

because it addresses an unsafe condition that is likely to exist or develop on products identified in this AD.

### 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 the 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 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):

**2004-25-07 Airbus:** Amendment 39-13895. Docket No. FAA-2004-19816; Directorate Identifier 2004-NM-231-AD.

#### Effective Date

(a) This AD becomes effective December 27, 2004.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to Airbus Model A330 and A340 series airplanes, certificated in any category; on which Airbus Modification 47244 (reference Airbus Service Bulletin

A330-34-3120 or A340-34-4138) has been done, and on which Airbus Modification 52423 has not been done.

### Unsafe Condition

(d) This AD was prompted by a report indicating that an airplane lost the integrated standby instrument system (ISIS), then, during the same flight, lost all electronic instrument system (EIS) display units. The FAA is issuing this AD to prevent loss of the ISIS, which, if combined with loss of all EIS display units, could reduce the flightcrew's situational awareness and contribute to loss of control of the airplane or impact with obstacles or terrain.

### 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.

### Requirement for Complete Electrical Shutdown

(f) Within 3 days after the effective date of this AD, or within 5 days after the last ISIS reset or complete electrical shutdown of the airplane, whichever is first, perform a complete electrical shutdown of the airplane to reset the ISIS. Repeat the electrical shutdown of the airplane at intervals not to exceed 5 days, until the actions in paragraph (g) of this AD are done.

**Note 1:** This AD does not allow resetting the circuit breaker as a means of resetting the ISIS.

### Optional Terminating Action

(g) Replacing the existing ISIS, part number (P/N) C16221DB04, with an improved ISIS, P/N C16221WA01, in accordance with Airbus Service Bulletin A330-34-3141 (for Airbus Model A330 series airplanes), A340-34-4145 (for Airbus Model A340-200 and -300 series airplanes), or A340-34-5016 (for Airbus Model A340-541 and -642 airplanes); all dated June 8, 2004; as applicable; terminates the requirements of paragraph (f) of this AD.

**Note 2:** Airbus Service Bulletins A330-34-3141, A340-34-4145, and A340-34-5016 refer to Thales Service Bulletin C16221D-34-002 as an additional source of service information.

### 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 Emergency Airworthiness Directive UF-2004-167, dated October 19, 2004, also addresses the subject of this AD.

### Material Incorporated by Reference

(j) If the optional terminating action in paragraph (g) of this AD is accomplished, you must use Airbus Service Bulletin A330-34-3141, dated June 8, 2004; Airbus Service Bulletin A340-34-4145, dated June 8, 2004; or Airbus Service Bulletin A340-34-5016,

dated June 8, 2004; as applicable; to perform the actions that are specified in paragraph (g) of this AD. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. You can review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at 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 November 30, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-26791 Filed 12-8-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19556; Directorate Identifier 2004-CE-37-AD; Amendment 39-13887; AD 2004-24-11]

RIN 2120-AA64

### Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Model Duo-Discus Gliders

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Schempp-Hirth (SCHEMPP-HIRTH) Flugzeugbau GmbH Model Duo-Discus gliders. This AD requires you to do a one-time inspection of the bonding of the spar cap and spar web and repair any defective bonding of the spar cap and spar web. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct failure of the bonding of the spar cap and spar web, which, if not detected and corrected, could result in an in-flight wing failure.

**DATES:** This AD becomes effective on December 30, 2004.

As of December 30, 2004, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by January 3, 2005.

**ADDRESSES:** Use one of the following to submit comments on this 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 20590-001.

- *Fax:* 1-202-493-2251.

- *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.

To get the service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Postfach 1443, 73222 Kirchheim/Teck, Federal Republic of Germany; telephone: 49 7021 7298-0; facsimile: 49 7021 7298-199.

To view the comments to this AD, go to <http://dms.dot.gov>. The docket number is FAA-2004-19556.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Davison, Aerospace Engineer, FAA, Small Airplane Directorate, Room 301, 901 Locust, Kansas City, Missouri 64106; telephone: (816) 329-4130; facsimile: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

*What events have caused this AD?* The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, reported to FAA that an in-flight failure of the wing structure at maneuvering loads had occurred on a SCHEMPP-HIRTH Model Duo-Discus glider within the serial number range of 165 through 389. Analysis indicated failure in the bonding of the spar cap and spar web.

This condition caused us to issue AD 2003-16-51, Amendment 39-13282 (68 FR 50055, August 20, 2003). AD 2003-16-51 requires you to do a one-time inspection of the bonding of the spar cap and spar web and repair any defective bonding of the spar cap and spar web.

The LBA notified us of additional reports of bonding problems of the spar cap and spar web on Model Duo-Discus gliders, serial numbers 1 through 164.

*What is the potential impact if FAA took no action?* This condition, if not detected and corrected, could cause the

spar cap and spar web to fail. This failure could result in an in-flight wing failure.

*Is there service information that applies to this subject?* SCHEMPP-HIRTH has issued Technical Note No. 396-9, dated January 30, 2004, and Appendix to Technical Note No. 396-9, dated January 30, 2004.

