U.S.C. 1444a(d), has a maximum of $13,750 for each offense.

(11) Office of the Secretary—(i) Civil penalty for making, presenting, submitting or causing to be made, presented or submitted, a false, fictitious, or fraudulent claim as defined under the Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3802(a)(1), has a maximum of $10,958.

(ii) Civil penalty for making, presenting, submitting or causing to be made, presented or submitted, a false, fictitious, or fraudulent written statement as defined under the Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3802(a)(2), has a maximum of $10,958.

Dated: November 28, 2017.

Stephen L. Censky,

Deputy Secretary.

[FR Doc. 2017–26194 Filed 12–4–17; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1240

[EOIR Docket No. 180; AG Order No. 4034–2017]

RIN 1125–AA25

Procedures Further Implementing the Annual Limitation on Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the Executive Office for Immigration Review (''EOIR'') regulations governing the annual limitation on cancellation of removal and suspension of deportation decisions. The amendment eliminates certain procedures created in 1998 that were used to convert 8,000 conditional grants of suspension of deportation and cancellation of removal to outright grants before the end of fiscal year 1998. In addition, it authorizes immigration judges and the Board of Immigration Appeals (''Board'') to issue final decisions denying applications, without restriction, regardless of whether the annual limitation has been reached.

DATES: This rule is effective January 4, 2018.

FOR FURTHER INFORMATION CONTACT: Jean King, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone (703) 305–0470 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

On November 30, 2016, the Department published in the **Federal Register** a rule proposing to amend EOIR's regulations relating to the annual limitation on cancellation of removal and suspension of deportation. 81 FR 86291 (Nov. 30, 2016). The comment period ended on January 30, 2017. The Department received four comments. For the reasons set forth below, the proposed rule is adopted without change.

II. Background and Summary

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''), Public Law 104–208, Div. C, 110 Stat. 3009–546, added section 240A(e) to the Immigration and Nationality Act (''INA'' or the ''Act''), Public Law 82–414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8, 18, and 22 U.S.C.), by establishing an annual limitation on the number of aliens who may be granted suspension of deportation or cancellation of removal followed by adjustment of status. The annual limitation is as follows:

> [T]he Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year.

INA sec. 240A(e)(1) (8 U.S.C. 1229b(e)(1)).

On October 3, 1997, the Department issued an interim rule, which authorized immigration judges and the Board to grant applications for suspension of deportation and cancellation of removal only on a ''conditional basis.'' 62 FR 51760, 51762 (Oct. 3, 1997). This interim rule was a temporary measure to give the Department time to decide how best to implement the annual statutory limitation. Pursuant to the rule, the Chief Immigration Judge instructed immigration judges to convert previously reserved grants of suspension and cancellation to conditional grants.

On November 19, 1997, Congress enacted the Nicaraguan Adjustment and Central American Relief Act (''NACARA''), Public Law 105–100, title II, 111 Stat. 2160, 2193–2201, which amended section 240A(e) of the Act. NACARA reaffirmed the annual limitation of 4,000 grants but exempted from the limitation certain nationals of Guatemala, El Salvador, and the former Soviet bloc countries. *See* NACARA sec. 204, 111 Stat. at 2200–01. NACARA provided for an additional 4,000 suspension/cancellation grants to increase the annual limitation to a total of 8,000 for fiscal year 1998 only. *Id.*

On September 30, 1998, the Department issued the current interim rule, which eliminated the ''conditional grant'' process established in the October 1997 interim rule and provided new procedures for immigration judges and the Board to follow with respect to implementing the numerical limitation on suspension and cancellation of removal imposed by IIRIRA and NACARA, 63 FR 52134 (Sept. 30, 1998) (codified at 8 CFR 1240.21 (as in effect prior to publication of this rule)).

