

**Unsafe Condition**

(d) This AD results from a report of inspections of several affected airplanes with improperly assembled or damaged flight controls. We are issuing this AD to detect and

correct improperly assembled or damaged flight controls, which could result in an unsafe condition by reducing capabilities of the flight control and lead to loss of control of the airplanes.

**Compliance**

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect the entire flight control system for improper assembly and any damage.	At whichever of the following occurs first: (i) Within 100 hours time-in-service after December 13, 2006 (the effective date of this AD); or (ii) At the next annual inspection that occurs at least 30 days after December 13, 2006 (the effective date of this AD).	Follow Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27-3761, Issued: February 2006.
(2) If you find any improperly assembled or damaged flight controls as a result of the inspection required by paragraph (e)(1) of this AD, take corrective action as specified in the service information.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27-3761, Issued: February 2006.

**Alternative Methods of Compliance (AMOCs)**

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, ATTN: Chris B. Morgan, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946-4154; facsimile: (316) 946-4107, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

**Material Incorporated by Reference**

(g) You must use Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27-3761, Issued: February 2006, 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 this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; 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).

Issued in Kansas City, Missouri, on October 27, 2006.

**James E. Jackson,**

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

[FR Doc. E6-18727 Filed 11-7-06; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2006-26165; Directorate Identifier 2006-CE-57-AD; Amendment 39-14816; AD 2006-23-04]**

**RIN 2120-AA64**

**Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 40 Airplanes**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as during production installation of the Garmin G1000 supplemental type certificate (STC) some parts of the installed fuel system indicating system were contaminated with particles from the manufacturing process. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** This AD becomes effective November 28, 2006.

The Director of the Federal Register approved the incorporation by reference of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB-40-048/2, Revision 2, dated September 26, 2006; and Work Instruction WI-MSB-40.048/2, Revision 2, dated September 26, 2006, listed in this AD as of November 28, 2006.

We must receive comments on this AD by December 8, 2006.

**ADDRESSES:** You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Fax:* (202) 493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://dms.dot.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 street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Sarjapur Nagarajan, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:**

**Streamlined Issuance of AD**

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined

process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

#### Discussion

The European Aviation Safety Agency (EASA), which is the aviation authority for the European Union (EU), has issued Emergency Airworthiness Directive No.: 2006-0295-E, dated September 26, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states that the aircraft manufacturer has identified that during production installation of the Garmin G1000 STC some parts of the installed fuel system indicating system were contaminated with particles from the manufacturing process. If not corrected, this fuel system contamination may lead to improper engine operation, power loss or in-flight engine failure. The MCAI requires you to do a one time special inspection and recertification for the effected airplanes. You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin No. MSB-40-048/2, Revision 2, dated September 26, 2006; and Work Instruction WI-MSB-40.048/2, Revision 2, dated September 26, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all

information provided by the State of Design Authority and determined the 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 have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

#### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the fuel system contamination may lead to improper engine operation, power loss or in-flight engine failure. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2006-26165; Directorate Identifier 2006-CE-57-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each

substantive verbal contact we receive about this AD.

#### 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 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); 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 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.

#### 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 AD:

**2006-23-04 Diamond Aircraft Industries GmbH:** Amendment 39-14816; Docket No. FAA-2006-26165; Directorate Identifier 2006-CE-57-AD.

#### Effective Date

(a) This airworthiness directive (AD) becomes effective November 28, 2006.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Model DA 40 airplanes equipped with Garmin G1000 supplemental type certificate (STC) SA01254WI, serial numbers 40.448 through 40.673, excluding 40.538, 40.590, 40.641, 40.642, 40.644, 40.651, 40.654, 40.655, and 40.699, certificated in any category.

#### Reason

(d) The mandatory continuing airworthiness information (MCAI) states that the aircraft manufacturer has identified that during production installation of the Garmin G1000 STC some parts of the installed fuel system indicating system were contaminated with particles from the manufacturing process. If not corrected, this may lead to improper engine operation, power loss or in-flight engine failure. The MCAI requires you to do a one time special inspection and recertification for the effected airplanes.

