

regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 357

Endangered and threatened species, Plants (Agriculture).

Accordingly, we are proposing to amend Title 7, subtitle B, chapter III, of the Code of Federal Regulations as follows:

1. A new part 357 is added to read as follows:

#### PART 357—CONTROL OF ILLEGALLY TAKEN PLANTS

Sec.  
357.1 Purpose and scope.  
357.2 Definitions.

**Authority:** 16 U.S.C. 3371 *et seq.*; 7 CFR 2.22, 2.80, and 371.2(d).

##### § 357.1 Purpose and scope.

The Lacey Act, as amended (16 U.S.C. 3371 *et seq.*), makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of any Federal, State, tribal, or foreign law that protects plants. The Lacey Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant covered by the Act. In addition, the Act requires that importers submit a declaration at the time of importation for certain plants and plant products. Common cultivars and common food crops are among the categorical exemptions to the provisions of the Act. The Act does not define the terms “common cultivar” and “common food crop” but instead gives authority to the U.S. Department of Agriculture and the U.S. Department of the Interior to define these terms by regulation. The regulations in this part provide the required definitions.

##### § 357.2 Definitions.

**Common cultivar.** A plant (except a tree) that:

(a) Has been developed through selective breeding or other means for specific morphological or physiological characteristics; and

(b) Is a species or hybrid that is cultivated on a commercial scale; and

(c) Is not listed:

(1) In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2) As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); or

(3) Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

**Common food crop.** A plant that:

(a) Has been raised, grown, or cultivated for human or animal consumption; and

(b) Is a species or hybrid that is cultivated on a commercial scale; and

(c) Is not listed:

(1) In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(2) As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); or

(3) Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

**Plant.** Any wild member of the plant kingdom, including roots, seeds, parts or products thereof, and including trees from either natural or planted forest stands.

Done in Washington, DC, this 26<sup>th</sup> day of July 2010.

**Ann Wright,**

*Acting Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 2010-19098 Filed 8-3-10; 8:45 am]

**BILLING CODE 3410-34-S**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-1212; Directorate Identifier 2008-NM-167-AD]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A330-200 and -300 Series Airplanes

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing

airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

\* \* \* \* \*

The airworthiness limitations applicable to the Certification Maintenance Requirements (CMR) are given in Airbus A330 ALS Part 3, which is approved by the European Aviation Safety Agency (EASA).

The revision 02 of Airbus A330 ALS Part 3 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with this revision constitutes an unsafe condition.

\* \* \* \* \*

The unsafe condition is safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by August 30, 2010.

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

- **Federal eRulemaking Portal:** Go to <http://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:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80, e-mail [airworthiness.A330-A340@airbus.com](mailto:airworthiness.A330-A340@airbus.com); Internet <http://www.airbus.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**

Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-1212; Directorate Identifier 2008-NM-167-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on January 29, 2010 (75 FR 4710). That earlier NPRM proposed to supersede AD 2007-05-08, Amendment 39-14969 (72 FR 96580, March 5, 2007), to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, Airbus has released new service information. In addition, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010-0048, dated March 19, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The airworthiness limitations are currently distributed in the Airbus A330 Airworthiness Limitations Section (ALS).

The airworthiness limitations applicable to the Certification Maintenance Requirements

(CMR) are given in Airbus A330 ALS Part 3, which is approved by the European Aviation Safety Agency (EASA).

The revision 02 of Airbus A330 ALS Part 3 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with this revision constitutes an unsafe condition.

This new AD retains the requirements of EASA AD 2008-0138, which is superseded [EASA AD 2008-0138 superseded EASA AD 2006-0224, which corresponds to FAA AD 2007-05-08; FAA AD 2007-05-08 also contains similar actions for Model A340 airplanes], and requires the implementation of the new or more restrictive maintenance requirements and/or airworthiness limitations as specified in Airbus A330 ALS Part 3 revision 02.

The unsafe condition is safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition. You may obtain further information by examining the MCAI in the AD docket.

**Comments**

We have considered the following comments received on the earlier NPRM.

**Request To Update Service Information**

Air Transport Association (ATA), on behalf of its member Delta, requests that we update the NPRM to reference Airbus A330 ALS Part 3—Certification Maintenance Requirements, Revision 02, including Appendices 1 and 2, dated December 16, 2009.

We agree to reference Airbus A330 ALS Part 3—Certification Maintenance Requirements, Revision 02, including Appendices 1 and 2, dated December 16, 2009, as an appropriate source of service information. Airbus Airworthiness Limitations Section (ALS) Part 3, Revision 02, dated December 16, 2009, contains more restrictive maintenance requirements and airworthiness limitations. We have issued this supplemental NPRM to provide the public with opportunity to comment.

