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[Page 61646-61648]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25060; Directorate Identifier 2006-NM-119-AD; Amendment 39-14792; AD 2006-21-07]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A321 Airplanes

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

ACTION: Final rule.

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. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective November 24, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 24, 2006.

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: Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

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 June 19, 2006 (71 FR 35220). That NPRM proposed to require the removal of one of the two inflating vacuums in order to reduce the speed of the slide inflation.

Comments

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

Requests To Change Compliance Time

Airbus concurs with the contents of the NPRM. Airbus notes that French airworthiness directive F-2005-155, dated August 31, 2005, mandated corrective actions be done before September 10, 2008; however, the NPRM proposes accomplishing the modification within 3 years after the effective date of the AD. Airbus notes that the current compliance time would give operators until the last quarter of 2009 to accomplish the required modification.

The Air Transport Association (ATA), on behalf of its members and U.S. Airways, asks that the compliance time for the modification specified in the NPRM be extended to 42 months. The ATA states that its members generally support the intent of the AD, and have been in lead airline discussions with Airbus and Messier on the referenced service bulletins. The commenters state that to comply with the work instructions specified in the referenced Air Cruisers service bulletins, the affected slides must be sent to the original equipment manufacturer (OEM) for modification. Due to this fact, more time is necessary for accomplishing the modification.

We do not agree with the requests to either reduce or extend the compliance time. The 36-month compliance time required by this AD reflects an equivalent amount of time specified by the French airworthiness directive. In developing an appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for the timely accomplishment of the modification. In consideration of these items, as well as the reports of slide damage and deflation during deployment tests, we have determined that the 36-month compliance time required by this AD will ensure an acceptable level of safety and allow the modifications to be done during scheduled maintenance intervals for most affected operators. In addition, if the slides are sent to the OEM for modification, the compliance time is more than adequate to cover such circumstances. We have made no change to the AD in this regard.

Request To Change/Clarify Certain Procedures

The Modification and Replacement Parts Association (MARPA) provided the following comments to the NPRM.

- MARPA states that paragraph (e) of the NPRM requires work to be accomplished as specified in a particular Airbus service bulletin. MARPA adds that manufacturer's service documents are privately authored instruments, generally having copyright protection against duplication and distribution. When a service document is incorporated by reference into a public document, such as an airworthiness directive, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51, it loses its private, protected status and becomes a public document. MARPA notes that the NPRM is one of these public documents, but does not incorporate by reference that service document. Therefore, the NPRM, as proposed, attempts to require compliance with a public law by reference to a private writing. MARPA believes that public laws, by definition, should be public, and asks that the referenced Airbus service bulletin be incorporated by reference into the AD.

We do not agree that documents should be incorporated by reference during the NPRM phase of rulemaking. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This final rule incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

- MARPA also states that service documents incorporated by reference should be made available to the public by publication in either the Federal Register or the Docket Management System (DMS), keyed to the action that incorporates those documents. 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. MARPA adds that, 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/or servicing alternatively certified parts under section 21.303 ("Parts Manufacturer Approval"), of the Federal Aviation Regulations (14 CFR 21.303). MARPA states that the concept of brevity is now nearly archaic as documents exist more frequently in electronic format than on paper. Therefore, MARPA asks that the referenced Airbus service bulletin be published either in the Federal Register or on DMS.

In regard to the commenter's request that service documents be made available to the public by publication in the Federal Register, we agree that incorporation by reference was authorized to reduce the volume of material published in the Federal Register and the Code of Federal Regulations. However, as specified in the Federal Register Document Drafting Handbook, the Director of the Office of the OFR decides when an agency may incorporate material by reference. As the commenter is aware, the OFR files documents for public inspection on the workday before the date of publication of the rule at its office in Washington, DC. As stated in the Federal Register Document Drafting Handbook, when documents are filed for public inspection, anyone may inspect or copy file documents during the OFR's hours of business. Further questions regarding publication of documents in the Federal Register or incorporation by reference should be directed to the OFR.

In regard to the commenter's request to post service bulletins on DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on 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 final rule is necessary in response to this comment.

- In addition, MARPA states that paragraph (g)(3) of the NPRM is vague. MARPA adds that courts have universally held that requirements are unenforceable if they are too vague to convey to a reasonable person the specific acts that are required or proscribed by the rule.

We partially agree with MARPA. We are considering clarifying the text of paragraph (g)(3) in future ADs to more clearly remind operators they are required to assure a product is airworthy before it is returned to service. However, we consider the existing text to be legally enforceable since it requires performing FAA-approved corrective actions before returning the product to an airworthy condition. No change is required to this final rule in that regard.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

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 37 products of U.S. registry. We also estimate that it takes about 5 work hours per product to do the actions and that the average labor rate is \$80 per work hour. Required parts cost about \$370 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no change for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the AD on U.S. operators to be \$28,490, or \$770 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:

AIRWORTHINESS DIRECTIVE

www.faa.gov/aircraft/safety/alerts/
www.gpoaccess.gov/fr/advanced.html

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



2006-21-07 Airbus: Amendment 39-14792. Docket No. FAA-2006-25060; Directorate Identifier 2006-NM-119-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus A321 aircraft, all certified models and serial numbers that are equipped with escape slides, part number (P/N) 62292-105, 62292-106, 62293-105, or 62293-106. Aircraft on which no modification/replacement of escape slides at doors 2 and 3 has been performed since embodiment of Airbus Modification 34989 in production are not affected by the requirements of this AD.

Reason

(d) Some cases of slide damage and deflation have been reported during deployment tests at doors 2 and 3 of the A321. Analysis has shown that the slide may inflate too fast compared to the associated door release. If there is a delay during the opening of the door, the inflatable slide may exercise pressure on this not yet opened door, which could result in damage to the inflatable slide. A slide not inflated correctly may disrupt passenger emergency evacuation. For such reason, this AD renders mandatory the removal of one of the two inflating vacuums in order to reduce the speed of the slide inflation.

Actions and Compliance

(e) Unless already done, do the following actions except as stated in paragraph (f) below: Within 36 months after the effective date of this AD, modify the slides, P/N 62292-105, 62292-106, 62293-105, or 62293-106, in accordance with the instructions given in Airbus Service Bulletin A320-25-1416, dated May 20, 2005.

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, Transport Airplane Directorate, FAA, ATTN: Dan Rodina, Aerospace Safety Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) Notification of Principal Inspector: Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) Return to Airworthiness: When complying with this AD, perform FAA-approved corrective actions before returning the product to an airworthy condition.

(4) 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

(h)(1) This AD is related to MCAI French airworthiness directive F-2005-155, dated August 31, 2005, which references Airbus Service Bulletin A320-25-1416, dated May 20, 2005, for information on required actions.

(2) Airbus Service Bulletin A320-25-1416, dated May 20, 2005, refers to Air Cruisers Service Bulletin S.B. A321 005-25-15, dated May 30, 2005, as an additional source of service information for modifying the escape slides.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A320-25-1416, dated May 20, 2005, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact 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 October 10, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6-17420 Filed 10-18-06; 8:45 am]