

Dated: August 31, 2010.

Jeffrey Tribiano,

Acting Administrator, Food and Nutrition Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2010-0852; Directorate Identifier 2010-NM-005-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A330-200 and -300 and A340-200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A debonding area was detected on the RH [right-hand] elevator of an A340 in-service aeroplane during a scheduled maintenance task inspection.

Investigation has revealed that this debonding may have been caused by water ingress and, if not detected and corrected, might compromise the structural integrity of the elevators [and could result in reduced controllability of the airplane].

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 25, 2010.

ADDRESSES: You may send comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Fax:** (202) 493-2251.
- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- **Hand Delivery:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between

9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; e-mail airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2010-0852; Directorate Identifier 2010-NM-005-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

We will post all comments we receive, without change, to [http://](http://www.regulations.gov)

www.regulations.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On September 29, 2005, we issued AD 2005-20-32, Amendment 39-14329 (70 FR 59263, October 12, 2005). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2005-20-32, we have determined that the existing inspection of the upper and lower elevator skin panels needs to be a repetitive inspection in order to adequately address the identified unsafe condition. We have also added airplane models to the applicability of this proposed AD, and we have identified additional affected elevators in Table 1 of this proposed AD. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009-0255, dated December 1, 2009 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

A debonding area was detected on the RH [right-hand] elevator of an A340 in-service aeroplane during a scheduled maintenance task inspection.

Investigation has revealed that this debonding may have been caused by water ingress and, if not detected and corrected, might compromise the structural integrity of the elevators [and could result in reduced controllability of the airplane].

DGAC [Direction Générale de l'Aviation Civile] France AD F-2004-118 R1 (EASA approval N. 2004-10125) required a one-time inspection of elevators skin panels installed on MSN up to 091, to detect potential liquid ingress and repair as necessary, in accordance with Airbus inspection service bulletins (ISB) A330-55-3032 and A340-55-4029.

Following the AD issuance, further in-service experience has shown that in order to ensure the structural integrity of all A330/A340 elevators skin panels with sandwich construction (excluding A340-500/-600), it is necessary to perform the same elevators panels inspection and to repair as necessary, but in a repetitive manner.

The aim of this AD, which supersedes DGAC France AD F-2004-118 R1, is to require this additional inspection program in order to maintain the structural integrity of the elevators.

The required actions include repetitive special detailed inspections and repetitive re-protection of the elevator assembly. The special detailed inspections consist of the following actions:

- Repetitive endoscopic inspections for damage (such as a scratch, disbonding, or a tear) of the inner skin of the upper and lower elevator panels on both sides of the airplane, and if any damage is found, contacting Airbus for instructions and doing the instructions.
- Repetitive tap tests for debonding in the inner side of the upper and lower elevator panels on both sides, and if any debonding is found, contacting Airbus for instructions and doing the instructions.
- Repetitive thermographic inspections for indications of trapped water in the upper and lower elevator panels on both sides of the airplane, and if any indications of trapped water are found, doing applicable corrective actions (including, but not limited to, repeating the thermographic inspection to determine the size of the damaged area, doing a general visual inspection to determine if there is an existing repair, contacting Airbus for instructions and doing the instructions, re-protecting the affected surfaces, and repairing holes).

- Repetitive re-protect the elevator assembly (including doing a general visual inspection to determine damage and repair if necessary, a general visual inspection to determine if the drainage holes are clean and not obstructed and cleaning the drainage holes if necessary, a general visual inspection to determine the status of the static discharges contour and sealing the static discharges contour if necessary, and installing front spar access hole covers).

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletins A330-55-3039 and A340-55-4035, both including Appendix 1, both dated August 7, 2009. The actions described in the service information are intended to correct the unsafe condition identified in the MCAI.

Explanation of Change to This AD

We have removed the "Service Bulletin Reference" paragraph from the "Restatement of Requirements of AD 2005-20-32" section of this AD. That paragraph was identified as paragraph (f) in AD 2005-20-32. Instead, we have provided the full service bulletin citations throughout this AD.

Change to Existing AD

This proposed AD would retain the requirements of AD 2005-20-32. Since AD 2005-20-32 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a

result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2005-20-32	Corresponding requirement in this proposed AD
paragraph (f)(1) paragraph (f)(2) paragraph (g) paragraph (h) paragraph (i)	paragraph (g) paragraph (h) paragraph (i) paragraph (j) paragraph (k)

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 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 proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 56 products of U.S. registry.

