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[Page 33877-33881]  
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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA-2006-26051; Directorate Identifier 2006-NM-154-AD; Amendment 39-15112; AD 2007-13-08]**

**RIN 2120-AA64**

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

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

**ACTION:** Final rule.

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**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 an airworthiness authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a fire in the auxiliary power unit air intake. We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective July 25, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 25, 2007.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

**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:**

##### **Discussion**

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

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the Federal Register on October 13, 2006 (71 FR 60444). That NPRM proposed to require repetitive inspections of the auxiliary power unit (APU) starter motor, APU inlet plenum, and APU air intake, as well as repetitive cleaning of the APU air intake; and applicable corrective actions. The MCAI states that an operator reported black smoke at the rear of the fuselage during taxi after landing. The smoke was caused by a fire in the APU air intake. Analysis has demonstrated that following numerous unsuccessful APU start attempts in flight, there is a risk of reverse flow, leading to flame propagation to the APU air inlet and air intake duct. If this zone is contaminated, a fire may be initiated. The flightcrew operating manual limits the number of APU start attempts as follows: After three starter motor duty cycles, wait 60 minutes before attempting three more cycles.

## **Comments**

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

## **Request To Include Terminating Action**

Airbus states that it has two final fixes available. No change to the NPRM is requested.

We infer that Airbus wants us to change the AD applicability and add optional terminating action to the AD. Since the issuance of the NPRM, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2006-0153 R1, dated November 27, 2006, and corrected on November 29, 2006. The EASA AD applicability excludes airplanes that are equipped with Hamilton Sundstrand APIC APS 3200 APUs and that have incorporated Airbus Modification 35803 in production, or Airbus Service Bulletin A320-49-1070 in service. The EASA AD applicability also excludes airplanes that are equipped with Honeywell 131-9A APUs, and that have incorporated Airbus Modification 35936 in production or Airbus Service Bulletin A320-49-1075 in service. The EASA AD also adds an optional terminating action for the repetitive inspections and cleaning tasks for airplanes on which Airbus Service Bulletin A320-49-1070, dated July 28, 2006 (for airplanes equipped with APIC APS 3200 APUs); or Airbus Service Bulletin A320-49-1075, dated September 22, 2006, or Revision 01, dated December 1, 2006 (for airplanes equipped with Honeywell 131-9A APUs), has been embodied in service.

In light of the revised EASA AD, we agree with the commenter, and have revised the applicability and added a new paragraph (e)(5) to this AD to include the optional terminating action.

## **Request To Remove Airplanes Equipped With Honeywell APUs**

Air Transport Association (ATA), on behalf of one of its members, requests that airplanes equipped with Honeywell APUs be removed from the applicability of the NPRM. ATA states that the subject incident occurred on a Hamilton Sundstrand APU. The ATA member states that Honeywell provided data showing that in more than 14 million APU hours, not one event similar to the Hamilton Sundstrand APU incident occurred on a Honeywell APU.

We disagree with the commenters. Through analysis of both Hamilton Sundstrand and Honeywell APUs, the EASA has determined that, following numerous unsuccessful APU start attempts during flight, there is a risk of reverse flow leading to flame propagation in the APU air inlet and air intake duct. We have made no change to the AD in this regard, except for the previously noted exclusion of the Honeywell APUs in the EASA AD.

### **Request To Allow Incorporation of Alternate Service Information**

ATA, on behalf of one of its members, states that if airplanes equipped with Honeywell APUs are not removed from the applicability, the AD should allow incorporation of Diehl Service Bulletin 3888394-49-7899 as a terminating action for airplanes having Honeywell APUs. ATA states that the service bulletin releases new software for the electronic control box that addresses the identified unsafe condition.

We agree with the commenters. The Diehl service bulletin is referenced in Airbus Service Bulletin A320-49-1075, dated September 22, 2006; and Revision 01, dated December 1, 2006, as an additional source of service information for accomplishing the modification. We have referenced the Airbus service bulletin in a new paragraph (e)(5) of this AD, as described above.

