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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. 2003-NM-272-AD; Amendment 39-13746; AD 2004-15-12]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Airbus Model A330-202, -203, -223, and -243 Airplanes, and A330-300 Series Airplanes**

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

**ACTION:** Final rule.

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**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330-202, -203, -223, and -243 airplanes, and A330-300 series airplanes, that requires modification of the control box of the auxiliary power unit (APU). This action is necessary to prevent uncommanded in-flight shutdown of the APU, which could result in loss of critical electrical systems when the airplane is operated in emergency electrical configuration, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective September 2, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of September 2, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2797; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330-202, -203, -223, -243, and -300 series airplanes was published in the Federal Register on March 5, 2004 (69 FR 10369). That action proposed to require modification of the control box of the auxiliary power unit (APU).

## **Comments**

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

## **Request to Change Applicability**

One commenter, the airplane manufacturer, states that, according to French airworthiness directive 2003-350(B), dated September 17, 2003, the action specified in the proposed AD is applicable to Airbus Model A330-202, -203, -223, -243, and A330-301, -321, -322, -323, -341, -342, and -343 series airplanes, all serial numbers, on which Airbus Modification 50245 has not been embodied.

Although the commenter does not make a specific request, the FAA infers that the commenter is asking that the applicability specified in the proposed AD be changed to match the applicability specified in the French airworthiness directive. Per the model designation listed on the type certificate data sheet, specifying Airbus Model A330-300 "series airplanes" in the AD applicability encapsulates the airplane models identified as "Airbus Model A330-301, -321, -322, -323, -341, -342, and -343 series airplanes." While we have not matched the French airworthiness directive, we have provided clarification throughout this AD preamble and in the applicability section of this AD by differentiating between "airplanes" and "series airplanes." We have changed the applicability section to specify Airbus Model A330-202, -203, -223, and -243 airplanes, and A330-300 series airplanes.

In addition, the applicability section of the AD already excludes Airbus Modification 50245 and references the service bulletin, which includes the serial numbers. No change to the AD is made in this regard.

## **Request to Reference Later Revisions of Service Bulletin**

The same commenter states that the proposed AD specifies accomplishment of the modification per Airbus Service Bulletin A330-49-3025, dated June 11, 2003; however, the referenced French airworthiness directive allows that any later approved revisions of the service bulletin are acceptable.

We infer that the commenter is asking that later revisions of Airbus Service Bulletin A330-49-3025 be added to the AD for accomplishment of the modification. We do not agree. We cannot approve the use of revisions of a service document issued after publication of the AD because doing so would violate Office of the Federal Register (OFR) regulations for approval of materials "incorporated by reference" in rules. In general terms, we are required by these OFR regulations to either publish the service document contents as part of the actual AD language; or submit the service document to the OFR for approval as "referenced" material, in which case we may only refer to such material in the text of an AD. To allow operators to use later revisions of the referenced service bulletin, we must either revise the AD to reference specific later revisions, or operators must request approval to use later revisions as an AMOC under the provisions of paragraph (b) of this AD. Accordingly, no change to the AD is made in this regard.

## **Clarification of Compliance Time**

The same commenter states that the compliance time of 12 months after the effective date of the AD, as specified in the proposed AD, differs from the compliance time of September 30, 2004 (at the latest), as required by the referenced French airworthiness directive. The commenter states that its intention is simply to note the difference; no change is requested.

Although the commenter does not request a change, we provide the following explanation of the differences between the compliance times. We do not express compliance times in terms of calendar dates unless engineering analysis establishes a direct relationship between the date and the compliance time. Additionally, in consideration of the average utilization rate by the affected U.S. operators, and the practical aspects of an orderly modification of the U.S. fleet during regular maintenance periods, we determined that 12 months after the effective date of the AD is appropriate.

## **Request To Reduce Compliance Time**

Another commenter asks that the implementation schedule for the modification of the control box of the APU, as specified in the proposed AD, be done more rapidly. The commenter states that, given the small number of airplanes identified in the proposed AD (nine), and the short time, and limited and easily acquired materials, implementation should be accomplished much sooner, without causing a burden to operators.

We do not agree that the compliance time for the modification should be reduced. In developing an appropriate compliance time for this action, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the practical aspect of doing the modification within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In addition, we find that adequate maintenance will provide an acceptable level of safety until the modification is done. However, operators are always permitted to accomplish the actions earlier than the compliance time specified in an AD. Accordingly, no change to the AD is made in this regard.

## **Conclusion**

We have carefully reviewed the available data, including the comments noted above, and determined that air safety and the public interest require adopting the AD with the change described previously. This change will neither increase the economic burden on any operator nor increase the scope of the AD.

## **Cost Impact**

We estimate that 9 airplanes of U.S. registry will be affected by this AD, that it will take about 1 work hour per airplane to do the required actions, and that the average labor rate is \$65 per work hour. Required parts will cost about \$140 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$1,845, or \$205 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

## **Regulatory Impact**

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

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

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

# AIRWORTHINESS DIRECTIVE



Aircraft Certification Service  
Washington, DC

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

*We post ADs on the internet at "www.faa.gov"*

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The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

**2004-15-12 Airbus:** Amendment 39-13746. Docket 2003-NM-272-AD.

**Applicability:** Model A330-202, -203, -223, and -243 airplanes, and A330-300 series airplanes; certificated in any category; on which Airbus Modification 50245 has not been done.

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

To prevent uncommanded in-flight shutdown of the auxiliary power unit (APU), which could result in loss of critical electrical systems when the airplane is operated in emergency electrical configuration, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 12 months after the effective date of this AD: Modify APU control box 5000VE by doing all the actions per the Accomplishment Instructions of Airbus Service Bulletin A330-49-3025, dated June 11, 2003.

## Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

## Incorporation by Reference

(c) The actions shall be done in accordance with Airbus Service Bulletin A330-49-3025, dated June 11, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Note 1:** The subject of this AD is addressed in French airworthiness directive 2003-350(B), dated September 17, 2003.

**Effective Date**

(d) This amendment becomes effective on September 2, 2004.

Issued in Renton, Washington, on July 19, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-16915 Filed 7-28-04; 8:45 am]

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