

**Unsafe Condition**

(d) This AD results from reports of slow operation of the main landing gear (MLG) door opening/closing sequence due to a defective actuator. We are issuing this AD to detect and correct defective actuators of the MLG door, which could result in slow operation of the MLG door and consequent non-extension of the MLG during an emergency freefall operation.

**Compliance**

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

**Repetitive Inspections/Replacement**

(f) At the time specified in paragraph (f)(1) or (f)(2) of this AD, as applicable: Do a general visual inspection of the operation of the MLG door opening sequence to determine if a defective actuator is installed by doing all the applicable actions, including replacing the door actuator, as applicable, specified in the Accomplishment Instructions of Airbus Service Bulletin A320-32-1309, dated March 7, 2006. Do all applicable replacements before further flight. Repeat the inspection thereafter at intervals not to exceed 900 flight cycles.

(1) For airplanes on which a record of the total number of flight cycles on the MLG door actuator is available: Before the accumulation of 3,000 total flight cycles on the MLG door actuator, or within 800 flight cycles after the effective date of this AD, whichever is later.

(2) For airplanes on which a record of the total number of flight cycles on the MLG door actuator is not available: With 800 flight cycles after the effective date of this AD.

**Note 1:** For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(g) Although the Accomplishment Instructions of Airbus Service Bulletin A320-32-1309, dated March 7, 2006, specifies submitting certain information to the manufacturer and sending defective actuators back to the component manufacturer for investigation; this AD does not include those requirements.

**Alternative Methods of Compliance (AMOCs)**

(h)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the

appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

**Related Information**

(i) EASA airworthiness directive 2006-0112, dated May 15, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on November 21, 2006.

**Ali Bahrami,**

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

[FR Doc. E6-20852 Filed 12-7-06; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2006-26516; Directorate Identifier 2006-NM-173-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes**

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

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

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Airbus Model A318-100 and A319-100 series airplanes, Model A320-111 airplanes, and Model A320-200, A321-100, and A321-200 series airplanes. The existing AD currently requires repetitive inspections of the upper and lower attachments of the trimmable horizontal stabilizer actuator (THSA) to measure for proper clearance and to detect cracks, damage, and metallic particles. The existing AD also requires corrective actions, if necessary, and reports of inspection findings. This proposed AD would shorten the repetitive interval for inspecting the upper THSA attachment. This proposed AD results from new test results on the secondary load path, which indicated the need to shorten the repetitive interval for inspecting the upper THSA attachment. We are proposing this AD to detect and correct failure of the THSA's primary load path, which could result in latent (undetected) loading and eventual failure of the THSA's secondary load path and consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane.

**DATES:** We must receive comments on this proposed AD by January 8, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

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

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Fax: (202) 493-2251.

- 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.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2141; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA-2006-26516; Directorate Identifier 2006-NM-173-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light 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 with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

**Examining the Docket**

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the ADDRESSES section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

**Discussion**

On March 22, 2006, we issued AD 2006-07-09, amendment 39-14536 (71 FR 16203, March 31, 2006), for all Airbus Model A318-100 and A319-100 series airplanes, Model A320-111 airplanes, and Model A320-200, A321-100, and A321-200 series airplanes. That AD requires repetitive inspections of the upper and lower attachments of the trimmable horizontal stabilizer actuator (THSA) to measure for proper clearance and to detect cracks, damage, and metallic particles. That AD also requires corrective actions, if necessary, and reports of inspection findings. That AD resulted from a report indicating that, during lab testing to verify the performance of the THSA's secondary load path with a simulated failure of the THSA's primary load path, the secondary load path's nut did not jam (as it was supposed to do). We issued that AD to ensure the integrity of the THSA's primary load path, which, if failed, could result in latent (undetected) loading and eventual failure of the THSA's secondary load path and consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane.

**Actions Since Existing AD Was Issued**

Since we issued AD 2006-07-09, the European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, has advised us that further tests on the secondary load path have indicated the need to shorten the repetitive interval for inspecting the upper THSA attachment.

**Relevant Service Information**

AD 2006-07-09 cited Airbus Service Bulletin A320-27-1164, Revision 03, dated August 24, 2005, as the appropriate source of service information for required actions. Airbus has since issued Revision 04, including Appendix 01, of the service bulletin, dated July 17, 2006, which describes essentially the same actions as those in Revision 03. Revision 04 recommends a shorter repetitive interval for inspecting the upper THSA attachment. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The EASA mandated the service information and issued airworthiness directive 2006-0223, dated July 21, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

**FAA's Determination and Requirements of the Proposed AD**

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. As described in FAA Order 8100.14A, "Interim Procedures for Working with the European Community

on Airworthiness Certification and Continued Airworthiness," dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2006-07-09. This proposed AD would retain the requirements of that AD but with a shorter repetitive interval for inspecting the upper THSA attachment. This proposed AD would also require that reports of positive findings of each inspection be sent to Airbus.