**Change to Proposed Applicability**

We have revised the applicability statement of this supplemental NPRM to remove the Airbus Model A340-200, -300, -500, and -600 series airplanes. We have issued AD 2010-01-07, Amendment 39-16165 (75 FR 1538, January 12, 2010), and that AD applies to Model A340-211, -212, -213, -311, -312, -313, -541, and -642 airplanes. That AD addresses the identified unsafe condition for those airplanes.

**FAA's Determination and Requirements of This Proposed 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

**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 also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a **Note** within the proposed AD.

**Explanation of Change to Costs of Compliance**

Since issuance of the original NPRM, we have increased the labor rate used in the Costs of Compliance from \$80 per work-hour to \$85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

**Costs of Compliance**

Based on the service information, we estimate that this proposed AD would affect about 58 products of U.S. registry.

The actions that are required by AD 2007-05-08 and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of \$85 per work hour. Based on these figures, the estimated cost of the currently required actions is \$85 per product.

We estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this

proposed AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$4,930, or \$85 per product.

#### 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 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. 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.

#### 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 removing Amendment 39–14969 (72 FR 9658, March 5, 2007) and adding the following new AD:

**Airbus:** Docket No. FAA–2009–1212; Directorate Identifier 2008–NM–167–AD.

#### Comments Due Date

(a) We must receive comments by August 30, 2010.

#### Affected ADs

(b) This AD supersedes AD 2007–05–08, Amendment 39–14969.

#### Applicability

(c) This AD applies to all Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category; all serial numbers.

#### Subject

(d) Air Transport Association (ATA) of America Code 05.

#### Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

\* \* \* \* \*

The airworthiness limitations applicable to the Certification Maintenance Requirements (CMR) are given in Airbus A330 ALS Part 3, which is approved by the European Aviation Safety Agency (EASA).

The revision 02 of Airbus A330 ALS Part 3 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with this revision constitutes an unsafe condition.

\* \* \* \* \*

The unsafe condition is safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections 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 (h) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529–1A.

### Restatement of Requirements of AD 2007–05–08, With Requirements for Model A340 Airplanes Removed

#### Revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness

(f) Unless already done: Within 90 days after April 9, 2007 (the effective date of AD 2007–05–08), revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating Airbus A330 Certification Maintenance Requirements, Document 955.2074/93, Issue 19, dated March 22, 2006. Accomplish the actions specified in the applicable CMR at the times specified in the applicable CMR and in accordance with the applicable CMR, except as provided by paragraphs (f)(1) and (f)(2) of this AD.

(1) The associated interval for any new task is to be counted from April 9, 2007.

(2) The associated interval for any revised task is to be counted from the previous performance of the task.

#### New Requirements of This AD

##### Actions and Compliance

(g) Unless already done, within 90 days of the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness by incorporating Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 02, dated December 16, 2009. At the times specified in the Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 02, dated December 16, 2009, comply with all applicable maintenance requirements and associated airworthiness limitations included in Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 02, dated December 16, 2009. Doing this revision terminates the requirements of paragraph (f) of this AD for that airplane only.

(h) After accomplishing the action required by paragraph (g) of this AD, no alternative inspections or inspection intervals may be used, unless the inspections or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

#### FAA AD Differences

**Note 2:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your

principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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

(j) Refer to EASA Airworthiness Directives 2006-0225, dated July 21, 2006, and 2010-0048, dated March 19, 2010; Airbus A330 Certification Maintenance Requirements, Document 955.2074/93, Issue 19, dated March 22, 2006; and Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 02, dated December 16, 2009; for related information.

Issued in Renton, Washington, on July 28, 2010.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-19179 Filed 8-3-10; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0225; Directorate Identifier 2009-NM-203-AD]

RIN 2120-AA64

#### Airworthiness Directives; Short Brothers PLC Model SD3 Airplanes

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of

another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Subsequent to accidents involving Fuel Tank System explosions in flight \* \* \* and on ground, \* \* \* Special Federal Aviation Regulation 88 (SFAR88) \* \* \* required a safety review of the aircraft Fuel Tank System \* \* \*.

\* \* \* \* \*

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' \* \* \*. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

\* \* \* \* \*

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by August 30, 2010.

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

- **Federal eRulemaking Portal:** Go to <http://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:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Short Brothers PLC, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890-462469; fax +44(0)2890-468444; e-mail [michael.mulholland@aero.bombardier.com](mailto:michael.mulholland@aero.bombardier.com); Internet <http://www.bombardier.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0225; Directorate Identifier 2009-NM-203-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

##### Discussion

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on March 15, 2010 (75 FR 12154). That earlier NPRM proposed to supersede AD 2006-12-18, Amendment 39-14644 (71 FR 34801, June 16, 2006), to require actions intended to address the unsafe condition for the products listed above. Since that NPRM was issued, we have determined that the original NPRM did not include all the relevant service information for the affected airplanes.

##### Relevant Service Information

Bombardier has issued the temporary revisions (TRs) listed in the following table.