

about \$62 million dollars to the packers. See p. 13 above. While these studies do not identify any specific practices that cause the reduction in prices, they do demonstrate that oligopsonistic packer buying practices, in general, have the effect of manipulating prices paid to producers. These studies establish a substantial factual basis for finding a strong likelihood that general buying practices of oligopsonistic packers will result in producers receiving less than the full value of their livestock. They provide substantial evidence for finding that oligopsonistic packers' buying practices should be restricted under Section 202 of the Act.

Economic studies have also attempted to isolate specific livestock procurement practices to determine their effect on producer prices. One study found that packers' feeding of their own cattle for slaughter has a depressing effects on prices other producers are paid for their livestock. See, pp. 13-15 above. Other studies have shown that packers' use of forward contracts also has depressing effect on prices paid to producers for their livestock. See pp. 15-19 above. Concentration in the Red Meat Packing Industry, issued by the Grain Inspection and the Packers and Stockyards Administration in February, 1996, demonstrates that the use of captive supply procurement methods in the cattle industry is associated with a decline in cash-market price for cattle. It shows that packers increase their captive supply inventories when cash-market prices increase, and as they increase captive supply deliveries from these inventories, cash-market prices decline. See p. 18 above. These studies provide sufficient evidentiary support for a finding that packer feeding of their own slaughter supplies and their use of forward contracts are likely to have the effect of manipulating prices paid to producers in violation of Section 202(e) of the Act. Such practices should, thus, be restricted by regulation.

Section 202(a) of the Act prohibits packers from engaging in any "unjustly discriminatory" practice or device.<sup>94</sup> Section 202(b) prohibits packers from giving any person an "undue or unreasonable preference or advantage" "in any respect whatsoever."<sup>95</sup>

When considering whether packers' feeding of their own slaughter supplies and use of forward contracts constitute undue preferences or unjust discrimination in violation of Section 202 (a) and (b) of the Act, the effect of these practices on competition between livestock producers must be considered.

See pp. 39-40 above. Packer feeding of their own slaughter supplies and use of forward contracts are very likely to injure competition between livestock producers. By definition, packers that own and feed cattle for their slaughtering plants provide preferential treatment for their stockholders over other livestock producers. Packer-owned cattle enjoy preferential access to the slaughtering facility; thus the packer-owned cattle are guaranteed a market. This type of activity does injure competition between, the packers and their shareholders on the one hand, and other livestock producers on the other. Similarly, forward contracts which are not traded publicly but offered to certain livestock producers selectively also provide preferential access to slaughter plants for those who enter into them. Livestock producers who are not offered the forward contracts are at a significant competitive disadvantage. That these practices may make the packers more competitive with each other does not control the determination of whether they violate the "undue and unreasonable preference" or "unjustly discriminatory" language of the Act. Packer feeding of its own cattle for slaughter and forward contracts as they are used today are likely to result in undue preferences and unjust discrimination in violation of Sections 202 (a) and (b) of the Act. Their use should thus be restricted through regulation.

This discussion demonstrates that there is substantial factual and legal basis for issuing rules under Section 202 of the Act restricting the use of forward contracts and packer feeding of its own slaughter supplies. The rules proposed in this petition offer the least intrusive form of restriction on these practices that will ensure compliance with the purposes of the Act. These proposed rules do not prohibit the use of forward contracts, but merely require that the contracts contain a firm-base price and be traded in an open public market. The proposed rules also do not prohibit packers from owning and feeding cattle. The proposed rule only requires that packer-owned cattle be traded in a public market.

These restrictions are designed to protect producers' interests by encouraging open, competitive markets for livestock. They are designed to take advantage of what economic studies suggest encourage competitive markets for livestock—that more bidders for livestock mean higher prices to producers and that electronic or telemarkets markets also increase prices paid for livestock. See pp. 18-20 above. They are designed to provide equitable

access to markets for all livestock producers preventing unjust discrimination between livestock producers by packers.

For these reasons WORC requests that Secretary Glickman issue the rule set out above at pp. 2-4.

Attorneys for Western Organization of Resource Councils.

Lynn A. Hayes,

*Attorney at Law. Farmers' Legal Action Group, Inc., 1301 Minnesota Building, 46 East Fourth Street, Saint Paul, Minnesota 55101-1109, (612) 223-5400, (612) 223-5335 (fax).*

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BILLING CODE 3410-EN-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 96-NM-60-AD]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes. This proposal would require repetitive inspections to detect discrepancies or damage of the steady bearing assemblies of the flap transmission system, and replacement of any discrepant or damaged assembly with a new, like assembly. This proposal also would require eventual replacement of all the steady bearing assemblies with new, improved assemblies, which would terminate the repetitive inspection requirement. This proposal is prompted by reports of cracking of the hardened steel inner race, and broken or missing inner races of the steady bearing assemblies. The actions specified by the proposed AD are intended to prevent such discrepancies and damage of the shafts of the steady bearing assemblies, which could cause the shafts to fail; failure of the steady bearing shafts during a subsequent asymmetric stop could result in an uncommanded asymmetric retraction of the flap, and subsequent reduced controllability of the airplane.

**DATES:** Comments must be received by February 24, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation

<sup>94</sup> 7 U.S.C. § 192(a).

<sup>95</sup> 7 U.S.C. § 192(b).

Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-60-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tom Groves, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-1503; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-60-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No.