The actions that are required by AD 2005-20-32 and retained in this proposed AD take about 1 work-hour per product, at an average labor rate of \$85 per work hour. Based on these figures, the estimated cost of the currently required actions is \$85 per product.

We estimate that it would take about 14 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is

\$85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$66,640, or \$1,190 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 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 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. 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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 FAA amends § 39.13 by removing Amendment 39-14329 (70 FR 59263, October 12, 2005) and adding the following new AD:

Airbus: Docket No. FAA-2010-0852; Directorate Identifier 2010-NM-005-AD.

Comments Due Date

(a) We must receive comments by October 25, 2010.

Affected ADs

(b) This AD supersedes AD 2005-20-32, Amendment 39-14329.

Applicability

(c) This AD applies to Airbus Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes, and A340-211, -212, -213, -311, -312, and -313 airplanes; certificated in any category; all manufacturer serial numbers, if equipped with any of the elevator part numbers (P/N) identified in Table 1 of this AD (“ZZ” indicates a number from 00 up to 99 inclusive).

TABLE 1—ELEVATOR PART NUMBERS

For the left-hand elevator	For the right-hand elevator
P/N F5528000000ZZ	P/N F5528000001ZZ
P/N F5528000002ZZ	P/N F5528000003ZZ
P/N F5528000004ZZ	P/N F5528000005ZZ
P/N F5528000006ZZ	P/N F5528000007ZZ

TABLE 1—ELEVATOR PART NUMBERS—Continued

For the left-hand elevator	For the right-hand elevator
P/N F5528000008ZZ	P/N F5528000009ZZ
P/N F5528000012ZZ	P/N F5528000013ZZ
P/N F5528000200ZZ	P/N F55280002001ZZ
P/N F5528000500ZZ	P/N F55280005001ZZ
P/N F55280005002ZZ	P/N F55280005003ZZ
P/N F55280005004ZZ	P/N F55280005005ZZ

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

A debonding area was detected on the RH [right-hand] elevator of an A340 in-service aeroplane during a scheduled maintenance task inspection.

Investigation has revealed that this debonding may have been caused by water ingress and, if not detected and corrected, might compromise the structural integrity of the elevators [and could result in reduced controllability of the airplane].

Compliance

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

Restatement of Requirements of AD 2005-20-32

Service Bulletin Exceptions for Airbus Service Bulletin A330-55-3032 and Airbus Service Bulletin A340-55-4029

(g) Where Airbus Service Bulletin A330-55-3032 and Airbus Service Bulletin A340-

55-4029, both dated December 22, 2003, recommend contacting Airbus for appropriate action: Before further flight, repair the condition according to a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the Direction Générale de l’Aviation Civile (or its delegated agent), or EASA (or its delegated agent).

(h) Although Airbus Service Bulletin A330-55-3032 and Airbus Service Bulletin A340-55-4029, both dated December 22, 2003, specify to submit certain information to the manufacturer, this AD does not include that requirement.

Determining Part Number, Serial Number

(i) For Model A330-201, -202, -203, -223, -243, -301, -321, -322, -323, -341, -342, and -343 airplanes; and Model A340-211, -212, -213, -311, -312, and -313 airplanes: At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD, perform an inspection to determine the part number and serial number of the left- and right-hand elevator assemblies. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of each elevator assembly can be conclusively determined from that review. If neither elevator assembly has a part number and serial number combination identified in Table 2 of this AD, no further action is required by this paragraph. If either elevator assembly has a part number and serial number combination identified in Table 2 of this AD, do paragraph (j) of this AD. Doing the actions in paragraph (k) of this AD terminates the requirements of paragraph (i) of this AD.

(1) Within 10 years after the date of the first flight of the airplane, or before the accumulation of 12,000 total flight cycles, whichever is first.

(2) Within 18 months after the November 16, 2005 (the effective date of AD 2005-20-32).

TABLE 2—AFFECTED ELEVATOR PART NUMBERS AND SERIAL NUMBERS IN AD 2005-20-32

Part	Affected part numbers	Affected serial numbers
Left-hand elevator assembly	F5528000000, F5528000004	CG1002 through CG1091 inclusive, CG1093, CG1094, CG2001.
Right-hand elevator assembly	F5528000001, F5528000005	CG1002 through CG1094 inclusive, CG2001.

