

Proposed Rules

Federal Register

Vol. 69, No. 116

Thursday, June 17, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Fan Jet Falcon Series Airplanes and Model Mystere-Falcon 20 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Dassault Model Fan Jet Falcon series airplanes and Model Mystere-Falcon 20 series airplanes. That action would have required inspecting and testing for fatigue cracking due to stress corrosion in the vertical posts of the window frames in the flight compartment. This new action revises the proposed rule by adding airplanes to the applicability, clarifying which airplanes must do certain actions, and specifying which window frames to ultrasonically inspect. The actions specified by this new proposed AD are intended to prevent fatigue cracking of the window frames, which could result in rapid depressurization of the fuselage and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 12, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this

location between 9 a.m. and 3 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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2002–NM–227–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 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet, 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 Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; 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 action may be changed in light of the comments received.

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 proposed 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 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 action must submit a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket Number 2002–NM–227–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–114, Attention: Rules Docket No. 2002–NM–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Dassault Model Fan Jet Falcon series airplanes and Model Mystere-Falcon 20 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 6, 2004 (69 FR 5767). That NPRM would have required inspecting and testing for fatigue cracking due to stress corrosion in the vertical posts of the window frames in the flight compartment. That NPRM was prompted by mandatory continuing airworthiness information from a civil airworthiness authority. Cracking of the window frames, if not corrected, could result in rapid depressurization of the fuselage and consequent reduced structural integrity of the airplane.

Comments

Due consideration has been given to the comments received from a single commenter in response to the NPRM.

Request To Revise Applicability

The commenter, the airplane manufacturer, states that the applicability of the NPRM is incorrect because it excludes airplanes that incorporated Dassault Service Bulletin FJF–701, Revision 1, dated October 22, 1987. The commenter states that

airplanes that incorporated the service bulletin should be exempt from the endoscopic inspections proposed in the NPRM, but not the ultrasonic inspections.

We agree with the commenter and have revised the applicability of this supplemental NPRM (SNPRM) to include all Model Fan Jet Falcon series airplanes and Model Mystere-Falcon 20 series airplanes, certificated in any category.

Request To Allow Flight With Cracking

The commenter notes that, in the French airworthiness directive, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, approved continued flight with cracking. The commenter states that window frames only need to be repaired per a method approved by the FAA or the DGAC (or its delegated agent) if cracking found during any inspection exceeds the criteria specified in Dassault Aviation Work Cards 53-30-12 and 53-30-7. (Those work cards are referenced in the NPRM as the appropriate source of service information for the proposed actions.) The commenter requests that paragraph (c) of the NPRM be changed to allow flight with cracking that is within the limits specified in the Dassault work cards.

We do not agree with the commenter's request to allow flight with cracking within specified limits. It is our policy to require repair of known cracking prior to further flight (we may make exceptions to this policy in certain cases of unusual need, as discussed below). This policy is based on the fact that such damaged airplanes do not conform to the FAA-certificated type design and, therefore, are not airworthy until a properly approved repair is incorporated.

As noted above, we may make an exception to this policy in certain cases, if there is an unusual need for a temporary deferral. Unusual needs include such circumstances as legitimate difficulty in acquiring parts to accomplish repairs. Under such conditions, we may allow a temporary deferral of the repair, subject to a stringent inspection program we find acceptable. We consider the compliance times in this proposed AD to be adequate to allow operators to acquire parts to have on hand in the event that cracking is detected during any inspection or test. Therefore, we have determined that, due to the safety implications and consequences associated with such cracking, any window frame found with cracking must be repaired before further flight.

No change to this SNPRM is necessary in this regard.

Request To Revise Paragraph (a)(1) of the NPRM

The commenter requests that paragraph (a)(1) of the NPRM be revised to exclude airplanes that have incorporated Dassault Service Bulletin FJF-701, Revision 1. Those airplanes have removable fairings in the area of the endoscopic inspections. An inspection program is already in place for airplanes with removable fairings so the endoscopic inspections in the NPRM are not necessary on these airplanes.

We agree with the commenter's request and have revised paragraph (a)(1) of this SNPRM to specify that only airplanes that have not incorporated Dassault Service Bulletin FJF-701, dated March 25, 1986, or Revision 1 dated October 22, 1987, are required to do the endoscopic inspections.

Request To Revise Paragraph (a)(2) of the NPRM

The commenter states that ultrasonic inspections do not need to be done on all window frames, as stated in the NPRM. Only window frames 2, 5, 7, 8, and 10 may be subject to stress corrosion; therefore, those are the only window frames that need to be inspected. The commenter also notes that all airplanes should do the ultrasonic inspection required by paragraph (a)(2) of the NPRM.

We agree with the commenter that only the window frames that are subject to stress corrosion need to be ultrasonically inspected, and that all airplanes must do the ultrasonic inspection. We revised paragraph (a)(2) of this SNPRM accordingly.

