

unless the alien was lawfully admitted and either remains in status as a permanent resident or has not, since the commencement of proceedings or within the 10 years prior thereto, been convicted of a crime, failed to comply with an order to surrender or a period of voluntary departure, or been subject to a bench warrant or similar legal process (unless quashed, withdrawn, or canceled as improvidently issued). An alien eligible to be considered for release under this paragraph must meet the burdens described in paragraph (c)(3) of this section in order to be released from custody in the exercise of discretion.

(5) *Criminal aliens ineligible to be considered for release.* A criminal alien subject to section 303(b)(3)(A) (ii) or (iii) of Pub. L. No. 104-208 is ineligible to be considered for release if the alien:

(i) Is described in section 237(a)(2)(D) (i) or (ii) (as in effect on April 1, 1997), or has been convicted of a crime described in section 101(a)(43) (A), (C), (E)(i), (H), (I), (K)(iii), or (L) of the Act (as in effect on April 1, 1997);

(ii) Is described in section 237(a)(2)(A)(iv) of the Act;

(iii) Has escaped or attempted to escape from the lawful custody of a local, state, or Federal prison, agency, or officer within the United States; or

(iv) Does not wish to pursue, or is statutorily ineligible for, any form of relief from exclusion, deportation, or removal under this chapter or the Act.

(6) If the district director determines that an Alien subject to section 303(b)(3)(A) (ii) or (iii) of Pub. L. 104-208 cannot be removed from the United States because the designated country of removal of deportation will not accept the alien's return, the district director may, in the exercise of discretion, release the alien from custody upon such terms and conditions as the district director may prescribe, without regard to paragraphs (c)(2) through (c)(5) of this section. Under no circumstances, however, shall the district director release from custody an alien whose release would pose a danger to persons or to property, or who is unlikely to appear for any scheduled proceeding (including any appearance required by the Service or EOIR). The district director's custody decision shall not be subject to redetermination by an immigration judge.

(7) *Construction.* A reference in this section to a provision in section 241 of the Act as in effect prior to April 1, 1997, shall be deemed to include a reference to the corresponding provision in section 237 of the Act as in effect on April 1, 1997. A reference in this section to a "crime" shall be considered to

include a reference to a conspiracy or attempt to commit such a crime. In calculating the 10-year period specified in paragraph (c)(4) of this section, no period during which the alien was detained or incarcerated shall count toward the total. Nothing in this part shall be construed as prohibiting an alien from seeking reconsideration of the Service's determination that the alien is within a category barred from release under this part.

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Dated: September 5, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97-24411 Filed 9-11-97; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-198-AD]

RIN 2120-AA64

Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 2000 series airplanes. This proposal would require a revision to the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to limit the allowed loads in the baggage compartment aft of the center baggage net. The proposed AD also would require replacement of the center baggage net in the baggage compartment with a net having reinforced straps, which would terminate the requirement for the AFM revision. This proposal is prompted by a report indicating that the center baggage net cannot sustain design loads in the event of an accident. The actions specified by the proposed AD are intended to prevent injury to passengers, as a result of inadequate breaking strength of the baggage net, in the event of an accident.

DATES: Comments must be received by October 10, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-

198-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.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1503; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97-NM-198-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-198-AD, 1601 Lind Avenue SW, Renton, Washington 98055-4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Dassault Model Falcon 2000 series airplanes. The DGAC advises that a static strength test, conducted by Dassault, demonstrated that the main straps of the center baggage net installed in the baggage compartment did not sustain the maximum allowed loads permitted aft of the net. This condition, if not corrected, could result in injury to passengers in the event of an accident.

