

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2006-26684; Directorate Identifier 2006-NM-193-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Model A330 and A340 Airplanes**

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A330 and A340 airplanes. This proposed AD would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating new and revised certification maintenance requirements (CMRs). This proposed AD results from the manufacturer's determination that additional and revised CMRs are necessary in order to ensure continued operational safety of the affected airplanes. We are proposing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

**DATES:** We must receive comments on this proposed AD by January 26, 2007.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC 20590.

- *Fax:* (202) 493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, International Branch, ANM-116, FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2797; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA-2006-26684; Directorate Identifier 2006-NM-193-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

**Examining the Docket**

You may examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9:00 a.m. and 5:00 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 DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

**Discussion**

The European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, notified us that Part 3, "Certification Maintenance Requirements (CMR)" of the Airworthiness Limitations Section (ALS) for Model A330 and A340 airplanes has been updated. The new CMRs, among other things, introduce certain more restrictive limitations and inspection intervals for airplanes

already in service. CMRs are intended to detect safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

**Relevant Service Information**

Airbus has issued A330 Certification Maintenance Requirements 955.2074/93, Issue 19, dated March 22, 2006, to Part 3 of the A330 ALS. Issue 19 of the A330 CMRs:

- Describes the effect of increasing the design service goal (DSG) for the Weight Variant 50 series;
- Adds new CMR tasks with more restrictive limitations associated with modifications and the new DSG;
- Changes the status of one task from Two Star to One Star, with interval extension; and
- Introduces more restrictive requirements for airplane configurations already in service.

Airbus has also issued A340 Certification Maintenance Requirements, 955.3019/92, Issue 14, dated December 19, 2005, to Part 3 of the A340 ALS. Issue 14 of the A340 CMRs:

- Introduces a new Model A340-643;
- Describes the effect of increasing the DSG for the Weight Variant 50 series;
- Revises the applicability of some tasks;
- Adds new CMR tasks associated with modifications and the new DSG;
- Revises some CMR tasks to have more restrictive intervals;
- Deletes CMR status from some tasks; and
- Introduces more restrictive requirements for airplane configurations already in service.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. EASA mandated the service information and issued airworthiness directive 2006-0224, dated July 27, 2006 (for Model A330 airplanes), and 2006-0225, dated July 21, 2006 (for Model A340 airplanes), to ensure the continued airworthiness of these airplanes in the European Union.

**FAA's Determination and Requirements of the Proposed AD**

These airplane models are manufactured in France and are 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. As described in FAA Order 8100.14A, "Interim Procedures for

Working with the European Community on Airworthiness Certification and Continued Airworthiness," dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating new and revised CMRs.

#### Clarification of Compliance Time

We have clarified the compliance time for revising the Airworthiness Limitations section of the Instructions for Continued Airworthiness to include a 3-month grace period.

#### Costs of Compliance

This proposed AD would affect about 27 Model A330 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$2,160, or \$80 per airplane.

Currently there are no affected A340 airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the required actions would take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the proposed AD is \$80 per airplane.

#### 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 the 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. 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 proposed AD and placed it in the AD docket. 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, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA-2006-26684; Directorate Identifier 2006-NM-193-AD.

#### Comments Due Date

- (a) The FAA must receive comments on this AD action by January 26, 2007.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to all Airbus Model A330 and A340 airplanes.

**Note 1:** This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been

previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25-1529.

#### Unsafe Condition

(d) This AD results from the manufacturer's determination that additional and revised certification maintenance requirements (CMRs) are necessary in order to ensure continued operational safety of the affected airplanes. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

#### 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.

#### Revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness

(f) Within 3 months after the effective date of this AD: Revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness by incorporating Airbus A330 Certification Maintenance Requirements, 955.2074/93, Issue 19, dated March 22, 2006 (for all Model A330 airplanes); or Airbus A340 Certification Maintenance Requirements, 955.3019/92, Issue 14, dated December 19, 2005 (for all Model A340 airplanes). Accomplish the actions specified in the applicable CMR at the times specified in the applicable CMR and in accordance with the applicable CMR, except as provided by paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) of this AD.

(1) The associated interval for any new task is to be counted from the effective date of this AD.

(2) The associated interval for any revised task is to be counted from the previous performance of the task.

(3) For Model A340 airplanes that have exceeded the more restrictive limitations of Airbus A340 Certification Maintenance Requirements, 955.3019/92, Issue 14, Maintenance Significant Item (MSI) 21.28.00 and 21.43.00: Do the task within 2,500 flight hours after the previous accomplishment. Repeat the task thereafter at the applicable interval in the Airbus A340 Certification Maintenance Requirements, Issue 14.

(4) For Model A340 airplanes that have accumulated more than 2,700 flight hours since the last maintenance done in accordance with Airbus A340 Certification Maintenance Requirements, 955.3019/92, Issue 14, MSI 28.24.00: Do the next task within 800 flight hours after the effective date of this AD. Repeat the task thereafter at

the applicable interval in the Airbus A340 Certification Maintenance Requirements, Issue 14.

#### Alternative Methods of Compliance (AMOCs)

(g)(1) 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.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Related Information

(h) EASA airworthiness directives 2006-0224, dated July 27, 2006, and 2006-0225, dated July 21, 2006, also address the subject of this AD.