First, the interim rule created a process to address a discrete issue that required resolution before the end of fiscal year 1998: The interaction between the October 1997 interim rule authorizing immigration judges and the Board to grant applications for suspension and cancellation on a ''conditional basis,'' *see* 62 FR 51760, 51762 (Oct. 3, 1997), and the enactment of NACARA in November 1997, which added 4,000 grants to the statutory annual limitation, creating a total of 8,000 available grants for fiscal year 1998, *see* NACARA sec. 202, 111 Stat. at 2193–96. These procedures were set forth in 8 CFR 1240.21(b) (as in effect prior to publication of this rule). *See* 63 FR at 52138–39.

Second, the interim rule created a new procedure for processing applications for suspension and cancellation in order to avoid exceeding the annual limitation. *See* 63 FR at 52139–40 (codified at 8 CFR 1240.21(c) (as in effect prior to publication of this rule)). The rule eliminated the conditional grant process. *Id.* at 52138 (codified at 8 CFR 1240.21(a)(2)). Instead, under the interim rule, immigration judges and the Board issued grants of suspension or cancellation in chronological order until grants were no longer available in a fiscal year. The interim rule provided that when grants were no longer available in a fiscal year, ''further decisions to grant or deny such relief shall be reserved'' until grants become available in a future fiscal year. *Id.* at 52140 (codified at 8 CFR 1240.21(c)(1) (as in effect prior to publication of this rule)). With respect to denials, the interim rule stated that immigration judges and the Board ''may deny without reserving decision or may

pretermit those suspension of deportation or cancellation of removal applications in which the applicant has failed to establish statutory eligibility for relief.'' *Id.* However, the interim rule prohibited immigration judges and the Board from basing such denials ''on an unfavorable exercise of discretion, a finding of no good moral character on a ground not specifically noted in section 101(f) of the [INA], a failure to establish exceptional or extremely unusual hardship to a qualifying relative in cancellation cases, or a failure to establish extreme hardship to the applicant and/or qualifying relative in suspension cases.'' *Id.*

For the reasons discussed in the preamble to the proposed rule ''Procedures Further Implementing the Annual Limitation on Suspension of Deportation and Cancellation of Removal,'' *see* 81 FR 86291 (Nov. 30, 2016), on November 30, 2016, the Department proposed to amend the 1998 interim rule codified at 8 CFR 1240.21 (as in effect prior to publication of this rule). The comment period ended on January 30, 2017. The Department received four comments. For the reasons discussed below, the Department will adopt the proposed amendments to 8 CFR 1240.21 as final without change.

The final rule makes three amendments to the current interim regulation. First, the final rule eliminates the text of 8 CFR 1240.21(b) (as in effect prior to publication of this rule), which, as discussed above, established a procedure to convert 8,000 conditional grants of suspension of deportation and cancellation of removal to outright grants before the end of fiscal year 1998 and to convert some conditional grants to grants of adjustment of status under NACARA. The need for such procedures ceased to exist after fiscal year 1998. Second, the final rule amends the interim rule to allow immigration judges and the Board to issue final decisions denying cancellation and suspension applications, without restriction, regardless of whether the annual limitation has been reached. Under the final rule, after the annual limitation has been reached, only grants would be required to be reserved. The final rule will apply prospectively and will have no effect on decisions that were reserved prior to the final rule's effective date. Lastly, the final rule makes a technical amendment to 8 CFR 1240.21(c).

III. Comments and Responses

As noted above, the Department received four comments in response to the proposed rule. One comment was from the American Immigration Lawyers Association; one was from an attorney with a private law firm, and two were from individual commenters. The comments are addressed by topic because some commenters raised multiple subjects and some comments overlapped.

None of the commenters expressed concern with the final rule's elimination of certain procedures created in 1998 to convert 8,000 conditional grants of suspension and cancellation to outright grants before the end of fiscal year 1998. Additionally, none of the commenters expressed concern with the final rule's technical amendment to 8 CFR 1240.21(c).