96-NM-60-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A310 series airplanes. The DGAC advises that it has received reports indicating that some steady bearings of the flap transmission system on these airplanes have been found with cracking of the hardened steel inner race, or a broken or missing inner race. The DGAC also advises that it has received reports indicating that the spherical part of a steady bearing assembly was found to be detached from its mounting flange. The cause of these discrepancies is believed to be a design deficiency in the bearing seal that, in certain circumstances, may result in the loss of grease from the bearings.

Such discrepancies and damage of the steady bearing assemblies could weaken the shaft and lead to failure of the shaft in the event of a subsequent asymmetric flap drive failure. Failure of a steady bearing in that situation could result in an uncommanded asymmetric retraction of the flap, and subsequent reduced controllability of the airplane.

**Explanation of Relevant Service Information**

Airbus has issued Service Bulletin A310-27-2067, Revision 1, dated January 5, 1995, which describes procedures for repetitive visual inspections to detect damage or discrepancies of the steady bearing assemblies of the flap transmission system. The service bulletin also provides instructions for replacement of damaged assemblies with new, like assemblies. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (CN) 95-073-178(B), dated April 26, 1995, in order to assure the continued airworthiness of these airplanes in France.

Airbus also issued Service Bulletin A310-27-2074, dated November 18, 1994, which describes procedures for replacement of the steady bearing assemblies with new, improved assemblies. The improved assembly is equipped with integral sealing for both the ball bearing and the spherical bearing, which will improve the service life of the bearing assemblies. The service bulletin also describes procedures to install special spherical spacers for steady bearing assembly positions FIN 5486 and FIN 5529 in order to keep the seal lips within the

flange. (This Airbus service bulletin references Lucas Liebherr Service Bulletin 551A-27-M551-03, Revision 1, dated February 13, 1995, as an additional source of service information.) The DGAC has approved the technical content of this service bulletin.

**FAA's Conclusions**

This airplane model is manufactured in France and is 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. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections to detect any discrepancy or damage to the steady bearing assemblies of the flap transmission system, and replacement of any damaged or discrepant assembly with a new, like assembly. The proposed AD also would require eventual replacement of all steady bearing assemblies with the new, improved assemblies, which would terminate the repetitive inspection requirement. The actions would be required to be accomplished in accordance with the service bulletins described previously.

**Differences Between the Proposal and the Related French CN**

Operators should note that, this proposal would differ from the parallel French CN, referenced previously, in that this proposed rule would require the accomplishment of a terminating action (replacement of the steady bearing assemblies with new, like assemblies) for the repetitive inspections. The French CN provides for that action only as optional.

Mandating the terminating action is based on the FAA's determination that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be

providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed requirement to accomplish the terminating action is in consonance with these considerations.

#### Cost Impact

The FAA estimates that 26 Airbus Model A310 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be \$23,400, or \$900 per airplane, per inspection cycle.

It would take approximately 8 work hours per airplane to accomplish the proposed replacement, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$16,872 per airplane. Based on these figures, the cost impact of the proposed replacement on U.S. operators is estimated to be \$451,152, or \$17,352 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that 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) if promulgated, 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 copy of the draft

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

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

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Airbus Industrie: Docket 96–NM–60–AD.

*Applicability:* Model A310 series airplanes, on which Airbus Modification 10962 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent failure of the flap transmission shaft due to damaged steady bearing assemblies, which could cause an uncommanded asymmetric retraction of the flap, and result in reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 2,000 total landings or within 500 flight hours after the effective date of this AD, whichever occurs later: Perform a visual inspection to detect damage or any discrepancy of the steady bearing assemblies of the flap transmission system, in accordance with Airbus Service Bulletin A310–27–2067, Revision 1, dated January 5, 1995.

(1) If no damage or discrepancy is detected: Repeat the inspection thereafter at intervals not to exceed 2,000 landings, until the requirements of paragraph (b) of this AD are accomplished.

(2) If any damage or discrepancy is detected and the groove depth of the shaft is less than 1 mm (.04 inch): Prior to the accumulation of 50 landings after detection of this discrepancy, replace the steady bearing assembly with a new, like assembly in accordance with Airbus Service Bulletin A310–27–2067, Revision 1, dated January 5, 1995.

(3) If any damage or discrepancy is detected and the groove depth on the shaft is 1 mm or more: Prior to further flight, replace the steady bearing assembly with a new, like assembly, in accordance with Airbus Service Bulletin A310–27–2067, Revision 1, dated January 5, 1995.

(b) Within 5 years after the effective date of this AD, replace all steady bearing assemblies of the flap transmission system with new, improved assemblies, in accordance with Airbus A310–27–2074, dated November 18, 1994. Accomplishment of the replacement constitutes terminating action for the requirements of this AD.

Note 2: Airbus Service Bulletin A310–27–2074 references Lucas Liebherr Service Bulletin 551A–27–M551–03 as an additional source of service information for replacement of the steady bearing assemblies with the new, improved assemblies.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 7, 1997.

Darrell M. Pederson,

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

[FR Doc. 97–813 Filed 1–13–97; 8:45 am]

**BILLING CODE 4910–13–U**

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

**[Docket No. 96–NM–92–AD]**

**RIN 2120–AA64**

#### **Airworthiness Directives; Airbus Model A320 Series Airplanes**

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

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