

Issued in Renton, Washington, on July 3, 2001.

Vi L. Lipski,

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

[FR Doc. 01-17164 Filed 7-10-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-214-AD; Amendment 39-12328; AD 2001-14-17]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A300 B2 and B4 series airplanes. This action requires a one-time inspection to detect and correct corrosion of the lower bulkhead attachment, and corrective action, if necessary. This action is necessary to detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems. This action is intended to address the identified unsafe condition.

DATES: Effective July 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before August 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-214-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments

sent via fax or the Internet must contain "Docket No. 2001-NM-214-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300 B2 and B4 series airplanes. The DGAC advises of the reported failure of the rear pressure bulkhead on an Airbus Model A300 series airplane during flight, which led to rapid cabin decompression. The rupture occurred at the junction between the pressure bulkhead and the fuselage/frame 80. The main damage was circumferential on the inner and outer rim attachment angles from stringers 48LH to 34RH. The airplane had accumulated approximately 50,000 total flight hours and 25,000 total flight cycles. The initial investigation revealed heavy corrosion on the inner and outer rim attachment angles, which extended underneath the sealant bead covering the junction. The exact cause and sequence of this bulkhead failure is under investigation. Undetected corrosion in this area of the lower bulkhead attachment could significantly affect the structural integrity of the rear pressure bulkhead. This condition, if not corrected, could result in damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems.

Explanation of Relevant Service Information

Airbus has issued All Operators Telex (AOT) A300-53A0361, dated June 14, 2001. The AOT describes procedures for a one-time detailed visual inspection (including the removal of sealant from stringer 27LH to stringer 27RH) to detect corrosion in the area between the cleat

profile and the inner rim attachment angle of the lower bulkhead attachment, and repair if necessary. The DGAC classified this AOT as mandatory and issued French telegraphic airworthiness directive 2001-245(B), dated June 16, 2001, to ensure the continued airworthiness of these airplanes in France.

The AOT refers to Airbus Service Bulletin A300-53-217, Revision 4, dated January 14, 1997, as an additional source of service information for accomplishment of the inspection. The AOT additionally specifies that the sealant be removed before the inspection, which is not specified in the service bulletin.

FAA's Conclusions

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. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems. This AD requires accomplishment of the actions specified in the AOT described previously, except as discussed below.

Differences Between AD and AOT

Operators should note that, although the AOT implies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD,

a repair approved by either the FAA or the DGAC is acceptable for compliance with this AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket 2001-NM-214-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to 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. Section 39.13 is amended by adding the following new airworthiness directive:

2001-14-17 Airbus Industrie: Amendment 39-12328. Docket 2001-NM-214-AD.

Applicability: All Model A300 B2 and B4 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion of the lower bulkhead attachment, which could result in reduced structural integrity of the rear pressure bulkhead and consequent damage to components of the flight control, hydraulic, and auxiliary power unit fuel systems, accomplish the following:

Inspection

(a) At the applicable time specified by paragraph (a)(1) or (a)(2) of this AD: Perform a detailed visual inspection (including the removal of sealant from stringer 27LH to stringer 27RH) to detect corrosion between the cleat profile and the inner rim attachment angle of the lower bulkhead attachment, in accordance with Airbus All Operators Telex (AOT) A300-53A0361, dated June 14, 2001. Perform applicable repair at the applicable time specified by and in accordance with the AOT, except as required by paragraph (b) of this AD.

(1) For airplanes inspected within a year before the effective date of this AD in accordance with Airbus Service Bulletin A300-53-217, Revision 4, dated January 14, 1997, and for which no corrosion was detected: Inspect within 4 weeks after the effective date of this AD.

(2) For airplanes not identified in paragraph (a)(1) of this AD: Inspect within 2 weeks after the effective date of this AD.

Note 2: The AOT refers to Airbus Service Bulletin A300-53-217, Revision 4, dated January 14, 1997, as an additional source of service information for accomplishment of the inspection required by paragraph (a) of this AD.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(b) If corrosion is found during the inspection required by this AD, and the AOT indicates that operators are to contact Airbus for appropriate action: Repair in accordance with a method approved by either the Manager, International Branch, ANM-116,

FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD: The actions shall be done in accordance with Airbus All Operators Telex A300-53A0361, dated June 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French telegraphic airworthiness directive 2001-245(B), dated June 16, 2001.