Rather, the commenters focused on the rule's provision authorizing immigration judges and the Board to issue final decisions denying cancellation and suspension applications, without restriction, regardless of whether the annual limitation has been reached. There is nothing in the statutory language suggesting that decisions denying eligibility need to be delayed; the statutory provision only calls for delaying decisions to grant such relief when necessary because the statutory cap has been reached in a particular year. As explained in the preamble to the proposed rule, the purpose of this amendment is to: ''decrease the high volume of reserved decisions that result when the annual limitation is reached early in the fiscal year; reduce the associated delays caused by postponing the resolution of pending cases before EOIR; and provide an applicant with knowledge of a decision in the applicant's case on or around the date of the hearing held on the applicant's suspension or cancellation application.'' 81 FR 86291.

Comment: One commenter expressed concern that the rule will unfairly disadvantage applicants because it ''freezes the record in place for purposes of a decision denying cancellation or suspension but leaves it open for a potentially positive reserved decision.'' For example, the commenter hypothesized that under the interim rule an immigration judge is required to reserve decision on a cancellation application, which might otherwise be denied for failure of the applicant to meet the statutory requirement that the applicant must demonstrate that the applicant's removal would result in exceptional and extremely unusual hardship to a qualifying relative. The commenter states that if the immigration judge had reserved the decision and the applicant's qualifying relative develops serious health-problems while the reserved denial is still pending, the applicant could present this new information and potentially obtain cancellation of removal. On the other hand, under the final rule, an immigration judge would be required to reserve a decision on an application which would otherwise be granted (but for the annual statutory limitation) if the applicant demonstrated that the applicant's removal would result in exceptional and extremely unusual hardship to a qualifying relative such as the applicant's United States citizen child who is in poor health. If the applicant's qualifying child dies or ''ages-out'' and no longer qualifies as a ''qualifying relative'' while the decision is reserved, the applicant may lose eligibility for cancellation of removal. In light of these concerns, the commenter urges EOIR to keep the interim rule in place.

Response: The Department declines to change the final rule in light of this comment. As an initial matter, the Department notes that the final rule is consistent with section 240A(e)(1) of the INA, which limits the number of aliens who may be granted suspension of deportation or cancellation of removal to 4,000 aliens in any fiscal year. The Department has determined that the statute does not prohibit the issuance of denials of suspension or cancellation applications once the annual limitation has been reached, but it does require immigration judges and the Board to reserve applications that are to be granted until numbers become available in a subsequent fiscal year.

Moreover, the possibility that an applicant's qualifying relative may ''age-out'' or die while a decision is reserved exists under the current interim regulations. This final regulation therefore does not create a greater likelihood that an applicant may lose eligibility due to a qualifying relative ''aging out'' or dying while a decision is reserved.

The Department also notes that an applicant may file a motion to reopen if the applicant's qualifying relative experiences a change in circumstances that may qualify the applicant to receive cancellation of removal after the applicant's application was denied. The same commenter suggests that an applicant may be unable to file a motion to reopen if the applicant has been removed from the United States. EOIR notes, however, that most federal courts of appeal have held that the physical removal of an alien from the United States before a timely motion to reopen is filed does not preclude the alien from pursuing a motion to reopen, notwithstanding the current regulatory

departure bar set forth at 8 CFR 1003.2(d) and 1003.23(b)(1).[1]

Comment: One commenter stated that ''[i]f EOIR decides to implement the proposed rule for applications that were previously reserved, [it should] notify the [applicant] and counsel of any intent to deny the case'' so that the applicant and counsel can supplement the record with additional evidence prior to the issuance of a decision.

Response: As noted above, the final rule will apply prospectively beginning thirty days after the rule's publication and will have no effect on decisions that were reserved prior to the final rule's effective date. *See Bowen* v. *Georgetown Univ. Hosp.,* 488 U.S. 204, 208 (1988) (''[A]dministrative rules will not be construed to have retroactive effect unless their language requires this result.'').

Comment: One commenter expressed concern that the final rule will create an incentive for immigration judges and the Board to deny otherwise meritorious cancellation and suspension applications because it will ease EOIR's docket pressures and alleviate the backlog of reserved cases.