### **Request To Change Compliance Time**

ATA, on behalf of one of its members, asks that the 2,400- and 600-flight-hour compliance times for the repetitive tasks be changed. ATA states that these compliance times do not take into account operator experience. ATA notes that the ATA member performs starter motor inspections during a 1,200-hour (2A) check, and has not experienced a failure. The ATA member would like to see data indicating how the compliance times were established.

We do not agree with the commenter's request to change the compliance times. The commenter provides no alternative compliance times for the repetitive tasks, or technical justification for changing the compliance times. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, and the practical aspect of accomplishing the repetitive inspections and cleaning tasks within a period of time that corresponds to the normal scheduled maintenance for most affected operators. We point out that the compliance times correspond with those in the MCAI. However, according to the provisions of paragraph (g)(1) of the AD, we may approve a request to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have made no change to the AD in this regard.

### **Request To Incorporate/Publish Certain Information**

The Modification and Replacement Parts Association (MARPA) states that, frequently, airworthiness directives are based on service information originating with the type certificate holder or its suppliers. MARPA adds that manufacturer service documents are privately authored instruments generally having copyright protection against duplication and distribution. MARPA notes that when a service document is incorporated by reference into a public document, such as an airworthiness directive, it loses its private, protected status and becomes a public document. MARPA adds that if a service document is used as a mandatory element of compliance, it should not simply be referenced, but should be incorporated into the regulatory document. MARPA states that, by definition, public laws must be public, which means they cannot rely upon private writings; especially when the private writings originate in a foreign country. MARPA notes that since the interpretation of a document is a question of law, and not fact, a service document not incorporated by reference will not be considered in a legal finding of the meaning of an airworthiness directive. MARPA is concerned that the failure to incorporate essential service information could result in a court decision invalidating the airworthiness directive.

MARPA notes that it has been advised that service documents are not usually incorporated by reference into proposed actions (NPRMs). MARPA adds that there is no indication in the proposed action that the FAA intends to incorporate by reference the necessary service information, and it is unclear whether that has been overlooked. MARPA asks that future proposed actions indicate the FAA intent by including the following statement: "We intend to incorporate by reference the following publication(s):".

MARPA adds that incorporated by reference service documents should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates them. MARPA believes that this publication should occur when the NPRM is published, to permit the public to review and comment on the entire proposed action. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the Federal Register needlessly by publishing documents already in the hands of the affected individuals; traditionally, "affected individuals" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing and repair shops, parts purveyors and distributors, and organizations manufacturing or servicing alternatively certified parts under section 21.303 ("Replacement and modification parts") of the Federal Aviation Regulations (14 CFR 21.303). MARPA adds that the distribution to owners may, when the owner is a financing or leasing institution, not actually reach the persons responsible for accomplishing the airworthiness directive. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument, and published in the DMS.

We do not agree with the commenter's request to indicate our intent in an NPRM to incorporate by reference particular publications. When we reference certain service information in a proposed AD, the public can assume we intend to IBR that service information, as required by the Office of the Federal Register. No change to this AD is necessary in regard to the commenter's request.

In regard to the commenter's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the AD is necessary in response to this comment.

### **Request To Delete "Certified" From AD Applicability**

MARPA questions the use of the adjective "certified" for the subject airplane models. MARPA asks what a "certified" model is and if the use of that word implies that "uncertified" models exist that are exempt from the NPRM. MARPA adds that perhaps the word "certificated" was intended instead, but was changed to avoid the use of the same word twice in the same sentence, which would make more sense. MARPA suggests that the word "certified" be dropped, as it appears to be both superfluous and confusing.

We do not agree with the commenter's request. We identified "all certified models" in the applicability of the NPRM to follow the MCAI; that phrase refers to all dash numbers of a particular airplane model. "All certified models" is different from "certificated in any category," which refers to the category of type certification for the airplane (normal, utility, transport, etc.). We made no change to the AD in this regard.

### **Conclusion**

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We

determined that these changes will not increase the economic burden on any operator or increase the scope of the 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 a U.S. court of law. 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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements, if any, take precedence over the actions copied from the MCAI.

### **Costs of Compliance**

Based on the service information, we estimate that this AD affects about 675 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with this AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be \$216,000, or \$320 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 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.

### **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 the NPRM, 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.

