

accordance with part 305 of this chapter.

(j) *Phytosanitary certificate*. Each consignment of Hass avocados imported from Peru into the United States must be accompanied by a phytosanitary certificate issued by the NPPO of Peru with an additional declaration stating that the avocados in the consignment were grown, packed, and inspected and found to be free of pests in accordance with the requirements of 7 CFR 319.56–48. In addition:

(1) If the avocados were produced in an area free of *A. fraterculus* and *A. striata*, the phytosanitary certificate must state that the avocados in this consignment were produced in an area designated as free of *A. fraterculus* and *A. striata* in accordance with 7 CFR 319.56–5.

(2) If the avocados were produced in an area free of *C. capitata*, the phytosanitary certificate must state that the avocados in this consignment were produced in an area designated as free of *C. capitata* in accordance with 7 CFR 319.56–5.

(3) If the avocados have been treated for *C. capitata* prior to export, the phytosanitary certificate must state that the avocados in the consignment have been treated for *C. capitata* in accordance with 7 CFR part 305.

Done in Washington, DC, this 31st day of December 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–31474 Filed 1–6–09; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2008–1365; Directorate Identifier 2008–NM–076–AD]

**RIN 2120–AA64**

#### **Airworthiness Directives; Airbus Model A319, A320, and A321 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. 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: In 2005 a lateral runway excursion occurred on an A320 aircraft. Such excursions are classified as hazardous, with a large reduction in safety margins. Investigation has shown that the aircraft landed with the nose wheels rotated nearly 20 degrees from center. During subsequent tests on the removed BSCU [Braking and Steering Control Unit], a BSCU hardware failure was found, affecting the monitoring function, including the system reconfiguration management, and leading to a runaway of [the] Nose Wheel Steering [uncommanded steering]. An uncommanded steering condition during takeoff or landing could result in departure of the airplane from the runway. 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 February 6, 2009.

**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.

#### **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:** Tim Dulin, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; 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–2008–1365; Directorate Identifier 2008–NM–076–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 will post all comments we receive, without change, to <http://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**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0048, dated February 28, 2008 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

In 2005 a lateral runway excursion occurred on an A320 aircraft. Such excursions are classified as hazardous, with a large reduction in safety margins. Investigation has shown that the aircraft landed with the nose wheels rotated nearly 20 degrees from center. During subsequent tests on the removed BSCU [Braking and Steering Control Unit], a BSCU hardware failure was found, affecting the monitoring function, including the system reconfiguration management, and leading to a runaway of [the] Nose Wheel Steering [uncommanded steering].

DGAC [Direction Générale de l’Aviation Civile] Airworthiness Directive (AD) F–1992–117–025(B), Revision 1 [which corresponds to FAA AD 94–24–07], mandated the BSCU upgrade in order to improve the steering logic, but this modification has shown not to be sufficient to address the identified failure mechanism.

A software modification is now implemented in BSCU standard 10 which improves the system reconfiguration management when this failure mechanism is detected.

BSCU standard 10 also includes other improvements—as detailed in the associated Service Bulletin.

This AD therefore mandates the modification or replacement of the BSCU standard 7, 9 or 9.1, by the BSCU standard 10.

This AD also requires replacement of certain DUNLOP tires that are not compatible with BSCU standard 10. An uncommanded steering condition

during takeoff or landing could result in departure of the airplane from the runway. You may obtain further information by examining the MCAI in the AD docket.

#### Relevant Service Information

Airbus has issued Mandatory Service Bulletin A320–32–1336, Revision 01, dated January 10, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### Other Relevant Rulemaking

On November 21, 1994, we issued AD 94–24–07, amendment 39–9080 (59 FR 62998 December 7, 1994). That AD applies to certain Airbus Model A320 series airplanes, line numbers 001 through 813 inclusive. That AD requires modification of the brake steering control unit (BSCU). That AD resulted from reports that the BSCU on Model A320 airplanes allowed a 90-degree rotation of the nose gear after landing, which resulted in significant damage to the wheels. The actions specified by that AD are intended to prevent failure of the nose gear tires and wheels and the loss of directional control of the airplane while it is on the ground. The actions required by this proposed AD terminate the modification required by AD 94–24–07.

#### 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 591 products of U.S. registry. We also estimate that it would take about 3 work hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$141,840, or \$240 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 adding the following new AD:

**Airbus:** Docket No. FAA–2008–1365; Directorate Identifier 2008–NM–076–AD.

#### Comments Due Date

(a) We must receive comments by February 6, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133; A320–111, –211, –212, –214, –231, –232, and –233; and A321–111, –112, –131, –211, –212, –213, –231, and –232 series airplanes; certificated in any category; equipped with one conventional pre-Enhanced Manufacture and Maintainability (pre-EMM) Braking and Steering Control Unit (BSCU), having the part numbers specified in paragraphs (c)(1), (c)(2), or (c)(3) of this AD.