Response: The Department does not agree with the commenter's speculation that the rule will create an incentive for immigration judges and the Board to deny otherwise meritorious claims. Immigration judges and Board members are required to exercise their ''independent judgment and discretion'' in deciding all cases that come before them and adjudicate cases based on the law and facts presented. *See* 8 CFR 1003.10(b), 1003.1(d)(1)(ii). There is a presumption of regularity that attaches to the actions of government agencies, *see United States Postal Serv.* v. *Gregory,* 534 U.S. 1, 10 (2001), and the Supreme Court has long held that adjudicators such as immigration judges are ''assumed to be [individuals] of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances.'' *Withrow* v. *Larkin,* 421 U.S. 35, 55 (1975) (internal quotation mark omitted).

Additionally, as explained in the preamble to the proposed rule, immigration judges and the Board will still be required under this final rule to provide a legal and factual analysis for all decision denying cancellation and suspension applications. *See* 8 CFR 1003.37, 1003.1(d)(1). If an applicant believes an immigration judge's decision was erroneous and not based on the appropriate applicable law and the facts of the case, the applicant may appeal the immigration judge's decision to the Board, 8 CFR 1003.38, and after exhausting administrative remedies, an applicant may be able to file a petition for review in the appropriate circuit court of appeals. *See* INA sec. 242 *et seq.* (8 U.S.C. 1252 *et seq.*).

Comment: One commenter suggested that, instead of adopting as final the provisions of the proposed rule, EOIR should adopt a rule allowing immigration judges and the Board to ''provisionally approve or provisionally deny'' cancellation or suspension applications once the annual numerical limitation has been reached.

Response: The Department has previously determined that the statutory language and history of the cancellation cap provision does not support a permanent regime based on conditional grants. As discussed more fully in the preamble to the proposed rule, on September 30, 1996, Congress enacted IIRIRA, which included a statutory cap on the number of applications for suspension of deportation and cancellation of removal that the Attorney General could grant each fiscal year. On October 3, 1997, the Department adopted a conditional grant process as a temporary measure that gave the Department time to consider how best to implement the statutory cap. 62 FR 51760. After considering the issue, the Department determined that the statute does not support a conditional grant system that carries over from year to year (such as the one established in the 1997 interim regulation) because the statutory cap language in section 240A(e) of the INA has been interpreted to mean that those eligible applicants must be granted relief of suspension or cancellation during the fiscal year in which they are given a grant under the cap. 63 FR at 52135–36. Therefore, the Department eliminated the conditional grant process with its publication of the current interim rule. *Id.* (codified at 8 CFR 1240.21(c) (as in effect prior to publication of this rule)). The Department continues to believe that the statute does not support returning to a ''conditional grant'' or ''provisional grant'' system. Accordingly, the Department will not change the rule to adopt the commenter's suggestion.

IV. Regulatory Requirements

A. Regulatory Flexibility Act

The Department has reviewed this regulation in accordance with the RFA (5 U.S.C. 605(b)) and the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule will not regulate ''small entities,'' as that term is defined in 5 U.S.C. 601(6).

B. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

C. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804(2). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

D. Executive Orders 12866 and 13563 (Regulatory Planning and Review), and 13771 (Reducing Regulation and Controlling Regulatory Costs)

The Department has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review and, therefore, it has not been reviewed by the Office of Management and Budget.