#### Actions and Compliance

(e) Prior to further flight, unless already done, inspect engine fuel system for possible contamination of fuel per Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 40-048/2, Revision 2, dated September 26, 2006; and Work Instruction WI-MSB-40.048/2, Revision 2, dated September 26, 2006.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Sarjapur Nagarajan, Aerospace Safety Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(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

(g) Refer to European Aviation Safety Agency (EASA) Emergency Airworthiness Directive No.: 2006-0295-E, dated September 26, 2006; Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB-40-048/2, Revision 2, dated September 26, 2006; and Diamond Aircraft Industries GmbH Work Instruction WI-MSB-40.048/2, Revision 2, dated September 26, 2006, for related information.

#### Material Incorporated by Reference

(h) You must use Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB-40-048/2, Revision 2, dated September 26, 2006; and Diamond Aircraft Industries GmbH Work instruction WI-MSB-40.048/2, Revision 2, dated September 26, 2006, 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 this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 2, A-2700 Wiener Neustadt, Germany; telephone +43 2622 26700; fax +43 2622 26780.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; 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/cfr/ibr-locations.html>.

Issued in Kansas City, Missouri on October 30, 2006.

**Kim Smith,**

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

[FR Doc. E6-18732 Filed 11-7-06; 8:45 am]

**BILLING CODE 4910-13-P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 200 and 240

[Release Nos. 34-54684; IC-27542; File No. S7-11-05]

**RIN 3235-AJ50**

### Amendments to the Tender Offer Best-Price Rules

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** We are adopting amendments to the language of the third-party and

issuer tender offer best-price rules to clarify that the provisions apply only with respect to the consideration offered and paid for securities tendered in a tender offer. We also are amending the third-party and issuer tender offer best-price rules to provide that any consideration that is offered and paid according to employment compensation, severance or other employee benefit arrangements entered into with security holders of the subject company that meet certain requirements will not be prohibited by the rules. Finally, we are amending the third-party and issuer tender offer best-price rules to provide a safe harbor provision so that arrangements that are approved by certain independent directors of either the subject company's or the bidder's board of directors, as applicable, will not be prohibited by the rules. These amendments are intended to make it clear that the best-price rule was not intended to capture employment compensation, severance or other employee benefit arrangements. We are also making a technical amendment to correct a cross-reference in the rules that govern the ability to delegate authority for purposes of granting exemptions under the best-price rule.

**DATES:** *Effective Date:* December 8, 2006.

**FOR FURTHER INFORMATION CONTACT:** Brian V. Breheny, Chief, or Mara L. Ransom, Special Counsel, Office of Mergers and Acquisitions, Division of Corporation Finance, at (202) 551-3440.

**SUPPLEMENTARY INFORMATION:** We are adopting amendments to Rule 13e-4<sup>1</sup> and Rule 14d-10<sup>2</sup> under the Securities Exchange Act of 1934<sup>3</sup> and making certain technical changes to a delegated authority rule that is affected by the amendments to the best-price rule.<sup>4</sup>

## I. Background

### A. Introduction and Summary

On December 16, 2005, we proposed changes to the issuer and third-party tender offer best-price rules<sup>5</sup> to make it clear that the best-price rule generally was not intended to apply to compensatory arrangements.<sup>6</sup> We believed that these amendments were necessary to alleviate the uncertainty

<sup>1</sup> 17 CFR 240.13e-4.

<sup>2</sup> 17 CFR 240.14d-10.

<sup>3</sup> 15 U.S.C. 78a *et seq.*

<sup>4</sup> 17 CFR 200.30-1.

<sup>5</sup> For purposes of this release, unless otherwise indicated, our references to the "tender offer best-price rule" or the "best-price rule" are intended to refer to both Exchange Act Rule 13e-4(f)(8)(ii) (17 CFR 240.13e-4(f)(8)(ii)) and Exchange Act Rule 14d-10(a)(2) (17 CFR 240.14d-10(a)(2)).

<sup>6</sup> Amendments to the Tender Offer Best-Price Rule, Release No. 34-52968 (Dec. 22, 2005) [70 FR 76116] (the "Proposing Release").