Effective Date

(f) This amendment becomes effective on July 26, 2001.

Issued in Renton, Washington, on July 3, 2001.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-17165 Filed 7-10-01; 8:45 am]

BILLING CODE 4910-13-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 274

[Release No. IC-25058; File No. S7-21-99]

RIN 3235-AH56

Treatment of Repurchase Agreements and Refunded Securities as an Acquisition of the Underlying Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting a new rule and related rule amendments under the Investment Company Act of 1940 that affect the ability of investment companies to invest in repurchase agreements and pre-refunded bonds under the Act. The final rule codifies and updates staff positions that have permitted investment companies to “look through” counterparties to certain repurchase agreements and issuers of municipal bonds that have been “refunded” with U.S. government securities and treat the securities comprising the collateral as investments for certain purposes under the Act.

EFFECTIVE DATE: August 15, 2001.

FOR FURTHER INFORMATION CONTACT:

Hugh Lutz, Attorney, or Martha B. Peterson, Special Counsel, Office of Regulatory Policy, at (202) 942-0690, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549-0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting new rule 5b-3 [17 CFR 270.5b-3] and conforming amendments to rules 2a-7 [17 CFR 270.2a-7] and 12d3-1 [17 CFR 270.12d3-1] under the Investment Company Act of 1940 [15 U.S.C. 80a] (“Investment Company Act” or “Act”).¹

Table of Contents

Executive Summary

I. Background

II. Discussion

A. Qualifying Repurchase Agreements

1. Acceptable Types of Collateral

2. Bankruptcy Treatment

3. Evaluating the Creditworthiness of Counterparties

B. Treatment of Pre-Refunded Bonds

C. Availability of Rule 12d3-1 for

¹ Unless otherwise noted, all references to rule 2a-7 or rule 12d3-1, or to any paragraph of those rules, will be to 17 CFR 270.2a-7 and 17 CFR 270.12d3-1, respectively.

Repurchase Agreements

D. Conforming Amendments to Rule 2a-7

III. Effective Date

IV. Cost-Benefit Analysis

V. Effects on Efficiency, Competition, and Capital Formation

VI. Summary of Final Regulatory Flexibility Analysis

A. Need for and Objectives of the Rule Amendments

B. Significant Issues Raised by Public Comments

C. Small Entities Subject to the Rules

D. Projected Reporting, Recordkeeping, and Other

Compliance Requirements

E. Agency Action to Minimize Effects on Small Entities

VII. Statutory Authority

Text of Rules and Form Amendments

Executive Summary

Repurchase agreements provide investment companies (“funds”) with a convenient means to invest excess cash on a secured basis, generally for short periods of time. In a typical fund repurchase agreement, a fund enters into a contract with a broker, dealer, or bank (the “counterparty” to the transaction) for the purchase of securities. The counterparty agrees to repurchase the securities at a specified future date, or on demand, for a price that is sufficient to return to the fund its original purchase price, plus an additional amount representing the return on the fund’s investment.

The Commission is adopting rule 5b-3, which permits a fund, subject to certain conditions, to treat a repurchase agreement as an acquisition of the underlying collateral in determining whether it is in compliance with (i) the investment criteria for diversified funds set forth in section 5(b)(1) of the Act² and (ii) the prohibition on fund acquisition of an interest in a broker-dealer in section 12(d)(3) of the Act.³ Rule 5b-3 also provides for similar “look-through” treatment for purposes of section 5(b)(1) of the Act in the case of an investment in state or municipal bonds, the payment of which has been fully funded by escrowed U.S. government securities.

The new rule codifies and updates staff interpretive and no-action letters. It is intended to adapt the Act to economic realities of repurchase agreements and pre-refunded bonds and reflects recent developments in bankruptcy law protecting parties to repurchase agreements.

² 15 U.S.C. 80a-5(b)(1).

³ 15 U.S.C. 80a-12(d)(3).