

DOS, DHS and DOS, and the role of foreign policy considerations in asylum adjudications.

#### *B. Regulatory Flexibility Act*

Because USCIS is not required by the APA to publish a notice of proposed rulemaking to make the changes promulgated in this rule, the Regulatory Flexibility Act (RFA) is not applicable.

#### *C. 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.

#### *D. 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. 5 U.S.C. 804. 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 the United States-based companies to compete with foreign-based companies in domestic and export markets.

#### *E. Executive Order 12866*

This rule has been designated as not significant under Executive Order 12866, section 3(f), Regulatory Planning and Review. Thus it has not been reviewed by the Office of Management and Budget.

#### *F. 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, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### *G. 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.

#### *H. Paperwork Reduction Act*

The information collection requirement (Form I-589) contained in this rule has been previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5, Display of control numbers. This rule does not contain a new or revised information collection.

#### **List of Subjects in 8 CFR Part 208**

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

■ Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

#### **PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL**

■ 1. The authority citation for part 208 continues to read:

**Authority:** 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 8 CFR part 2.

■ 2. Section 208.11 is revised to read as follows:

#### **§ 208.11 Comments from the Department of State.**

(a) U.S. Citizenship and Immigration Services (USCIS) may request, at its discretion, specific comments from the Department of State regarding individual cases or types of claims under consideration, or such other information as USCIS deems appropriate.

(b) With respect to any asylum application, the Department of State may provide, at its discretion, to USCIS:

(1) Detailed country conditions information relevant to eligibility for asylum or withholding of removal;

(2) An assessment of the accuracy of the applicant's assertions about conditions in his or her country of nationality or habitual residence and his or her particular situation;

(3) Information about whether persons who are similarly situated to the applicant are persecuted or tortured in the applicant's country of nationality or habitual residence and the frequency of such persecution or torture; or

(4) Such other information as it deems relevant.

(c) Any comments received pursuant to paragraph (b) of this section shall be made part of the record. Unless the comments are classified under the applicable Executive Order, the applicant shall be provided an

opportunity to review and respond to such comments prior to the issuance of any decision to deny the application.

**Janet Napolitano,**  
*Secretary.*

[FR Doc. E9-7051 Filed 4-3-09; 8:45 am]

**BILLING CODE 9111-97-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2009-0123 Directorate Identifier 2009-CE-005-AD; Amendment 39-15868; AD 2009-07-09]

**RIN 2120-AA64**

**Airworthiness Directives; DORNIER Luftfahrt GmbH Models Dornier 228-100, Dornier 228-101, Dornier 228-200, Dornier 228-201, Dornier 228-202, and Dornier 228-212 Airplanes**

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

**ACTION:** Final Rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been evidenced in-service that aileron trim actuator and rod spring lever attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective May 11, 2009.

On May 11, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at Document 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:** Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

#### SUPPLEMENTARY INFORMATION:

#### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 13, 2009 (74 FR 7200). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been evidenced in-service that aileron trim actuator and rod spring lever attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

#### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

#### Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

#### Costs of Compliance

Based on the service information, we estimate that this AD will affect 17 products of U.S. registry. We also estimate that it will take about 5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour.

Required parts will cost about \$5 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$6,885 or \$405 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 this AD:*

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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 regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the

**ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### 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:

**2009-07-09 DORNIER Luftfahrt GmbH:**  
Amendment 39-15868; Docket No. FAA-2009-0123; Directorate Identifier 2009-CE-005-AD.

#### Effective Date

- (a) This airworthiness directive (AD) becomes effective May 11, 2009.

#### Affected ADs

- (b) None.

#### Applicability

- (c) This AD applies to Dornier 228-100, Dornier 228-101, Dornier 228-200, Dornier 228-201, Dornier 228-202, and Dornier 228-212 airplanes, all serial numbers, certificated in any category.

#### Subject

- (d) Air Transport Association of America (ATA) Code 27: Flight Controls.

#### Reason

- (e) The mandatory continuing airworthiness information (MCAI) states:

It has been evidenced in-service that aileron trim actuator and rod spring lever attachment bracket—between frame 18 and 19 LH—on some aircraft may present loose rivets. If left uncorrected, this condition could lead to the separation of the attachment bracket which could result in loss of aileron trim and loss of artificial force feedback, and consequent reduced controllability of the airplane.

For the reasons described above, this Airworthiness Directive requires first an inspection of the trim lever attachment bracket and as a second step the replacement of the 4 existing rivets by Hi-Lock rivets.

#### Actions and Compliance

- (f) Unless already done, do the following actions:

(1) Within the next 10 hours time-in-service (TIS) after May 11, 2009 (the effective date of this AD), do the inspection for "unequal aileron steering wheel force" in

accordance with paragraphs 2.A.(1) through 2.A.(3) of the ACCOMPLISHMENT INSTRUCTIONS of RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008. If any defect is found, before further flight, modify the attachment bracket riveting in accordance with paragraph 2.B. of the ACCOMPLISHMENT INSTRUCTIONS of RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008.

(2) Within 300 hours TIS after May 11, 2009 (the effective date of this AD), unless accomplished as required per paragraph (f)(1) of this AD, modify the attachment bracket riveting in accordance with paragraph 2.B. of the ACCOMPLISHMENT INSTRUCTIONS of RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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 assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2008-0217, dated December 10, 2008; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No. SB-228-275, Revision No.: 0, dated October 8, 2008, for related information.

#### Material Incorporated by Reference

(i) You must use RUAG Aerospace Defence Technology Dornier 228 Service Bulletin No.

SB-228-275, Revision No.: 0, dated October 8, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Federal Republic of Germany, telephone: +49 (0) 8153-30-2280; fax: +49 (0) 8153-30-3030; E-mail: [custsupport.dorner228@ruag.com](mailto:custsupport.dorner228@ruag.com); Internet: <http://www.ruag.com/>.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329-3768.

(4) You may also review copies of the service information incorporated by reference for this AD 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/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Kansas City, Missouri, on March 24, 2009.

**John Colomy,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9-7071 Filed 4-3-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0125 Directorate Identifier 2009-CE-002-AD; Amendment 39-15873; AD 2009-07-14]

**RIN 2120-AA64**

#### Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 40 and DA 40F Airplanes

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

**ACTION:** Final Rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A number of wings manufactured by Diamond Aircraft Industries Inc. in Canada

have been found to exhibit voids in the adhesive joint between the main spar caps and the upper wing skins. The available information indicates that wings with voids continue to meet the certification design limits, provided the voids are within established criteria. However, to detect any wings that may have voids exceeding these criteria, Diamond has issued Mandatory Service Bulletin MSB-40-060 and MSB-F4-016 (single document) that describes instructions for inspection of the aircraft that had these wings installed during manufacture. Aircraft that have voids within the inspection criteria may continue to operate without restriction, pending the outcome of ongoing investigations. Aircraft that have voids exceeding the inspection criteria must be repaired.

We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective May 11, 2009.

On May 11, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at Document 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:** Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329-4145; *fax:* (816) 329-4090.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 13, 2009 (74 FR 7196). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A number of wings manufactured by Diamond Aircraft Industries Inc. in Canada have been found to exhibit voids in the adhesive joint between the main spar caps and the upper wing skins. The available information indicates that wings with voids continue to meet the certification design limits, provided the voids are within established criteria. However, to detect any wings that may have voids exceeding these criteria, Diamond has issued Mandatory Service Bulletin MSB-40-060 and MSB-F4-016 (single document) that describes instructions for inspection of the aircraft that had these wings installed during manufacture. Aircraft that have voids within