

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

[Docket No. 2003–CE–67–AD]

RIN 2120–AA64

**Airworthiness Directives;
Ostmecklenburgische Flugzeugbau
GmbH Model OMF–100–160 Airplanes****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Ostmecklenburgische Flugzeugbau GmbH (OMF) Model OMF–100–160 airplanes. This proposed AD would require you to inspect the outside tube (cage) that supports the main landing gear leg for cracks, repair if cracks are found, and inspect the thickness of the tube if no cracks were found and reinforce the tube as necessary. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this proposed AD to detect, correct, and prevent future cracks in the outside tube of the main landing gear leg, which could result in structural failure of the fuselage tubing assembly. This failure could lead to loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by September 22, 2004.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–67–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

- *By fax:* (816) 329–3771.

- *By e-mail:* 9–ACE–7–

Docket@faa.gov. Comments sent electronically must contain “Docket No. 2003–CE–67–AD” in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from Ostmecklenburgische Flugzeugbau GmbH, Flughafenstraße, 17039 Trollenhagen, Federal Republic of Germany.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–67–AD, 901 Locust, Room

506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, ACE–112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: 816–329–4146; facsimile: 816–329–4149.

SUPPLEMENTARY INFORMATION:**Comments Invited**

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include “AD Docket No. 2003–CE–67–AD” in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What events have caused this proposed AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain OMF Model OMF–100–160 airplanes. The LBA reports that the manufacturer received a report of cracks in the outside fuselage tube that supports the main landing gear leg. Further investigation revealed that one manufacturer of fuselage tubes used out-of-design dimensions for the tube elements.

What are the consequences if the condition is not corrected? Cracks in the outside tube of the main landing gear leg, if not detected, corrected, and prevented, could result in structural failure of the fuselage tubing assembly. This failure could lead to loss of control of the airplane.

Is there service information that applies to this subject? OMF has issued Alert Service Bulletin No. 1107/0002, dated September 16, 2003.

What are the provisions of this service information? The service bulletin includes procedures for:

- Inspecting the tubing that supports the main landing gear leg;
- Inspecting the tube thickness and reinforcing the tube as necessary; and
- Obtaining repair instructions if cracks are found.

What action did the LBA take? The LBA classified this service bulletin as mandatory and issued German AD Number 2003–272, dated October 17, 2003, to ensure the continued airworthiness of these airplanes in Germany.

Did the LBA inform the United States under the bilateral airworthiness agreement? These OMF Model OMF–100–160 airplanes are manufactured in Germany and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the LBA has kept us informed of the situation described above.

FAA’s Determination and Requirements of This Proposed AD

What has FAA decided? We have examined the LBA’s findings, 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.

Since the unsafe condition described previously is likely to exist or develop on other OMF airplanes of the same type design that are registered in the United States, we are proposing AD action to detect, correct, and prevent future cracks in the outside tube of the main landing gear leg. These cracks could result in structural failure of the fuselage tubing assembly and lead to loss of control of the airplane.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA’s AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that

this proposed AD affects 11 airplanes on the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the

affected airplanes? We estimate the following costs to accomplish these proposed inspections:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
Inspection for cracks—2 workhours est. \$65 per hour = \$130	N/A	\$130	\$1,430
Inspection for inadequate thickness of tubing that supports the main landing gear leg—2 workhours est. \$65 the per hour = \$130	N/A	130	(¹)

¹OMF will cover the cost for special inspection.