Issued in Renton, Washington, on December 19, 2006.

**Ali Bahrami,**

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

[FR Doc. E6-22111 Filed 12-26-06; 8:45 am]

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 310

RIN 3084-0098

#### Telemarketing Sales Rule; Extension Beyond January 2, 2007, of the Previously Announced Forbearance Policy in Enforcement of the Prohibition of Prerecorded Calls in the Telemarketing Sales Rule ("TSR")

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In a *Federal Register* document published on October 4, 2006, 71 FR 58716, the FTC denied a request for creation of a new safe harbor in the TSR for prerecorded calls by sellers and their telemarketers to consumers with whom the seller has an "established business relationship," and proposed an amendment to the TSR that would make explicit the prohibition on prerecorded calls that is now implicit in the TSR's call abandonment provisions. The Commission accordingly also announced the revocation of a previously announced policy of forbearing from enforcement of the TSR's call abandonment prohibition effective January 2, 2007. In response to a request for an extension of the forbearance policy, the Commission has determined that the forbearance policy should remain in effect until the conclusion of the prerecorded call amendment proceeding.

**DATES:** Effective January 2, 2007, the Commission will continue its previously announced policy of forbearing from enforcing the prohibition of prerecorded calls in the TSR's call abandonment provisions, until the conclusion of the prerecorded call amendment proceeding.

#### FOR FURTHER INFORMATION CONTACT:

Craig Tregillus, (202) 326-2970, Division of Marketing Practices, Bureau of Consumer Protection, Room H-288, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** In a *Federal Register* document published on October 4, 2006, 71 FR 58716, the FTC denied a request for creation of a new safe harbor in the TSR for prerecorded calls by sellers and their telemarketers to consumers with whom the seller has an "established business relationship," and proposed an amendment to the TSR that would make explicit the prohibition on prerecorded calls that is now implicit in the TSR's call abandonment provisions. The Commission accordingly also announced the revocation of a previously announced policy of forbearing from enforcement of the TSR's call abandonment prohibition effective January 2, 2007.

On November 29, 2006, the Direct Marketing Association ("DMA") filed a petition seeking an extension of the Commission's enforcement forbearance policy on prerecorded calls beyond the announced revocation date of January 2, 2007. A petition filed by medSage Technologies LLC on November 30, and petitions filed by Minutepoll, LLC ("Minutepoll petition") and jointly by Silverlink Communications Inc. and the Eliza Corporation ("Silverlink petition") on December 1, also requested extensions of the revocation date. Both the DMA and Silverlink petitions ask for an extension until the conclusion of the rulemaking proceeding, while the medSage and Minutepoll petitions seek an extension until six months after the conclusion of the rulemaking to allow companies sufficient time to comply.<sup>1</sup>

DMA argues that, if the policy were revoked as announced effective January 2, 2007, even prerecorded messages that consumers "affirmatively requested would need to be discontinued" because businesses would not have had sufficient time during their busy holiday

season "to obtain the proposed prior written consents."<sup>2</sup> Moreover, DMA believes that because the TSR's present call abandonment provisions, unlike the proposed amendment, lack any express provision allowing prerecorded calls to established customers who have given their written consent, that failure to extend the forbearance policy would have the effect of "a flat prohibition on prerecorded messages."<sup>3</sup>

DMA advances two additional reasons for extending the forbearance policy until completion of the amendment proceeding. The first is that failure to continue the forbearance policy "effectively prejudices the outcome of the proceeding," contrary to the intended statutory purpose "of the Notice and Comment process."<sup>4</sup> The second is that an extension will maintain the status quo for consumers who have listed their numbers on the Do Not Call Registry because it simply continues the existing forbearance policy.<sup>5</sup>

The Minutepoll petition emphasizes the "irreparable harm smaller businesses" engaged in telemarketing would incur unless the forbearance policy is extended.<sup>6</sup> Minutepoll says that it and many other small telemarketers that place prerecorded calls otherwise would be forced to shut down their operations on January 2, 2007, since they cannot be "cost competitive" with large call centers in placing live telemarketing calls.<sup>7</sup>

The medSage and Silverlink petitions come from companies under contract with HMO's and other health care providers, pursuant to regulations issued by the Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996, to place interactive "reminder" calls to the providers' medical patients, urging them to get flu shots, childhood immunizations, routine mammograms and colonoscopies, prescription refills, and the like.<sup>8</sup> Both petitions argue that there is insufficient time before January 2 for the providers they serve to obtain written consent from the 10 to 20 million patients the Silverlink petition estimates receive such calls annually.<sup>9</sup>

Thus, the medSage petition contends that the company would be faced with

<sup>2</sup>DMA petition at 1-2.

<sup>3</sup>*Id.* at 1.

<sup>4</sup>*Id.* at 2.

<sup>5</sup>*Id.* at 3.

<sup>6</sup>Minutepoll petition at 2.

<sup>7</sup>*Id.*

<sup>8</sup>These calls are "telemarketing" calls covered by the TSR because they induce the purchase of medical goods or services.

<sup>9</sup>Silverlink petition at 2; medSage petition at 3.

<sup>1</sup>The Commission believes that the medSage and Minutepoll requests for additional time after a final rule is promulgated for businesses to bring themselves into compliance is premature, since this issue can be addressed best when the final rule is issued.