(1) C20216332292C (standard 7) installed by Airbus Modification 24449 in production, or by Airbus Service Bulletin A320–32–1124 in service.

(2) C202163372D32 (standard 9) installed by Airbus Modification 31106 in production, or by Airbus Service Bulletin A320–32–1227 or A320–32–1232 in service.

(3) C202163382D32 (standard 9.1) installed by Airbus Modification 32500 in production, or by Airbus Service Bulletin A320–32–1254 in service.

#### Subject

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

#### Reason

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

In 2005 a lateral runway excursion occurred on an A320 aircraft. Such excursions are classified as hazardous, with a large reduction in safety margins. Investigation has shown that the aircraft landed with the nose wheels rotated nearly 20 degrees from center. During subsequent tests on the removed BSCU [Braking and Steering Control Unit], a BSCU hardware failure was found, affecting the monitoring function, including the system reconfiguration management, and leading to a runaway of [the] Nose Wheel Steering [uncommanded steering].

DGAC [Direction Générale de l'Aviation Civile] Airworthiness Directive (AD) F-1992-117-025(B), Revision 1 [which corresponds to FAA AD 94-24-07], mandated the BSCU upgrade in order to improve the steering logic, but this modification has shown not to be sufficient to address the identified failure mechanism.

A software modification is now implemented in BSCU standard 10 which improves the system reconfiguration management when this failure mechanism is detected.

BSCU standard 10 also includes other improvements—as detailed in the associated Service Bulletin.

This AD therefore mandates the modification or replacement of the BSCU standard 7, 9 or 9.1, by the BSCU standard 10.

This AD also requires replacement of certain DUNLOP tires that are not compatible with BSCU standard 10. An uncommanded steering condition during takeoff or landing could result in departure of the airplane from the runway.

#### Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 18 months after the effective date of this AD: Modify or replace the BSCU in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A320-32-1336, Revision 01, dated January 10, 2008; and inspect the airplane to determine if DUNLOP tires 46x16-20 having part number (P/N) 11659 T or 11661 T are installed. If those tires are installed, before further flight, replace with acceptable tires using a method approved by either the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). Accomplishment of the applicable requirements in this paragraph terminates the requirements of AD 94-24-07, amendment 39-9080.

(2) Previous accomplishment of the modification or replacement of the BSCU before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A320-32-1336, dated September 19, 2007, meets the requirements of paragraph (f)(1) of this AD.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: Although the MCAI and service information do not provide procedures for replacing the tires as specified in paragraph (f)(1) of this AD, this

AD requires that you replace the tires using a method approved by either the Manager, International Branch, ANM-116, FAA, or the EASA (or its delegated agent).

#### Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, 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:* Tim Dulin, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2141; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2008-0048, dated February 28, 2008, and Airbus Mandatory Service Bulletin A320-32-1336, Revision 01, dated January 10, 2008, for related information.

Issued in Renton, Washington, on December 18, 2008.

**Stephen P. Boyd,**

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

[FR Doc. E9-30 Filed 1-6-09; 8:45 am]

**BILLING CODE 4910-13-P**

#### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2008-8]

#### Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking; correction.

**SUMMARY:** The Copyright Office published in the Federal Register on December 29, 2008, a notice pertaining to its triennial rulemaking proceeding in accordance with a provision of the Copyright Act which was added by the Digital Millennium Copyright Act and which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumvention of technological measures that control access to copyrighted works. This document makes technical corrections to clarify the record of the proposed rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Rob Kasunic, Principal Legal Advisor, Office of the General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024-0400. Telephone (202) 707-8380; telefax (202) 707-8366.

**SUPPLEMENTARY INFORMATION:** The Copyright Office published in the Federal Register on December 29, 2008, a notice of proposed rulemaking pertaining to the fourth triennial rulemaking proceeding required by § 1201(a)(1)(C) of the Copyright Act. The notice contained a list of the proposed classes of work that the Office will consider for exemption from the prohibition against circumvention of technological measures that control access to copyrighted works. As published, the notice contained errors which could be misleading and/or require clarification.

#### Correction

In the Federal Register of December 29, 2008, in Docket No. RM 2008-8, make the following corrections:

1. On page 79425, in the third column, in the “ADDRESSES” section, line 12, the website address is corrected to read “<http://www.copyright.gov/1201/comment-forms>”.

2. On page 79427, in the first column, paragraph 7 is corrected to read:

“Computer programs” [for forensic analysis]. Proponent: Glenn Pannenberg.

3. On page 79427, in the third column, the third paragraph, line 6, the word “proceeding” is corrected to read “preceding”.

Dated: January 2, 2009.

**David O. Carson,**  
*General Counsel.*

[FR Doc. E9-61 Filed 1-6-09; 8:45 am]

**BILLING CODE 1410-30-S**