

Fairness Act of 1996, Pub. L. 104-121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

**Paperwork Reduction Act**

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

**List of Subjects in 7 CFR Part 1**

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

■ Accordingly, we are amending 7 CFR part 1 as follows:

**PART 1—ADMINISTRATIVE REGULATIONS**

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

**Authority:** 5 U.S.C. 301, unless otherwise noted.

**Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes**

■ 2. In § 1.131, paragraph (b) is amended as follows:

■ a. In paragraph (b)(3), by removing the word “and”.

■ b. By redesignating paragraph (b)(4) as paragraph (b)(5) and by adding a new paragraph (b)(4) to read as set forth below.

**§ 1.131 Scope and applicability of this subpart.**

\* \* \* \* \*

(b) \* \* \*

(4) Adjudicatory proceedings under the regulations promulgated under the Animal Welfare Act (7 U.S.C. 2131 *et seq.*) for the denial of an initial license application (9 CFR 2.11) or the termination of a license during the license renewal process or at any other time (9 CFR 2.12); and

\* \* \* \* \*

Done in Washington, DC, this 5th day of May, 2005.

**Mike Johanns,**

*Secretary of Agriculture.*

[FR Doc. 05-9444 Filed 5-11-05; 8:45 am]

**BILLING CODE 3410-34-P**

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**RIN 3150-AH64**

**List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision; Withdrawal of Direct Final Rule**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have revised the Holtec International HI-STORM 100 cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 2 to the Certificate of Compliance. The NRC is taking this action because it has received significant adverse comments in response to an identical proposed rule which was concurrently published with the direct final rule.

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6219 (e-mail: *jmm2@nrc.gov*).

**SUPPLEMENTARY INFORMATION:** On February 28, 2005 (70 FR 9504), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR 72.214 to revise the Holtec International HI-STORM 100 cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 2 to the Certificate of Compliance. Amendment No. 2 modifies the present cask system design to include changes to materials used in construction, changes to the types of fuel that can be loaded, changes to shielding and confinement methodologies and assumptions, revisions to various temperature limits, changes in allowable fuel enrichments, and other changes to reflect current NRC staff guidance and use of industry codes. The direct final rule was to become effective on May 16, 2005. The NRC also concurrently published an identical proposed rule on February 28, 2005 (70 FR 9550).

In the February 28, 2005, direct final rule, NRC stated that if any significant adverse comments were received, a notice of timely withdrawal of the direct final rule would be published in the **Federal Register**. As a result, the direct final rule would not take effect.

The NRC received significant adverse comment on the direct final rule; therefore, the NRC is withdrawing the

direct final rule. As stated in the February 28, 2005, direct final rule, NRC will address the comments received on the February 28, 2005, companion proposed rule in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Dated at Rockville, Maryland, this 5th day of May, 2005.

For the Nuclear Regulatory Commission.

**William Borchardt,**

*Acting Executive Director for Operations.*

[FR Doc. 05-9448 Filed 5-11-05; 8:45 am]

**BILLING CODE 7590-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. **FAA-2005-20379**; Directorate Identifier **2004-NM-174-AD**; Amendment **39-14078**; AD **2005-10-01**]

**RIN 2120-AA64**

**Airworthiness Directives; Airbus Model A310 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus Model A310 series airplanes. This AD requires measuring the clearance between the compensator and the guide assembly of probe no. 1 on the outboard fuel tanks, and performing corrective actions if necessary. This AD is prompted by the results of fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent interference between the compensator and the guide assembly of probe no. 1, which could create an ignition source that could result in a fire or explosion.

**DATES:** This AD becomes effective June 16, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of June 16, 2005.

**ADDRESSES:** For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

**Docket:** The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The

Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Washington, DC. This docket number is FAA-2005-20379; the directorate identifier for this docket is 2004-NM-174-AD.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for all Airbus Model A310 series airplanes. That action, published in the **Federal Register** on February 15, 2005 (70 FR 7700), proposed to require measuring the clearance between the compensator and the guide assembly of probe no. 1 on the outboard fuel tanks, and performing corrective actions if necessary.

**Comments**

We provided the public the opportunity to participate in the development of this AD. No comments

have been submitted on the proposed AD or on the determination of the cost to the public.

**Conclusion**

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per air-plane	Number of U.S.-registered air-planes	Fleet cost
Inspection .....	2	\$65	None .....	\$130	59	\$7,670

**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 have 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

**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 airworthiness directive (AD):

**2005-10-01 Airbus:** Amendment 39-14078. Docket No. FAA-2005-20379; Directorate Identifier 2004-NM-174-AD.

**Effective Date**

(a) This AD becomes effective June 16, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Airbus Model 310 series airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD was prompted by the results of fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent interference between the compensator and the guide assembly of probe no. 1, which could create an ignition source that could result in a fire or explosion.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Measurement**

(f) Within 4,000 flight hours after the effective date of this AD, measure the clearance between the compensator and the guide assembly of probe no. 1 on the left- and right-hand outboard fuel tanks, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310-28-2152, dated January 12, 2004. If the clearance between the compensator and the guide assembly is less than 3 mm, before further flight, modify the guide assembly of probe no. 1 to provide clearance of 3 mm or more between the compensator and the guide assembly, in accordance with the Accomplishment Instructions of the service bulletin.

**Parts Installation**

(g) As of the effective date of this AD, no person may install probe no. 1 on the left-or right-hand outboard fuel tank unless the requirements of paragraph (f) of this AD have been accomplished.

**Alternative Methods of Compliance (AMOCs)**

(h) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

**Related Information**

(i) French airworthiness directive F-2004-125, dated July 21, 2004, also addresses the subject of this AD.

**Material Incorporated by Reference**

(j) You must use Airbus Service Bulletin A310-28-2152, dated January 12, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get copies of the service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC. To review copies of the service information, contact the National Archives and Records Administration (NARA). For information on the availability of this material at the 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).

Issued in Renton, Washington, on April 29, 2005.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-9063 Filed 5-11-05; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2005-20345; Directorate Identifier 2004-NM-101-AD; Amendment 39-14083; AD 2005-10-06]

**RIN 2120-AA64**

**Airworthiness Directives; Dornier Model 328-300 Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Dornier Model 328-300 series airplanes. This AD requires installing a drain hole in the lower skin of the left- and right-hand elevator horns. This AD is prompted by reports of water found in the elevator assembly. We are issuing this AD to prevent water or ice accumulating in the elevator assembly, which could result in possible corrosion that reduces the structural integrity of the flight control surface, or in an unbalanced flight control surface. These conditions could result in reduced controllability of the airplane.

**DATES:** This AD becomes effective June 16, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of June 16, 2005.

**ADDRESSES:** For service information identified in this AD, contact AvCraft Aerospace GmbH, P.O. Box 1103, D-82230 Wessling, Germany.

*Docket:* The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at <http://>

[dms.dot.gov](http://dms.dot.gov), or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Washington, DC. This docket number is FAA-2005-20345; the directorate identifier for this docket is 2004-NM-101-AD.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for certain Dornier Model 328-300 series airplanes. That action, published in the **Federal Register** on February 15, 2005 (70 FR 7689), proposed to require installing a drain hole in the lower skin of the left- and right-hand elevator horns.

**Comments**

We provided the public the opportunity to participate in the development of this AD. No comments have been submitted on the proposed AD or on the determination of the cost to the public.

**Conclusion**

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this AD.

**ESTIMATED COSTS**

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Installing drain hole .....	1	\$65	\$100	\$165	49	\$8,085

**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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will