*What are the provisions of this service information?* This service information includes procedures for:

- Inspecting the bonding of the spar cap and spar web; and

- Repairing any defective bonding of the spar cap and spar web.

*What action did the LBA take?* The LBA classified this service information as mandatory and issued German AD Number D-2004-084, dated February 4, 2004, to ensure the continued airworthiness of these gliders in Germany.

*Did the LBA inform the United States under the bilateral airworthiness agreement?* These SCHEMPP-HIRTH Model Duo-Discus gliders are manufactured in Germany 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.

Under this bilateral airworthiness agreement, the LBA has kept us informed of the situation described above.

**FAA's Determination and Requirements of This AD**

*What has FAA decided?* We have examined the LBA's findings, reviewed all available information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described previously is likely to exist or develop on these SCHEMPP-HIRTH Model Duo-Discus gliders (serial numbers 1 through 164) of the same type design that are registered in the United States, we are issuing this AD to detect and correct failure of the bonding of the spar cap and spar web, which if not detected and corrected, could result in an in-flight wing failure.

*What does this AD require?* This AD requires you to incorporate the actions in the previously-referenced service bulletin.

*How does the revision to 14 CFR part 39 affect this AD?* On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This

regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

**Comments Invited**

*Will I have the opportunity to comment before you issue the rule?* This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include the docket number, "FAA-2004-19556; Directorate Identifier 2004-CE-37-AD" at the beginning of your 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 AD.

Using the search function of our docket Web site, anyone can find and read the comments received into 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.). This is docket number FAA-2004-19556. 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>.

*Are there any specific portions of this AD I should pay attention to?* We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this AD in light of those comments and contacts.

**Docket Information**

*Where can I go to view the docket information?* You may view the AD docket that contains the AD, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located on the plaza level

of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. You may also view the AD docket on the Internet at <http://dms.dot.gov>. The comments will be available in the AD docket shortly after the DMS receives them.

**Regulatory Findings**

*Will this AD impact various entities?*  
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.

*Will this AD involve a significant rule or regulatory action?* 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 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 summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of

this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA-2004-19556; Directorate Identifier 2004-CE-37-AD" in your request.

This rulemaking is promulgated under the authority in Subtitle VII, Part A, Subpart III, Section 44701, General requirements. Under that section, the FAA is charged with prescribing minimum standards required in the interest of safety for the design of aircraft. This regulation is within the scope of that authority since it corrects an unsafe condition in the design of the aircraft caused by defective bonding of the spar cap to the spar web.

**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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2004-24-11 Schempp-Hirth Flugzeugbau GmbH:** Amendment 39-13887; Docket No. FAA-2004-19556; Directorate Identifier 2004-CE-37-AD.

**When Does This AD Become Effective?**

(a) This AD becomes effective on December 30, 2004.

**Are Any Other ADs Affected by This Action?**

(b) None.

**What Gliders Are Affected by This AD?**

(c) This AD affects Model Duo-Discus gliders, serial numbers 1 through 164, that are certificated in any category

**What Is the Unsafe Condition Presented in This AD?**

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct failure of the bonding of the spar cap and spar web, which, if not detected and corrected, could result in an in-flight failure of the wing.

**What Must I Do To Address This Problem?**

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) Inspect the bonding between the spar cap and the spar web for defects.	Within the next 10 hours time-in-service (TIS) after December 30, 2004 (the effective date of this AD).	Follow SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Technical Note No. 396-9, dated January 30, 2004; and SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Appendix to Technical Note No. 396-9, dated January 30, 2004.
(2) Repair any defect in the bonding between the spar cap and the spar web.	Prior to further flight after the inspection required by paragraph (e)(1) of this AD.	Follow SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Technical Note No. 396-9, dated January 30, 2004; SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Appendix to Technical Note No. 396-9, dated January 30, 2004; and the applicable maintenance manual.

**May I Request an Alternative Method of Compliance?**

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Gregory Davison, Aerospace Engineer, FAA, Small Airplane Directorate, Room 301, 901 Locust, Kansas City, Missouri 64106; telephone: (816) 329-4130; facsimile: (816) 329-4090.

**Is There Other Information That Relates to This Subject?**

(g) German AD Number D-2004-084, dated February 4, 2004, also addresses the subject of this AD.

**Does This AD Incorporate Any Material by Reference?**

(h) You must do the actions required by this AD following the instructions in SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Technical Note No. 396-9, dated January 30, 2004; and SCHEMPP-HIRTH Flugzeugbau GmbH. Kircheim/Teck Appendix to Technical Note No. 396-9, dated January 30, 2004. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR

part 51. To get a copy of this service information, contact Schempp-Hirth Flugzeugbau GmbH, Postfach 1443, 73222 Kircheim/Teck, Federal Republic of Germany; telephone: 49 7021 7298-0; facsimile: 49 7021 7298-199. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, 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) or call (202) 741-6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001 or on the Internet at <http://>

*dms.dot.gov*. The docket number is FAA–2004–19556.

Issued in Kansas City, Missouri, on November 26, 2004.