We estimate the following costs to accomplish any necessary repairs that

would be required based on the results of these proposed inspections. We have

no way of determining the number of airplanes that may need this repair:

Labor cost	Parts cost	Total cost per airplane
85 workhours X \$65 per hour = \$5,525	None per manufacturer	\$5,525

Regulatory Findings

Would this proposed AD impact various entities? We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed 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); and
3. 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 summary of the costs to comply with this proposed AD and placed it in the AD Docket. You may get

a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket No. 2003-CE-67-AD" in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 airworthiness directive (AD):

Ostmecklenburgische Flugzeugbau GmbH:
Docket No. 2003-CE-67-AD

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by September 22, 2004.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Model OMF-100-160 airplanes, serial numbers 0006, 0007, 0012 through 0015, 0017, 0018, 0020, 0021, 0024, 0025, 0028, and 0029; that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of cracks in the fuselage tubing assembly and inadequate thickness of tubing that supports the main landing gear leg. The actions specified in this AD are intended to detect, correct, and prevent future cracks in the tubing for the main landing gear leg, which could result in failure of the fuselage tubing assembly. This failure could lead to loss of control of the airplane.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect the main landing gear leg support for cracks	Inspect the airplane within 50 hours time-in-service (TIS) after the effective date of this AD.	Inspect following the procedures in OMF Alert Service Bulletin No. 1107/0002, dated September 16, 2003.
(2) If cracks are found during any inspection required in paragraph (e)(1) or (e)(3)(ii) of this AD, obtain repair instructions from the manufacturer through the FAA and incorporate the repair instructions. This repair eliminates the repetitive inspection requirement of this AD	Repair prior to further flight after the inspection where cracks are found.	Contact an Ostmecklenburgische Flugzeugbau GmbH (OMF) representative at 1-819-377-1177 for repair instructions and incorporate these instructions. Summarize and copy all correspondence and send to FAA at the address specified in paragraph (f) of this AD.

Actions	Compliance	Procedures
(3) If no cracks are found during the inspection required in paragraph (e)(1) of this AD, do the following: (i) inspect tubing for proper thickness and make any appropriate reinforcements (ii) repetitively inspect main landing gear leg support for cracks	Inspect for tubing thickness of the airplane within 50 hours TIS after the initial inspection required in paragraph (e)(1) of this AD. Reinforce prior to further flight after the inspection required in paragraph (e)(3)(i) of this AD. Repetitively inspect main landing gear leg support within 50 hours TIS after the initial inspection required by paragraph (e)(1) of this AD and thereafter at intervals not to exceed 50 hours TIS.	Inspect following procedures in OMF Alert Service Bulletin No. 1107/0002, dated September 16, 2003. Reinforce with instructions from the manufacturer. Contact an Ostmecklenburgische Flugzeugbau GmbH (OMF) representative at 1-819-377-1177 for repair instructions and incorporate these instructions. Summarize and copy all correspondence and send to FAA at the address specified in paragraph (f) of this AD.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, ACE-112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: 816-329-4146; facsimile: 816-329-4149.

May I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from Ostmecklenburgische Flugzeugbau GmbH, Flughafenstraße, 17039 Trolenhagen, Federal Republic of Germany. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Is There Other Information That Relates to This Subject?

(h) LBA Airworthiness Directive No. 2003-272, dated October 7, 2003, and OMF Alert Service Bulletin 1107/0002, dated September 16, 2003, pertain to the subject of this AD.

Issued in Kansas City, Missouri, on August 11, 2004.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-18927 Filed 8-17-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-129274-04]

RIN 1545-BD57

Guidance Under Section 1502; Treatment of Loss Carryovers From Separate Return Limitation Years

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations providing guidance regarding the treatment of certain losses available to acquired subsidiaries as a result of an election made under the section 1502 regulations. The text of these proposed regulations also serves as the text of the temporary regulations set forth in this issue of the **Federal Register**. These regulations apply to corporations filing consolidated returns.

DATES: Written and electronic comments and requests for a public hearing must be received by November 16, 2004.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-129274-04), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:PA:LPD:PR (REG-129274-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at

www.regulations.gov (indicate IRS and REG-129274-04 or RIN 1545-BD57).

FOR FURTHER INFORMATION CONTACT:

Concerning submission of comments or requesting a hearing, Treena Garrett, (202) 622-7180; concerning the proposed regulations, Sean McKeever, (202) 622-7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1502 of the Internal Revenue Code (Code). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Further, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.