Explanation of Relevant Service Information

Dassault issued Falcon 2000 Airplane Flight Manual (AFM) Temporary Change No. 31 (undated), which describes procedures for revising the AFM to limit allowed loads in the baggage compartment aft of the center baggage net. Dassault also has issued Service Bulletin F2000-76 (F2000-25-2), dated December 11, 1996, which describes procedures for replacing the center baggage net in the baggage compartment with a net having reinforced straps. Accomplishment of the replacement eliminates the need for the AFM revision. The DGAC classified this service bulletin and AFM temporary change as mandatory and issued French airworthiness directive 96-291-002(B), dated December 4, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is 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 Proposed 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, the proposed AD would require a revision to the Limitations section of the FAA-approved AFM to limit the

allowed loads in the baggage compartment aft of the center baggage net. The proposed AD also would require replacing the center baggage net in the baggage compartment with a net having reinforced straps, which would terminate the requirement for the AFM revision. The actions would be required to be accomplished in accordance with the service bulletin and AFM temporary change described previously.

Cost Impact

The FAA estimates that 20 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed replacement, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$520 per airplane. Based on these figures, the cost impact on U.S. operators of the replacement proposed by this AD is estimated to be \$11,600, or \$580 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact on U.S. operators of the AFM revision proposed by this AD is estimated to be \$1,200, or \$60 per airplane.

Based on the above figures, the total cost impact on U.S. operators of the proposed replacement and AFM revision is estimated to be \$12,800, or \$640 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would 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 Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Dassault Aviation: Docket 97-NM-198-AD.

Applicability: Model Falcon 2000 airplanes, serial numbers 2 through 31 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 prevent injury to passengers as a result of inadequate breaking strength of the baggage net, accomplish the following:

(a) Within 60 days after the effective date of this AD, revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) by inserting into the AFM a copy of Falcon 2000 AFM Temporary Change No. 31 (undated).

Note 2: The revision of the AFM required by this paragraph may be accomplished by inserting a copy of Falcon 2000 AFM Temporary Change No. 31 in the AFM. When this temporary change has been incorporated into general revisions of the AFM, the general revisions may be inserted in the AFM,

provided that the information contained in the general revisions is identical to that specified in Falcon 2000 AFM Temporary Change No. 31.

(b) Within 6 months after the effective date of this AD, replace the center baggage net in the baggage compartment with a net having reinforced straps, in accordance with Dassault Service Bulletin F2000-76 (F2000-25-2), dated December 21, 1996. After this replacement is accomplished, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

(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, Standardization Branch, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch.

(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.

Issued in Renton, Washington, on September 9, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-24342 Filed 9-12-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-132-AD]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, and -40, and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC-9-10, -20, -30, and -40, and C-9 (military) series airplanes. This proposal would require modifying the piping of the potable water system. This proposal is prompted by reports of ice forming on the control cables in the wheel well of the left main landing gear due to the

freezing and rupturing of undrained potable water pipes. The actions specified by the proposed AD are intended to prevent such ice formation, which could render the slat, aileron, and spoiler flight controls inoperative, and consequently could result in reduced controllability of the airplane.

DATES: Comments must be received by October 27, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-132-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.

The service information referenced in the proposed rule may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627-5346; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97-NM-132-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-132-AD, 1601 Lind Avenue SW, Renton, Washington 98055-4056.

Discussion

The FAA received numerous reports, including one from January 1997, indicating that, during flight, ice formed on the control cables in the wheel well of the left main landing gear on McDonnell Douglas Model DC-9 series airplanes. The cause of the ice formation was attributed to the freezing and rupturing of an undrained potable water pipe. This condition, if not corrected, could render the slat, aileron, and spoiler flight controls inoperative, which could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC-9 Service Bulletin 38-27, Revision 1, dated May 16, 1978, which describes procedures for modifying the piping of the potable water system. The modification involves replacing the pipe assemblies of the pressurized potable water system with a hose assembly, and installing a metal shroud over the hose assembly. Accomplishment of the modification will divert water leakage into the cargo compartment drain system.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modifying the piping of the potable water system. The actions would be required to be accomplished in accordance with the service bulletin described previously.