

nature and impact, and inconsequential to federal employees and the public.

Finally, MSPB also elects to make the amendments set forth herein effective immediately upon publication of this final rule. Under 5 U.S.C. 553(d)(3), “the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except \* \* \* as otherwise provided by the agency for good cause found and published with the rule.” For the reasons identified above, and in light of the importance of promptly removing and correcting any inconsistent, incorrect, and confusing material inadvertently introduced into MSPB’s adjudicatory regulations, the Board finds that good cause exists to waive the 30-day publication requirement.

#### List of Subjects in 5 CFR Parts 1201 and 1208

Administrative practice and procedure, Government employees.

Accordingly, for the reasons set forth in the preamble, the Board amends 5 CFR parts 1201 and 1208 as follows:

#### PART 1201—PRACTICES AND PROCEDURES

- 1. The authority citation for 5 CFR part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

- 2. In § 1201.74, revise paragraph (a) to read as follows:

#### § 1201.74 Orders for discovery.

(a) *Motion for an order compelling discovery.* Motions for orders compelling discovery and motions for the appearance of nonparties must be filed with the judge in accordance with § 1201.73(c)(1) and (d)(3). An administrative judge may deny a motion to compel discovery if a party fails to comply with the requirements of 5 CFR 1201.73(c)(1) and (d)(3).

\* \* \* \* \*

- 3. In § 1201.112, revise paragraph (a)(4) to read as follows:

#### § 1201.112 Jurisdiction of judge.

(a) \* \* \*

(4) Vacate an initial decision to accept into the record a settlement agreement that is filed prior to the deadline for filing a petition for review, even if the settlement agreement is not received until after the date when the initial decision becomes final under § 1201.113 of this part.

\* \* \* \* \*

- 4. In § 1201.114, revise paragraph (k) to read as follows:

#### § 1201.114 Petition and cross petition for review—content and procedure.

\* \* \* \* \*

(k) *Closing the record.* The record closes on expiration of the period for filing the reply to the response to the petition for review or on expiration of the period for filing a response to the cross petition for review, whichever is later, or to the brief on intervention, if any, or on any other date the Board sets for this purpose. Once the record closes, no additional evidence or argument will be accepted unless it is new and material as defined in § 1201.115(d) and the party submitting it shows that the evidence or argument was not readily available before the record closed.

\* \* \* \* \*

#### PART 1208—PRACTICES AND PROCEDURES FOR APPEALS UNDER THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT AND THE VETERANS EMPLOYMENT OPPORTUNITIES ACT

- 5. The authority citation for 5 CFR part 1208 continues to read as follows:

**Authority:** 5 U.S.C. 1204(h), 3330a, 3330b; 38 U.S.C. 4331.

- 6. In § 1208.22, revise paragraph (c) to read as follows:

#### § 1208.22 Time of filing.

\* \* \* \* \*

(c) *Equitable tolling; extension of filing deadline.* In extraordinary circumstances, the appellant’s 15-day deadline for filing an appeal with the MSPB is subject to the doctrine of equitable tolling, which permits the Board to extend the deadline where the appellant, despite having diligently pursued his or her rights, was unable to make a timely filing. Examples include cases involving deception or in which the appellant filed a defective pleading during the statutory period.

**William D. Spencer,**

*Clerk of the Board.*

[FR Doc. 2013–09223 Filed 4–18–13; 8:45 am]

**BILLING CODE 7400–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2013–0306; Directorate Identifier 2013–NM–049–AD; Amendment 39–17417; AD 2013–07–13]

RIN 2120–AA64

#### Airworthiness Directives; Dassault Aviation Airplanes

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

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

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X airplanes. This AD requires revising the aircraft flight manual (AFM); performing operational tests of the oxygen mask oxygen assembly; and replacing affected stowage boxes, which terminates the AFM revision and operational tests. This AD was prompted by failure of the flight crew oxygen supply due to a potentially defective flight crew mask oxygen assembly. We are issuing this AD to prevent failure to supply oxygen upon demand to the flight crew in flight in “100%” and “Emergency” modes, which, in an emergency, may result in incapacitation of the flight crew.

**DATES:** This AD becomes effective May 6, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 6, 2013.

We must receive comments on this AD by June 3, 2013.

**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 W12–140, 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 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:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone 425-227-1137; fax 425-227-1149.

