-5 on the MLG locking-stay bracket. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

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 this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in ANAC AD E2024-05-09R01 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, ANAC AD E2024-05-09R01 is incorporated by reference in this AD. This AD requires compliance with ANAC AD E2024-05-09R01 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Service information required by ANAC AD E2024-05-09R01 for compliance will be available at *regulations.gov* under Docket No. FAA-2024-1688 after this AD is published.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) ([5 U.S.C. 551 et seq.](#)) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because failure of the locking-stay bracket assembly due to failure of a certain self-locking nut can result in uncommanded retraction of the landing gear and consequent loss of directional control of the airplane on the ground if the landing gear collapses. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to [5 U.S.C. 553\(b\)\(3\)\(B\)](#).

In addition, the FAA finds that good cause exists pursuant to [5 U.S.C. 553\(d\)](#) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo

notice and comment.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to [5 U.S.C. 553](#) to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 728 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

Estimated Costs for Required Actions

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$0	\$85	\$61,880

The FAA estimates the following costs to do any on-condition actions that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

Estimated Costs of On-Condition Actions

Labor cost	Parts cost	Cost per product
Up to 3 work-hours × \$85 per hour = \$255	Up to \$3,740	Up to \$3,995.

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

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](#), and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in [14 CFR Part 39](#)

- Air transportation
- Aircraft
- Aviation safety
- Incorporation by reference
- Safety

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:

2024-12-08 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.): Amendment 39-22772; Docket No. FAA-2024-1688; Project Identifier MCAI-2024-00299-T.

(a) Effective Date

This airworthiness directive (AD) is effective July 11, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Model ERJ 170-100 LR, -100 STD, -100 SE, and -100 SU airplanes, and Model ERJ 170-200 LR, -200 SU, -200 STD, and -200 LL airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) Emergency AD E2024-05-09R01, effective May 29, 2024 (ANAC AD E2024-05-09R01).

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report of a landing gear not locked indication during the final approach, which led the flight crew to declare an emergency. The FAA is issuing this AD to address failure of the main landing gear (MLG) locking-stay bracket assembly due to failure of this self-locking nut, which can result in uncommanded retraction of the landing gear and consequent loss of directional control of the airplane on the ground if the landing gear collapses.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD E2024-05-09R01.

(h) Exceptions to ANAC AD E2024-05-09R01

(1) Where ANAC AD E2024-05-09R01 refers to May 21, 2024, the effective date of ANAC Emergency AD E2024-05-09, this AD requires using the effective date of this AD.

(2) Where ANAC AD E2024-05-09R01 refers to its effective date, this AD requires using the effective date of this AD.

(3) ANAC AD E2024-05-09R01 does not specify a compliance time for the actions specified in paragraphs (b)(2)(i), (b)(2)(i)(I), (c)(2)(i), and (c)(2)(i)(I) of ANAC AD E2024-05-09R01. For this AD, after accomplishing the inspection required by paragraph (b)(2) or (c)(2), as applicable, of ANAC AD E2024-05-09R01, the actions required by paragraphs (b)(2)(i), (b)(2)(i)(I), (c)(2)(i), and (c)(2)(i)(I) of ANAC AD E2024-05-09R01 must be done before further flight, if there is no anomaly in the hardware installation on the bracket P/N 1840A0700-03 or 1840A0700-04, or nut having P/N MS17826-5 installed, as applicable.

(4) Where paragraph (e) of ANAC AD E2024-05-09R01 refers to “After the effective date of this AD,” for this AD, replace that text with “As of the effective date of this AD.”

(5) This AD does not adopt paragraph (g) of ANAC AD E2024-05-09R01.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation 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 International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. 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, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(j) Additional Information

For more information about this AD, contact Krista Greer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3221; email krista.greer@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under [5 U.S.C. 552\(a\)](#) and [1 CFR part 51](#).

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

(i) Agência Nacional de Aviação Civil (ANAC) Emergency AD E2024-05-09R01, effective May 29, 2024.

(ii) [Reserved]

(3) For ANAC AD E2024-05-09R01, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email: pac@anac.gov.br; website anac.gov.br/en/. You may find this ANAC AD on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.

(4) You may view this material 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 material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on June 11, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[[FR Doc. 2024-13938](#) Filed 6-21-24; 11:15 am]

BILLING CODE 4910-13-P