Inspections

(j) For Model A330-201, -202, -203, -223, -243, -301, -321, -322, -323, -341, -342, and -343 airplanes; and Model A340-211, -212, -213, -311, -312, and -313 airplanes: If the left- or right-hand elevator assembly has a part number and serial number combination identified in Table 2 of this AD, before further flight after accomplishing paragraph (i) of this AD, do the actions in paragraphs (j)(1), (j)(2), and (j)(3) of this AD, as applicable. Doing the actions in paragraph (k) of this AD terminates the requirements of paragraph (j) of this AD.

(1) Perform an endoscopic inspection to detect damage (such as a scratch, disbonding, or a tear), and a tap test and a thermographic inspection to detect signs of moisture penetration, to the upper and lower elevator panels on both sides of the airplane, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-55-3032 (for Model A330-201, -202, -203, -223, -243, -301, -321, -322, -323, -341, -342, and -343 airplanes), or Airbus Service Bulletin A340-55-4029 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes), both dated December 22, 2003, as

applicable, except as provided by paragraphs (g) and (h) of this AD.

(2) If any damage is found, before further flight, do all applicable corrective actions (including, but not limited to, repeating the thermographic inspection to determine the size of the damaged area, and performing a tap test around the areas where moisture is indicated), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-55-3032 (for Model A330-201, -202, -203, -223, -243, -301, -321, -322, -323, -341, -342, and -343 airplanes), or Airbus Service Bulletin A340-

55-4029 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes) both dated December 22, 2003, as applicable, except as provided by paragraphs (g) and (h) of this AD.

(3) Re-protect the elevator assembly (including performing a general visual inspection to determine if the drainage holes are clean, a general visual inspection to determine the condition of the sealant covering the static discharges contour, and applicable corrective actions), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330-55-3032 (for Model A330-201, -202, -203, -223, -243, -301, -321, -322, -323, -341, -342, and -343 airplanes), or Airbus Service Bulletin A340-55-4029 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes), both dated December 22, 2003, as applicable, except as provided by paragraphs (g) and (h) of this AD.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

New Requirements of This AD

Repetitive Inspection

(k) Within the applicable time in paragraph (k)(1) or (k)(2) of this AD, do a special detailed inspection for discrepancies (scratches, debonding, tears, and indications of trapped water), on the elevator upper and lower skin panels, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-55-3039 (for Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes), or A340-55-4035 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes), both dated August 7, 2009. Repeat the inspections thereafter at intervals not to exceed 72 months from the date of the elevator's first flight after the last inspection. Doing the special detailed inspection specified in this paragraph terminates the requirements of paragraphs (i) and (j) of this AD.

(1) For elevators identified in Table 1 of this AD that have not been inspected in accordance with Airbus Service Bulletin A330-55-3032 (for Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes), or Airbus Service Bulletin A340-55-4029

(for Model A340-211, -212, -213, -311, -312, and -313 airplanes): Within 144 months since the date of the elevator's first flight on any airplane, or within 24 months after the effective date of this AD, whichever occurs later.

(2) For elevators identified in Table 1 of this AD that have been inspected in accordance with Airbus Service Bulletin A330-55-3032 (for Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes), or Airbus Service Bulletin A340-55-4029 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes): Within 72 months since the date of the elevator's first flight on any airplane after accomplishing Airbus Service Bulletin A330-55-3032, or Airbus Service Bulletin A340-55-4029, or within 24 months after the effective date of this AD, whichever occurs later.

Corrective Action

(l) If any discrepancy is found during any inspection required by paragraph (k) of this AD, before further flight, do all applicable corrective actions (including applicable inspections and repair), in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-55-3039 (for Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes) or A340-55-4035 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes), both dated August 7, 2009; or contact Airbus for instructions and follow their corrective actions.

Re-Protection

(m) For elevators on which any action required by paragraph (k) or (l) of this AD is done: Before the elevator's next flight, do a re-protection (including all applicable inspections and corrective actions), in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-55-3039 (for Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes), or A340-55-4035 (for Model A340-211, -212, -213, -311, -312, and -313 airplanes), both dated August 7, 2009.