**Explanation of Change to Existing AD**

The existing AD requires that certain repairs be done using a method approved by either the FAA or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). The EASA has assumed responsibility for the airplane models that would be subject to this proposed AD. Therefore, this proposed AD would require that those repairs be done using a method approved by the FAA, the DGAC (or its delegated agent), or the EASA (or its delegated agent).

**Explanation of Change to Applicability**

We have revised the applicability of the existing AD to identify model designations consistent with the parallel EASA airworthiness directive.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this proposed AD, per inspection cycle.

ESTIMATED COSTS

| Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|------------|-----------------------------|-------|-------------------|-------------------------------------|------------|
| 1 .....    | \$80                        | None  | \$80              | 700                                 | \$56,000   |

**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**

We have 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 that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the 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 proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-14536 (71 FR 16203, March 31, 2006) and adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA-2006-26516; Directorate Identifier 2006-NM-173-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by January 8, 2007.

#### Affected ADs

(b) This AD supersedes AD 2006-07-09.

#### Applicability

(c) This AD applies to all Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category.

#### Unsafe Condition

(d) This AD results from a report indicating that, during lab testing to verify the performance of the secondary load path of the trimmable horizontal stabilizer actuator (THSA) with a simulated failure of the THSA's primary load path, the secondary load path's nut did not jam (as it was supposed to do). We are issuing this AD to detect and correct failure of the THSA's primary load path, which could result in latent (undetected) loading and eventual

failure of the THSA's secondary load path and consequent uncontrolled movement of the horizontal stabilizer and loss of control of the airplane.

#### Compliance

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

**Note 1:** For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

#### Repetitive Inspections: Lower THSA Attachment

(f) Within 20 months since first flight, or within 600 flight hours after May 5, 2006 (the effective date of AD 2006-07-09), whichever occurs later: Do detailed inspections of the lower THSA attachments for proper clearances, and do related corrective actions as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-27-1164, Revision 03, including Appendix 01, dated August 24, 2005; or Revision 04, including Appendix 01, dated July 17, 2006. After the effective date of this AD, only Revision 04 of the service bulletin may be used. Do corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed 20 months.

#### Repetitive Inspections: Upper THSA Attachment

(g) At the earlier of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do detailed inspections of the upper THSA attachment for cracks, damage, or metallic particles, and do related corrective actions as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-27-1164, Revision 04, including Appendix 01, dated July 17, 2006, except as required by paragraph (h) of this AD. Do corrective actions before further flight. Repeat the inspections thereafter at intervals not to exceed 10 months.

(1) At the latest of the times specified in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD.

(i) Within 10 months since the first flight of the airplane.

(ii) Within 10 months after the most recent inspection of the upper THSA attachment done in accordance with Airbus Service Bulletin A320-27-1164, Revision 02, including Appendix 01, dated March 30, 2005; Revision 03, including Appendix 01, dated August 24, 2005; or Revision 04, including Appendix 01, dated July 17, 2006.

(iii) Within 100 days after the effective date of this AD.

(2) Within 20 months after the most recent inspection of the upper THSA attachment done in accordance with Airbus Service Bulletin A320-27-1164, Revision 02, dated

March 30, 2005; Revision 03, dated August 24, 2005; or Revision 04, dated July 17, 2006.

#### Repair Exceptions

(h) If any metallic particles are detected during any inspection required by paragraph (g) of this AD: Repair the damage before further flight in accordance with a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent); or the European Aviation Safety Agency (EASA) (or its delegated agent).

#### Acceptable Prior Actions

(i) Inspections of the lower THSA attachment done before May 5, 2006, in accordance with Airbus Alert Service Bulletin A320-27A1164, dated September 10, 2004; or Airbus Service Bulletin A320-27-1164, Revision 01, including Appendix 01, dated December 17, 2004; are acceptable for compliance with the inspection requirements of paragraph (f) of this AD.

(j) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A320-27-1164, Revision 02, including Appendix 01, dated March 30, 2005; or Revision 03, including Appendix 01, dated August 24, 2005; are acceptable for compliance with the corresponding requirements of paragraphs (f) and (g) of this AD.

#### Inspection Reports

(k) At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, send a report of the positive findings of all inspections required by paragraphs (f) and (g) of this AD to Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Using Appendix 01 of Airbus Service Bulletin A320-27-1164, Revision 02, dated March 30, 2005; Revision 03, dated August 24, 2005; or Revision 04, dated July 17, 2006; is an acceptable method to comply with this paragraph. 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 contained in this AD and has assigned OMB Control Number 2120-0056.

(1) For any inspection done before the effective date of this AD: Send the report within 30 days after the effective date of this AD.

(2) For any inspection done after the effective date of this AD: Send the report within 30 days after the inspection.

#### Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, International Branch, ANM-116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA

Flight Standards Certificate Holding District Office.

#### Related Information

(m) EASA airworthiness directive 2006-0223, dated July 21, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on November 24, 2006.