Moreover, this rule eliminates existing costs associated with the prior interim rule for purposes of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Specifically, EOIR estimates that this rule will reduce the administrative

[1] *See e.g. Jian Le Lin* v. *U.S. Atty. Gen.,* 681 F.3d 1236, 1240 (11th Cir. 2012) (stating that ''Congress intended to ensure aliens the right to file one motion to reopen regardless of their geographical location''); *Contreras-Bocanegra* v. *Holder,* 678 F.3d 811, 818 (10th Cir. 2012) (en banc) (same); *Prestol Espinal* v. *Att'y Gen.,* 653 F.3d 213, 218 (3d Cir. 2011) (same); *Reyes-Torres* v. *Holder,* 645 F.3d 1073, 1077 (9th Cir. 2011) (stating that ''the physical removal of a petitioner by the United States does not preclude the petitioner from pursuing a motion to reopen'' (quotation marks omitted)); *Luna* v. *Holder,* 637 F.3d 85, 102 (2d Cir. 2011) (stating that ''the BIA must exercise its full jurisdiction to adjudicate a statutory [*i.e.* timely and not number barred] motion to reopen by an alien who is removed or otherwise departs the United States before or after filing the motion''); *William* v. *Gonzales,* 499 F.3d 329, 332 (4th Cir. 2007) (stating that section 240(c)(7)(A) of the Act ''unambiguously provides an alien with the right to file one motion to reopen, regardless of whether he is within or without the country'').

burden and scheduling complications, as well as related costs, associated with cancellation of removal cases subject to the annual limitation.[2] *See* EOIR, OPPM 12–01 (outlining current procedures immigration judges and court staff must follow to reserve denials).

First, in cases involving denials, immigration judges will no longer be required to render oral decisions via an audiocassette and ship the audio tape to EOIR headquarters for a transcription but instead can issue an oral or written decision immediately. EOIR estimates that this could save the agency $607,000 annually. Second, in cases involving denials, the new regulation will alleviate the need for the immigration court to both store case files and communicate with parties about the status of cases while reserved, which could save the government $18,000 annually. Third, in cases involving denials, there will no longer be a need to refresh background checks, *see* 8 CFR 1003.47, that expire while a case sits in reserve and which are required to be current before an immigration judge issues a decision. EOIR estimates this could save the government $152,000 annually. Finally, once numbers become available each fiscal year, many immigration judges dispose of their cases by calling the parties back into court for a hearing to confirm completion of required background checks and to render an oral decision. Additionally, in some cases, new information may arise, which may require additional hearing time. In cases involving denials, an immigration judge may issue a decision immediately, which circumvents the need to reschedule or rehear these cases. EOIR estimates that this may save the government approximately $748,000 annually. Accordingly, EOIR estimates this rule will eliminate existing costs associated with the current interim regulation in the amount of $1.5 million annually.

This rule has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including consideration of potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. It calls on each agency to periodically review its existing regulations and determine whether any should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving its regulatory objectives.

The Department is issuing this final rule consistent with these Executive Orders. This rule would allow the adjudication of suspension of deportation and cancellation of removal cases, without unnecessary delays, in appropriate cases where the immigration judge or the Board determines that the application for such relief should be denied. The Department expects this rule would reduce the number of reserved suspension of deportation and cancellation of removal cases once the annual limitation has been reached. Further, this rule will have a positive economic impact on Department functions because it will significantly reduce the administrative work and scheduling complications associated with suspension of deportation and cancellation of removal cases subject to the annual limitation. While this rule would remove the current restrictions on issuing denials, immigration judges and the Board will still be required to provide a legal analysis for all decisions denying a suspension of deportation or cancellation of removal application. Accordingly, the Department does not foresee any burdens to the public as a result of this rule. To the contrary, it will benefit the public by saving administrative costs and allowing earlier resolution of cases.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects 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, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects in 8 CFR Part 1240

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, the Department of Justice amends 8 CFR part 1240 as follows:

PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 1. The authority citation for part 1240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1182, 1182, 1186a, 1186b, 1225, 1226, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681).

■ 2. Amend § 1240.21 by removing and reserving paragraph (b) and revising paragraphs (c) introductory text and (c)(1) to read as follows:

§ 1240.21 Suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect before April 1, 1997) and cancellation of removal and adjustment of status under section 240A(b) of the Act for certain nonpermanent residents.