#### **SUPPLEMENTARY INFORMATION:**

#### **Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued emergency EASA Airworthiness Directive 2013-0059-E, dated March 8, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

During an aeroplane delivery flight test, the flight crew oxygen supply failed. The technical investigations carried out by the flight crew oxygen mask and stowage box manufacturer identified potentially defective flight crew mask oxygen assembly part number (P/N) MSE30-005-3-8 including stowage box P/N CSD 30-005-3-8.

This condition, if not detected and corrected, may cause failure to supply oxygen upon demand to the flight crew in flight in “100%” and “Emergency” modes which, in case of an emergency, may result in incapacitation of the flight crew.

To address this potential unsafe condition, Dassault Aviation (DA) issued Service Bulletin (SB) F7X-241, containing instructions to identify and replace the affected flight crew oxygen masks and stowage boxes.

For the reasons described above, this [EASA] AD requires [revision of the aircraft flight manual and] accomplishment of operational tests of each flight crew oxygen mask and replacement of the affected stowage boxes with serviceable parts. Replacement constitutes terminating action for the [AFM revision and] repetitive operational tests.

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

#### **Relevant Service Information**

Dassault Aviation has issued Mandatory Service Bulletin 7X-241, dated March 7, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### **FAA’s Determination and Requirements of This 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

#### **Explanation of Compliance Times**

The MCAI requires revising the AFM before further flight. This AD, however, provides a compliance time of 14 days, which will provide an adequate level of safety without unnecessarily grounding airplanes.

Replacing affected oxygen mask stowage boxes terminates the requirement to revise the AFM. The MCAI requires replacing the stowage boxes within a specified time after the effective date. This AD, however, requires compliance within the specified time after the AFM revision to avoid potentially conflicting compliance times that could require operators to replace the stowage box before revising the AFM.

#### **FAA’s Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure to supply oxygen upon demand to the flight crew in flight in “100%” and “Emergency” modes in an emergency may result in incapacitation of the flight crew. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

#### **Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2013-0306; Directorate Identifier 2013-NM-049-AD” at the beginning of your comments. We specifically invite comments on the

overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of 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 AD.

#### **Costs of Compliance**

We estimate that this AD will affect 9 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts will 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 parts. 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 this AD to the U.S. operators to be up to \$3,060, or \$340 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 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 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);
3. Will not affect intrastate aviation in Alaska; and
4. 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 and placed it in the AD docket.

#### 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 AD:

**2013-07-13 Dassault Aviation:**  
Amendment 39-17417. Docket No. FAA-2013-0306; Directorate Identifier 2013-NM-049-AD.

##### (a) Effective Date

This airworthiness directive (AD) becomes effective May 6, 2013.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to Dassault Aviation Model Falcon 7X airplanes, certificated in any category, all serial numbers (S/Ns).

##### (d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

##### (e) Reason

This AD was prompted by failure of the flight crew oxygen supply due to a

potentially defective flight crew mask oxygen assembly. We are issuing this AD to prevent failure to supply oxygen upon demand to the flight crew in flight in “100%” and “Emergency” modes which, in an emergency, may result in incapacitation of the flight crew.

##### (f) Compliance

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

##### (g) Airplanes Excluded from Certain Requirements

Airplanes equipped with flight crew mask oxygen assembly part number (P/N) MSE30-005-3-8 and a stowage box P/N CSD 30-005-3-8 with S/N 1013 or higher, or serial number below 1013 with the suffix “-A,” are not subject to the requirements of paragraphs (h), (i), and (l) of this AD.

##### (h) Revision of Aircraft Flight Manual (AFM)

Within 14 days after the effective date of this AD, revise the Normal Procedures and Limitations sections of the Dassault Falcon Aircraft Flight Manual (AFM) to include the statement provided in Figure 1 to paragraph (h) of this AD, and thereafter operate the airplane accordingly. The AFM revision may be done by inserting a copy of this AD into the AFM.

Figure 1 to Paragraph (h) of this AD

**Quick Donning Oxygen Mask Additional Test****NOTE**

The O2 mask additional test is designed to verify the ability to breathe with the O2 mask donned.

It has to be performed after completion of the oxygen mask test as described in QRH1 « Power On » section 15-20.