**Kalene C. Yanamura,**

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

[FR Doc. E6-20851 Filed 12-7-06; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 399

[Docket No. OST-2003-15759]

RIN: 2105-AD25

#### Actual Control of U.S. Air Carriers

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Withdrawal of certain proposed amendments.

**SUMMARY:** Current law requires that U.S. citizens actually control each U.S. air carrier, that U.S. citizens own or control at least 75 percent of the shareholders' voting interest, and that the president and two-thirds of the directors and the managing officers must be U.S. citizens. The Department interprets this law in conducting initial and continuing fitness reviews of U.S. air carriers. We are withdrawing a proposal to modify by regulation the standards we apply in those cases where "actual control" by U.S. citizens is at issue.

The proposal being withdrawn would have narrowed the scope of our inquiry in such cases to those core matters affecting compliance with U.S. requirements affecting safety, security, national defense and corporate governance. These rationalized standards for deciding whether U.S. citizens maintained "actual control" of a carrier would have applied only to proposed transactions involving investors whose countries have an open-skies air services agreement with the United States and offer reciprocal investment opportunities to U.S. citizens. Our interpretation of other aspects of the statutory citizenship requirement would have been unchanged.

Although we are withdrawing the current proposal, we will continue to consider other ways to rationalize and simplify our domestic investment regime. The need for greater certainty and transparency in our requirements

and administrative process has become very apparent. Indeed, public comment in this docket has only served to confirm the Department's growing concern that the current regime is so unduly complex and burdensome that it needlessly inhibits the movement of capital that otherwise would flow into the U.S. airline industry and thus interferes with the legitimate needs of U.S. carriers to attract strategic investors from overseas markets. The Department notes that most of the American economy has progressed well beyond the antiquated notions that continue to apply to the airline industry because of our administrative interpretations of the current statute. In a modern, global industry such as aviation, we believe that the United States should not shut its doors to foreign investment by perpetuating archaic and time-consuming administrative practices that serve neither a statutory purpose nor an identifiable policy interest of the United States.

The Department had also proposed amendments to 14 CFR Part 204, the rules governing the data used in fitness determinations, and invited comment on the procedures used in fitness cases. The Department will publish a separate decision on those matters.

**FOR FURTHER INFORMATION CONTACT:** William M. Bertram, Chief, Air Carrier Fitness Division (X-56), Office of Aviation Analysis, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590; (202) 366-9721.

#### SUPPLEMENTARY INFORMATION:

##### Introduction

Under Title 49 of the U.S. Code, only "citizens" of the United States may obtain certificate authority to provide air transportation within the United States or operate as a U.S. air carrier on international routes. (49 U.S.C. 41102 or 41103.) The Department proposed to modify its interpretation of "actual control," an element in the statutory definition of a citizen of the United States, 49 U.S.C. 40102(a)(15), because it believes that modernizing its policies so as to allow more foreign investment in U.S. carriers would better reflect the realities of a global aviation industry, strengthen the U.S. air transportation system, and encourage other countries to open their own air services and investment markets.

Our proposal would not have and could not have altered the statutory test for citizenship nor was it an attempt to do so. We stated our intention to continue vigorous enforcement of the statute's express requirements. We did propose, however, to eliminate certain

*additional* citizenship restrictions that had been established administratively over the course of decades in individual fitness cases and that in our view are anachronistic, overly complex, and unduly burdensome. Accordingly, the net result of our proposal would have been to end a long-standing, extraneous administrative prohibition against foreign investors having even a "semblance" of control over airline commercial decisions; the revised approach would have applied only to investors whose home countries had open-skies agreements with the United States and provided reciprocal investment opportunities for U.S. citizens. The proposal would have maintained the prohibition against foreign citizen control of decisions on corporate governance, safety, security, and participation in the Civil Reserve Air Fleet program and other national defense airlift programs (for simplicity, referred to as "CRAF" hereafter). To ensure control by U.S. citizens, as an added measure we would have required that any delegation of authority by U.S. citizens to foreign investors be fully revocable by the shareholders or board of directors.

We provided several opportunities for interested parties to comment on the proposal, including a supplemental notice of proposed rulemaking (SNPRM) that further clarified our proposed modified interpretation of "actual control." 71 FR 26425 (May 5, 2006). In the supplemental notice, we made refinements to our proposal reflecting further consultations with our Federal Aviation Administration (FAA), the Department of Homeland Security (DHS), and the Department of Defense (DOD). We also acknowledged requests by members of Congress, who wanted us to provide time for more public comment on the proposal and for Congressional hearings on the topic.

The additional comments that we received in response to the SNPRM confirmed our earlier determination that the Department's historic interpretation of the actual control requirement did not serve the public interest well.

During the rulemaking we also proposed several technical changes to the rules governing the data for fitness determinations, 14 CFR Part 204. Those proposals were unopposed. We also requested public comment on the procedures used by us in resolving citizenship issues. We will publish our decision on those proposals in a separate rulemaking document.

#### Background

A firm may not be certificated as an air carrier to operate within the United