### **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:



**2007-13-08 Airbus:** Amendment 39-15112. Docket No. FAA-2006-26051; Directorate Identifier 2006-NM-154-AD.

### **Effective Date**

- (a) This airworthiness directive (AD) becomes effective July 25, 2007.

### **Affected ADs**

- (b) None.

### **Applicability**

(c) This AD applies to Airbus Model A318, A319, A320 and A321 airplanes, all certified models, all serial numbers, certificated in any category; except airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airplanes equipped with Hamilton Sundstrand APIC APS 3200 auxiliary power units (APUs), that have received Airbus Modification 35803 in production or Airbus Service Bulletin A320-49-1070 in service.

(2) Airplanes equipped with Honeywell 131-9A APUs, that have received Airbus Modification 35936 in production or Airbus Service Bulletin A320-49-1075 in service.

### **Reason**

(d) An operator reported black smoke at the rear of the fuselage during taxi after landing. The smoke was caused by a fire in the APU air intake. Analysis has demonstrated that following numerous unsuccessful APU start attempts in flight, there is a risk of reverse flow, leading to flame propagation to the APU air inlet and air intake duct. If this zone is contaminated, a fire may be initiated. The flightcrew operating manual limits the number of APU start attempts as follows: After three starter motor duty cycles, wait 60 minutes before attempting three more cycles. The MCAI mandates repetitive inspections of the APU starter motor, APU inlet plenum, and APU air intake, as well as repetitive cleaning of the APU air intake; and applicable corrective actions.

### **Actions and Compliance**

(e) Unless already done, do the following actions except as stated in paragraph (f) below.

(1) Within the next 600 flight hours following the effective date of this AD: Inspect the APU starter motor, APU air inlet plenum, and APU air intake, and do the applicable corrective actions before further flight, in accordance with the instructions given in Airbus Service Bulletin A320-49-1068, Revision 01, dated February 2, 2006.

(2) Repeat the inspection per above paragraph (e)(1) of this AD, at intervals not exceeding 600 flight hours.

(3) Prior to the accumulation of 2,400 flight hours since the aircraft's first flight, or within the next 600 flight hours after the effective date of this AD, whichever occurs later, unless accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A320-49-1068, dated

June 2, 2005: Clean the APU air intake in accordance with the instructions given in Airbus Service Bulletin A320-49-1068, Revision 01, dated February 2, 2006.

(4) Repeat the cleaning task per above paragraph (e)(3) of this AD, at intervals not exceeding 2,400 flight hours.

(5) After embodiment of Airbus Service Bulletin A320-49-1070, dated July 28, 2006 (on airplanes equipped with APIC APS 3200 APUs); or Airbus Service Bulletin A320-49-1075, dated September 22, 2006, or Revision 01, dated December 1, 2006 (on airplanes equipped with Honeywell 131-9A APUs); as applicable; the inspections and cleaning as described above are no longer required.

### **FAA AD Differences**

(f) None.

### **Other FAA AD Provisions**

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, 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: Tim Dulin, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2141; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

### **Related Information**

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2006-0153 R1, dated November 27, 2006 (corrected November 29, 2006), which references Airbus Service Bulletins A320-49-1068, Revision 01, dated February 2, 2006; A320-49-1070, dated July 28, 2006; and A320-49-1075, dated September 22, 2006, and Revision 01, dated December 1, 2006; for related information.

### **Material Incorporated by Reference**

(i) You must use Airbus Service Bulletin A320-49-1068, Revision 01, dated February 2, 2006, to do the actions required by this AD, unless the AD specifies otherwise. If accomplished, you must use the applicable Airbus Service Bulletin specified in Table 1 of this AD to perform the optional terminating action specified in this AD.

**Table 1 – Optional Material Incorporated by Reference**

<b>Airbus Service Bulletin</b>	<b>Revision Level</b>	<b>Date</b>
A320-49-1070	Original	July 28, 2006
A320-49-1075	Original	September 22, 2006
A320-49-1075	01	December 1, 2006

(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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; 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 Renton, Washington, on June 12, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification.

[FR Doc. E7-11780 Filed 6-19-07; 8:45 am]