* * * * *

(c) *Grants of suspension of deportation or cancellation of removal in fiscal years subsequent to fiscal year 1998.* On and after October 1, 1998, the Immigration Court and the Board may grant applications for suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect prior to April 1, 1997) or cancellation of removal and adjustment of status under section 240A(b) of the Act that meet the statutory requirements for such relief and warrant a favorable exercise of discretion until the annual numerical limitation has been reached in that fiscal year. The awarding of such relief shall be determined according to the date the order granting such relief becomes final as defined in §§ 1003.1(d)(7) and 1003.39 of this chapter.

[2] To estimate the above cost savings, EOIR used available data from the Case Access System for EOIR, granular time records from EOIR's Office of Chief Immigration Judge, and Office of Administration cost modules. The analysis was limited to non-detained non-legal permanent resident cancellation of removal applications adjudicated by immigration courts from Fiscal Year (FY) 2012 through FY 2017 (August 2017).

(1) *Applicability of the annual limitation.* When grants are no longer available in a fiscal year, further decisions to grant such relief must be reserved until such time as a grant becomes available under the annual limitation in a subsequent fiscal year.

* * * * *

Dated: November 21, 2017.

Jefferson B. Sessions III,

Attorney General.

[FR Doc. 2017–26104 Filed 12–4–17; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0709; Product Identifier 2016–NM–200–AD; Amendment 39–19115; AD 2017–25–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A318 series airplanes; Model A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. This AD was prompted by a report indicating that the lower rib foot angle of the center wing box did not match with the bottom skin panel inner surface. This AD requires repetitive inspections for cracking of the external bottom skin in certain areas on the left and right wings, and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 9, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 9, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A318 and A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. The NPRM published in the **Federal Register** on July 25, 2017 (82 FR 34453) (''the NPRM''). The NPRM was prompted by a report indicating that the lower rib foot angle of the center wing box did not match with the bottom skin panel inner surface. The NPRM proposed to require repetitive inspections for cracking of the external bottom skin in certain areas on the left and right wings, and corrective actions if necessary, and provided an optional terminating modification for the repetitive inspections. We are issuing this AD to detect and correct cracking of the external bottom skin in the area of the rib 2 attachment of the wings, which could result in reduced structural integrity of the wings.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0222, dated November 7, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318 and A319 series airplanes; and Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes. The MCAI states:

> During installation in production of new wing box ribs on post-mod 39729 aeroplanes, it was discovered that the centre wing lower rib foot angle was not matching with the bottom skin panel inner surface.
>
> This condition, if not detected and corrected, could induce fatigue cracking of the skin panel at the rib foot attachment, with possible detrimental effect on wing structural integrity.
>
> This condition was initially addressed by Airbus on the production line through adaptation mod 152155, then through mod 152200. For affected aeroplanes in service, Airbus issued Service Bulletin (SB) A320–57–1205, providing instructions for repetitive detailed inspections (DET) or special detailed inspections (SDI), and SB A320–57–1207, providing modification instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections (DET or SDI) of the wing bottom skin lower surface for crack detection and, depending on findings, the accomplishment of applicable corrective action(s). This [EASA] AD also includes reference to an optional modification (Airbus SB A320–57–1207), providing terminating action for the repetitive inspections required by this [EASA] AD.

The corrective action for cracking is to repair using a method approved by the Manager, International Section, Transport Standards Branch, FAA; EASA; or Airbus's EASA Design Organization Approval. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0709.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA's response.

Request To Include Technical Adaptations

Delta Airlines asked for another ''Contacting the Manufacturer'' subparagraph acknowledging Technical Adaptations from Airbus to be added under paragraph (j) of the proposed AD, ''Other FAA AD Provisions.'' Delta observed that the FAA provision for contacting the manufacturer in paragraph (j) of the proposed AD would provide allowances for corrective actions without alternative methods of compliance (AMOCs). Delta noted that operators often receive Technical Adaptations that include an EASA Design Organization Approval (DOA)