**O2 MASK ADDITIONAL TEST PROCEDURE:**

Make sure that the PRESS TO TEST knob is on the 100% position

- Remove the mask from the stowage box
- Depress the inflation controls (red tabs) to inflate the harness
- Position the mask onto the head
- Take a few breaths
- **If the test is successful:**
  - Breathing is free and unrestricted
  - The pneumatic blinker (yellow cross) appears and disappears according to the breathing frequency
- Store the mask in the stowage box when test is completed

**NOTE**

Refer to CODDE 1 ATA 35 subchapters 02-35-10 and 02-35-40 for quick donning mask operation and stowage

**Note 1 to paragraph (h) of this AD:** When a statement identical to that in Figure 1 to paragraph (h) of this AD has been included in the Normal Procedures and Limitations sections of the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

**(i) Operational Test**

After revising the AFM as required by paragraph (h) of this AD: At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, do an operational test of the flight

crew mask oxygen assembly, using the procedure in the “Quick Donning Oxygen Mask Additional Test” specified in Figure 1 to paragraph (h) of this AD.

(1) For any flight crew mask oxygen assembly that has accumulated less than 50 total flight hours: Do the operational test before each flight.

(2) For any flight crew mask oxygen assembly that has accumulated 50 or more total flight hours: Do the operational test one time, before further flight.

**(j) Corrective Actions**

If any operational test specified in paragraph (i) of this AD is not successful: Before further flight, replace the affected stowage box with a serviceable stowage box, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin 7X-241, dated March 7, 2013, except dispatch of the airplane with the third crew oxygen mask inoperative is allowed as specified in the Master Minimum Equipment List (MMEL) Item 35-3.

**(k) Definition**

For purposes of this AD, a serviceable stowage box has P/N CSD 30-005-3-8 with any S/N 1013 or higher, or any serial number below 1013 with the suffix “-A.”

**(l) Terminating Action**

Except as required by paragraph (j) of this AD, at the applicable time specified in paragraph (l)(1) or (l)(2) of this AD, replace any non-serviceable stowage box with a serviceable stowage box, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin 7X-241, dated March 7, 2013. Replacement of all affected stowage boxes terminates the requirements of paragraphs (h) and (i) of this AD, and the AFM revision required by paragraph (h) of this AD may be removed from the AFM.

(1) For a stowage box that has accumulated less than 50 total flight hours as of the effective date of this AD: Replace the stowage box within 8 days after the AFM revision required by paragraph (h) of this AD.

(2) For a stowage box that has accumulated 50 or more total flight hours as of the effective date of this AD: Replace the stowage box within 65 days after the AFM revision required by paragraph (h) of this AD.

**(m) Parts Installation Prohibition**

As of the effective date of this AD, no person may install a non-serviceable flight crew oxygen mask stowage box any airplane.

**(n) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone 425-227-1137; fax 425-227-1149. Information may be emailed to: 9-ANM-116-AMOC-REQUESTS@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically refer to this AD.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA approved. Corrective actions are considered FAA approved if they are approved by the State of Design Authority (or their delegated agent). You are required to ensure the product is airworthy before it is returned to service.

**(o) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI)

emergency European Aviation Safety Agency (EASA) Airworthiness Directive 2013-0059-E, dated March 8, 2013; and Dassault Mandatory Service Bulletin 7X-241, dated March 7, 2013; for related information.

**(p) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Dassault Mandatory Service Bulletin 7X-241, dated March 7, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201-440-6700; Internet <http://www.dassaultfalcon.com>.

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference 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/cfr/ibr-locations.html>.

Issued in Renton, Washington, on April 3, 2013.

**Ali Bahrami,**

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

[FR Doc. 2013-09108 Filed 4-18-13; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2013-0307; Directorate Identifier 2012-SW-079-AD; Amendment 39-17410; AD 2013-07-06]**

**RIN 2120-AA64**

**Airworthiness Directives; Eurocopter France Helicopters**

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

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

**SUMMARY:** We are adopting an airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS332C, AS332L, and AS332L1 helicopters and superseding an AD for Model AS332L2 and EC225LP helicopters. This AD requires inspecting the chip detector and modifying the

chip collector, both installed on the main gearbox (MGB). This AD is prompted by an investigation which showed a failure within the epicyclic reduction gear module (epicyclic module) resulted in the rupture of the MGB case and separation of the main rotor head of a Model AS332L2 helicopter. These actions are intended to prevent failure of the MGB and subsequent loss of control of the helicopter.

**DATES:** This AD becomes effective May 6, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of May 6, 2013.

We must receive comments on this AD by June 18, 2013.

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

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the “Mail” address 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 AD, the economic 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 service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, Texas 75052, telephone (972) 641-0000 or (800) 232-0323, fax (972) 641-3775, or at <http://www.eurocopter.com/techpub>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Rao Edupuganti, Aerospace Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd.,