**James E. Jackson,**

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

[FR Doc. 04–26640 Filed 12–8–04; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR parts 732, 734, 740, 742, 744, and 772

[Docket No. 041022290–4290–01]

RIN 0694–AD19

#### Encryption Export and Reexport Controls Revisions

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule revises: the criteria for determining if a foreign made item incorporating U.S. origin encryption is subject to the Export Administration Regulations; the notification requirements for beta test encryption software and certain “publicly available” encryption software; and the review and reporting requirements for exports and reexports of certain encryption items under License Exception ENC that are neither “publicly available” nor eligible for “mass market” treatment. It also makes technical changes.

**DATES:** This rule is effective December 9, 2004.

**ADDRESSES:** Send comments concerning this rule via e-mail to *ripd2@bis.doc.gov*, fax to (202) 482–3355 or to Regulatory Policy Division, Bureau of Industry and Security, Room 2705, U.S. Department of Commerce, Washington, DC 20230. Refer to regulatory identification number 0694–AD19 in all comments.

**FOR FURTHER INFORMATION CONTACT:** Norman LaCroix, Director, Information Technology Controls Division, Office of National Security and Technology Transfer Controls, (202) 482–4439.

**SUPPLEMENTARY INFORMATION:** This rule removes the requirement to make a separate request for *de minimis* eligibility when submitting a review request for some encryption commodities and software under License Exception ENC. Foreign made items incorporating U.S. origin encryption items that have met specified notification or review

requirements under mass market, License Exception TSU or License Exception ENC procedures will be treated like foreign made items that incorporate other U.S. origin items, in determining *de minimis* eligibility. This rule removes certain reporting requirements in License Exception TMP regarding beta test encryption software. This rule reduces the notification requirements for exports and reexports of certain “publicly available” encryption software that has been posted to the Internet pursuant to License Exception TSU by removing the requirement to notify the U.S. Government of updates or modifications if the Internet location has not changed. This rule simplifies License Exception ENC review requirements for exports and reexports of eligible encryption items, by implementing a uniform 30 day period for most encryption reviews and by clarifying the criteria by which licensing requirements to certain “government end-users” are determined. In connection with this 30 day period associated with the initial U.S. Government technical review of an encryption item, this rule authorizes BIS to, at any time, require additional technical information about an encryption item submitted for review and, if the information is not furnished, to suspend or revoke authorization to use License Exception ENC with respect to the item for which the information is sought. This rule also expands the list of countries to which certain encryption items may be sent immediately, once a review request is submitted to the U.S. Government. The list (Supplement No. 3 to part 740) now covers all current members of the European Union (EU), to include those countries that joined the EU on May 1, 2004. This rule updates and clarifies several encryption review requirements in License Exception ENC and clarifies the definition of the term “hold without action” in the Export Administration Regulations. This rule also makes some technical changes, and revises the e-mail address of the ENC Encryption Request Coordinator from *enc@ncsc.mil* to *enc@nsa.gov* to match the current e-mail address of that organization.

Although this rule is issued in final form and there is no formal comment period, comments on this rule are welcomed on an ongoing basis.

#### Determining When a Foreign Made Item Is Subject to the EAR

Section 734.4 of the EAR describes situations under which foreign made items are not subject to the Export Administration Regulations because the U.S. origin items that they incorporate

are less than a defined “*de minimis*” percentage of their content. This rule removes the requirement for U.S. firms to request eligibility for *de minimis* treatment when submitting their encryption commodity or software for review to obtain authorization for export and reexport under License Exception ENC (§ 740.17 of the EAR). As a result, foreign made items containing most U.S. origin encryption commodities or software that have met the notification, review or determination requirements specified in revised § 734.4(b) are now treated, for purposes of *de minimis* calculations, in the same way as foreign made items that incorporate other U.S. origin dual-use items. However, there is no *de minimis* eligibility for encryption technology controlled under Export Control Classification Number (ECCN) 5E002, or for foreign made items going to a destination in Country Group E:1 when the foreign item contains U.S. origin restricted encryption content described in § 740.17(b)(2) of the EAR (e.g. network infrastructure commodities and software controlled under ECCNs 5A002 and 5D002, cryptanalytic items, and ECCN 5D002 encryption source code that is not “publicly available” as that term is used in License Exception TSU, § 740.13(e)(1) of the EAR). This rule also makes conforming changes to § 732.2(d) to reflect these new *de minimis* procedures.

#### Exports of Beta Test Encryption Software Under License Exception TMP

This rule removes the requirements to report the names and addresses of testing consignees by removing § 740.9(c)(8)(ii). It restructures, but makes no other substantive changes to § 740.9(c)(8). It retains the notification requirements of that paragraph and changes an e-mail address.

#### Exports of Certain “Publicly Available” Encryption Software Under License Exception TSU

For “publicly available” encryption software that has been posted to the Internet after notification to BIS and the ENC Encryption Request Coordinator under § 740.13(e), this rule removes the requirement to provide notice of updates or modifications made to the encryption software at the previously notified location. This rule makes no other substantive changes to this section, but substantially reorganizes it.