Reporting

(n) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (k) of this AD to Airbus, as specified in Appendix 1 of Airbus Mandatory Service Bulletin A330-55-3039, dated August 7, 2009; or Airbus Mandatory Service Bulletin A340-55-4035, dated August 7, 2009; as applicable; at the applicable time specified in paragraph (n)(1) or (n)(2) of this AD. The report must include the information identified in Appendix 1 of Airbus Mandatory Service Bulletin A330-55-3039, dated August 7, 2009; or Airbus Mandatory Service Bulletin A340-55-4035, dated August 7, 2009; as applicable.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(o) As of the effective date of this AD, do not install any elevator identified in Table 1 of this AD on any airplane, unless the elevator has been inspected in accordance with paragraph (l) of this AD and all applicable corrective actions have been done.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, Transport Airplane Directorate, 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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 (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

(q) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009-0255, dated December 1, 2009; and the service bulletins listed in Table 3 of this AD, for related information.

TABLE 3—SERVICE BULLETINS

Document	Date
Airbus Mandatory Service Bulletin A330-55-3039, including Appendix 1	August 7, 2009.
Airbus Mandatory Service Bulletin A340-55-4035, including Appendix 1	August 7, 2009.

TABLE 3—SERVICE BULLETINS—Continued

Document	Date
Airbus Service Bulletin A330–55–3032	December 22, 2003.
Airbus Service Bulletin A340–55–4029	December 22, 2003.

Issued in Renton, Washington, on August 30, 2010.

Ali Bahrami,

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

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742, 744, and 746

[Docket No. 100719301–0303–02]

Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BIS is seeking public comments on how existing foreign policy-based export controls have affected exporters and the general public.

DATES: Comments must be received by October 8, 2010.

ADDRESSES: Comments may be sent by e-mail to publiccomments@bis.doc.gov or on paper to Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Include the phrase “FPBEC Comment” in the subject line of the e-mail message or on the envelope if submitting comments on paper. All comments must be in writing (either e-mail or on paper). All comments, including Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter will be a matter of public record and will be available for public inspection and copying. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Director, Foreign Policy Division, Office

of Nonproliferation Controls and Treaty Compliance, Bureau of Industry and Security, telephone 202–482–4252. Copies of the current Annual Foreign Policy Report to the Congress are available at http://www.bis.doc.gov/news/2010/2010_fpreport.pdf and copies may also be requested by calling the Office of Nonproliferation and Treaty Compliance at the number listed above.

SUPPLEMENTARY INFORMATION: Foreign policy-based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended, (50 U.S.C. app. sections 2401–2420 (2000)) (EAA). The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR (15 CFR parts 730–774), including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Other Special Controls). These controls apply to a range of countries, items, activities and persons, including: Entities acting contrary to the national security or foreign policy interests of the United States (§ 744.11); certain general purpose microprocessors for “military end-uses” and “military end-users” (§ 744.17); significant items (SI): Hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (§ 742.15); crime control and detection items (§ 742.7); specially designed implements of torture (§ 742.11); certain firearms and related items based on the Organization of American States Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Munitions included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17); regional stability items (§ 742.6); equipment and related technical data used in the design, development, production, or use of certain rocket systems and unmanned air vehicles (§§ 742.5 and 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production

of chemical and biological agents (§§ 742.2 and 744.4) and various chemicals included on the list of those chemicals controlled pursuant to the Chemical Weapons Convention (§ 742.18); nuclear propulsion (§ 744.5); aircraft and vessels (§ 744.7); restrictions on exports and reexports to certain persons designated as proliferators of weapons of mass destruction (§ 744.8); communication intercepting devices, software and technology (§ 742.13); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.2, 746.4, 746.7, and 746.9); certain entities in Russia (§ 744.10); individual terrorists and terrorist organizations (§§ 744.12, 744.13 and 744.14); certain persons designated by Executive Order 13315 (“Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members”) (§ 744.18); certain sanctioned entities (§ 744.20); and certain cameras to be used by military end-users or incorporated into a military commodity (§ 744.9). Attention is also given in this context to the controls on nuclear-related commodities, technology, end-uses and end-users (§§ 742.3 and 744.2), which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act (42 U.S.C. 2139a).

Under the provisions of section 6 of the EAA, export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of Notice of August 12, 2010 (75 FR 50681 (August 16, 2010)), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, insofar as appropriate, follows the provisions of section 6 of the EAA by reviewing its foreign policy-based export controls, requesting public comments on such controls, and preparing a report to be submitted to