Conclusion

Since certain changes expand the scope of the original NPRM, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

We estimate that 220 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$57,200, or \$260 per airplane.

The cost impact figure discussed above is 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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

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 2002-NM-227-AD.

Applicability: All Model Fan Jet Falcon series airplanes and Model Mystere-Falcon 20 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the window frames in the flight compartment, which could result in rapid depressurization of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Inspection and Test of Flight Compartment Window Frames

(a) Do an inspection and test for stress corrosion and cracking as specified in paragraphs (a)(1) and (a)(2) of this AD, at the applicable time specified in paragraph (b) of this AD.

(1) For airplanes that have not accomplished the actions specified in Dassault Service Bulletin FJF-701, dated March 25, 1986; or Revision 1 dated October 22, 1987; Do a detailed inspection (using an endoscope) to detect stress corrosion and cracking of the window frames in the flight compartment, including the pilot, co-pilot, and front windows. Do the inspection in accordance with Dassault Aviation Work Card 53-30-12, titled "Endoscopic Inspection of the Frames of Pilot, Co-Pilot, and Front Glass Panels (Aircraft Not Changed Per SB No. 701)," of the Dassault Aviation Fan Jet Falcon Maintenance Manual, dated November 2001.

(2) For all airplanes: Do an ultrasonic test for cracking in the posts of window frames 2, 5, 7, 8, and 10. Do the test in accordance with Dassault Aviation Work Card 53-30-07, titled "Non-Destructive Ultrasonic Testing of Vertical Posts on Screw-Mounted Windows," of the Dassault Aviation Fan Jet Falcon Maintenance Manual, dated November 2001.

Note 1: For the purposes of this AD, a detailed 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) Do the inspection and test required by paragraph (a) of this AD, at the times specified in paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes having 35 or more years since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness, whichever is first; or having accumulated 20,000 or more total flight cycles as of the effective date of this AD: Within 7 months after the effective date of this AD.

(2) For airplanes not identified in paragraph (b)(1) of this AD: Within 25 months or 2,500 flight cycles after the effective date of this AD, whichever is first.

Repair

(c) If any stress corrosion or cracking is found during any inspection or test required

by paragraph (a) of this AD: Before further flight, repair per a method approved by either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

Reporting Requirement

(d) At the applicable time specified in paragraph (d)(1) or (d)(2) of this AD: Submit a report of the findings (positive and negative) of the inspection required by paragraph (a) of this AD to: Dassault Falcon Jet, Attn: Service Engineering/Falcon 20, fax: (201) 541-4706, at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. The report must include the airplane serial number, number of landings, number of flight hours, airplane age, and the number and length of any cracks found. Submission of the Charts of Records (part of French airworthiness directive 2001-600-028(B), dated December 12, 2001), is an acceptable method of complying with this requirement. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120-0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 5 days after the inspection.

(2) If the inspection was done prior to the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in French airworthiness directive 2001-600-028(B), dated December 12, 2001.

Issued in Renton, Washington, on June 9, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-13702 Filed 6-16-04; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

Petitions of the Chicago Board of Trade, the Kansas City Board of Trade, and the Minneapolis Grain Exchange Pursuant to Commission Regulation 13.2 for Repeal or Amendment of Speculative Position Limits in Commission Regulation 150.2

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petitions for amendment, or repeal of a rule, and request for comment on the petitions.

SUMMARY: The Chicago Board of Trade (CBT), the Kansas City Board of Trade (KCBT), and the Minneapolis Grain Exchange (MGE) have submitted separate petitions to the Commodity Futures Trading Commission (Commission) seeking repeal or amendment of the speculative position limits set out in Commission regulation 150.2 (Federal speculative position limits). In addition, the New York Board of Trade, while not submitting a formal petition of its own, has submitted a letter in support of the CBT petition. The Commission believes that publication of the petitions for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the Commodity Exchange Act (Act) and Commission regulations. Copies of the petitions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, or on the Commission's website at <http://www.cftc.gov>. Copies of the proposed amendments can also be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418-5100.

DATES: Comments must be received on or before August 16, 2004.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments also may be sent by facsimile to (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to "Petitions for Repeal or Amendment of Federal Speculative Position Limits." Comments may also be submitted by connecting to the Federal eRulemaking Portal at <http://www.regulations.gov> and following comment submission instructions.

FOR FURTHER INFORMATION CONTACT:

Clarence Sanders, Attorney, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5068, facsimile number (202) 418-5507, electronic mail csanders@cftc.gov; or Martin Murray, Industry Economist, Division of Market Oversight, telephone (202) 418-5276, facsimile number (202) 418-5507, electronic mail mmurray@cftc.gov.

SUPPLEMENTARY INFORMATION: