Proposed Rules

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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. 2001–NM–10–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX 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 Dassault Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX series airplanes. This proposal would require revising the Emergency Procedures and Abnormal Procedures sections of the airplane flight manual to advise the flightcrew to immediately don oxygen masks in the event of significant pressurization or oxygen level changes. This action is necessary to prevent incapacitation of the flightcrew due to lack of oxygen, which could result in their inability to continue to control the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–10–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. 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. 2001–NM–10–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 for Windows or ASCII text.

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 No. 2001–NM–10–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. 2001–NM–10–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 25, 1999, a business jet operating under part 135 of the Federal Aviation Regulations (14 CFR part 135) departed Orlando International Airport en route to Dallas, Texas. Air traffic control lost communication with the airplane near Gainesville, Florida. Air Force and National Guard airplanes intercepted the airplane. The flightcrews of those chase airplanes observed no damage to the airplane, but reported that its windows appeared frosted over, obscuring the view of the interior of the airplane. Subsequently, the airplane ran out of fuel and crashed in South Dakota. To date, the cause of the accident has not been determined. However, the failure of the flightcrew to respond to air traffic control suggests the possibility that the flightcrew was incapacitated and raises concerns about the pressurization and oxygen systems on the airplane.

Recognizing these concerns, the FAA initiated a special certification review (SCR) of the certification requirements for the pressurization and oxygen systems on that airplane. The SCR findings indicated that the most likely cause for incapacitation was hypoxia (lack of oxygen). The only other plausible cause of incapacitation is exposure to toxic substances; however, no evidence was found to support the existence of toxic substances.

The SCR team learned of several accidents and incidents that may have involved incapacitation of the flightcrews during flight. In one case, the flightcrew did not don oxygen masks or activate the pressurization system when the airplane flew at an altitude in excess of 35,000 feet. In another case, the flightcrew did not don oxygen masks when the cabin aural warning was activated.

The SCR team recommended a review of the airplane flight manuals (AFM) for all pressurized airplanes certified under parts 23 and 25 of the Federal Aviation Regulations (14 CFR part 23 and 14 CFR

part 25) for operation above altitudes of 25,000 feet. Specifically, the team recommended a review of the AFM's to determine the necessity of including procedures to immediately don oxygen masks in the event of significant pressurization or oxygen level changes. The AFM's of Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX series airplanes do not include this procedure in the Emergency Procedures or Abnormal Procedures sections. Time spent troubleshooting the pressurization system following changes in pressurization or oxygen levels may result in the flightcrew's incapacitation and consequent inability to continue to control the airplane before they are able to don oxygen masks.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 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 revising the AFM to advise the flightcrew to immediately don oxygen masks under certain conditions. This procedure would be included in the Emergency Procedures section for Model Mystere-Falcon 50 and 900 series airplanes, to be implemented in the event of rapid cabin depressurization; and in the Abnormal Procedures section for all airplanes, to be implemented in the event of too high cabin altitude or slow cabin depressurization.

Differences Between Proposed AD and French Airworthiness Directive

This proposed AD would require that the Abnormal Procedures section of the AFM be revised to advise the flightcrew to immediately don oxygen masks in the event of too low cabin altitude or slow cabin depressurization. The parallel French airworthiness directive 2000–536–032(B), dated December 27, 2000, does not mandate such a revision. The FAA finds that revisions to flight procedures only during emergency conditions related to rapid depressurization may not provide the degree of safety assurance necessary for these airplanes during all possible flight conditions.

Further, the parallel French airworthiness directive does not specify a compliance time by which to revise the AFM. This proposed AD would require that the AFM be revised within 10 days.

Cost Impact

The FAA estimates that 137 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 actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,220, or $60 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 proposed 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 2001–NM–10–AD.

Applicability: All Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent incapacitation of the flightcrew due to lack of oxygen, which could result in their inability to continue to control the airplane, accomplish the following:

Revision of Airplane Flight Manual (AFM) Emergency Procedures

(a) For Model Mystere-Falcon 50 having serial numbers (S/N's) 1 through 250 inclusive and 252, and Mystere-Falcon 900 series airplanes having S/N's 1 through 178 inclusive: Within 10 days after the effective date of this AD, revise the Emergency Procedures section of the FAA-approved AFM to include the procedures listed in Figure 1 of this AD. This revision may be done by inserting a copy of Figure 1 into the AFM, as follows:

BILLING CODE 4910–13–P

Figure 1

"In case of rapid cabin depressurization, apply the following procedure:

1. Crew oxygen masks ..... 100% - Donned

2. Microphone selector .....MASK

3. FASTEN BELTS and no smoking light pushbuttons .....On

4. Oxygen controller and passenger masks .....OVERRIDE – Donned

5. Emergency descent ..... Initiated"

Revision of AFM Abnormal Procedures Section

(b) For Model Mystere-Falcon 50 series airplanes as identified in paragraph (a) of this AD: Within 10 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM to include the procedures listed in Figure 2 of this AD. This revision may be done by inserting a copy of Figure 2 into the AFM.

Figure 2

"PRESSURIZATION – TOO HIGH CABIN ALTITUDE OR SLOW DEPRESSURIZATION

WARNING – CABIN light on and warning horn sounds.

– Cabin altitude higher than 10,000 ft.

– Crew oxygen masks ..... Donned – Normal

– Microphone selector ..... MASK and test

– Bleed air CREW, CABIN and PRV ..... ON or AUTO

– UP – DN control ..... Between 1 and 2 o'clock

– Cabin pressure selector switch ..... MAN (as required)

– UP – DN control ..... DN (as required)

———— If necessary:

-  ..... On
- Passenger oxygen masks ..... Donned – Checked
- NOSE ..... Closed

———— If necessary:

- Execute an EMERGENCY DESCENT (see page 2.10.1) down to 14,000 ft or safe altitude."

(c) For Model Mystere-Falcon 900 series airplanes as identified in paragraph (a) of this AD: Within 10 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM by including the procedures listed in Figure 3 of this AD. This revision may be done by inserting a copy of Figure 3 into the AFM.

Figure 3

"PRESSURIZATION – TOO HIGH CABIN ALTITUDE OR SLOW DEPRESSURIZATION

WARNING – CABIN light on and aural warning.

– Cabin altitude higher than 10,000 ft.

– Crew oxygen masks ..... Donned/Normal

– Microphone selector ..... MASK

– Bleed air CREW and PASSENGER switches ..... Checked

– PRV 2 and PRV 3 switches ..... Checked

– BAG switch ..... ISOL

- BAG ISOL light ..... On

– *NOSE control lever* ..... *CLOSED*

– UP – DN control ..... Between 1 and 2 o'clock

– AUTO/MAN pressure selector switch ..... MAN

– UP – DN control ..... DN (as required)

———— If cabin pressure cannot be restored:

- Isolation valve knob ..... ISOLATION
  - ISOL light checked .....On

———— If cabin pressure is restored:

- Cycle bleed air CREW and/or PASSENGER switches alternatively to OFF and ON. Retain condition for which cabin pressure is maintained.
- COND control lever *or crossfeed valve* ..... TIED

———— If cabin pressure is not restored:

- NORM/EMERG pressure selector switch .....EMERG

Figure 3 continued

———————— If cabin pressure is restored:

- Continue flight at highest possible altitude.
- CREW temperature controller ..... As required

———————— If temperature gets too high during descent:

- Bleed air CREW switch ..... OFF

———————— If cabin pressure cannot be restored:

-  ..... On
- Passenger oxygen masks ..... Donned

———————— If necessary:

- Execute an emergency descent down to the safe altitude or to 14,000 ft."

(d) For all Model Falcon 900EX series airplanes: Within 10 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM by including the procedures listed in Figure 4 of this AD. This revision may be done by inserting a copy of Figure 4 into the AFM.

Figure 4

"PRESSURIZATION – TOO HIGH CABIN ALTITUDE

WARNING – [MASTER] with [CABIN] lights on and "CABIN" voice warning.

– Cabin altitude higher than 10,000 ft.

– Crew oxygen masks ..... Donned/Normal

– Microphone selector ..... MASK

– CREW and PASSENGER air conditioning valve switches ..... AUTO - Checked

– HP BLEED AIR switches ..... Auto - Checked

– BAG switch ..... ISOL

- [BAG ISOL] light ..... On - Checked

– UP – DN control knob ..... White range

– AUTO/MAN pressure selector switch ..... MAN

– UP – DN control knob ..... DN (as required)

———— If cabin pressure cannot be restored:

- Isolation rotary switch.....ISOL
  - [ISOL] light..... On - Checked

———— If cabin pressure is restored:

- Cycle PASSENGER and/or CREW air conditioning valve switches alternatively to OFF and ON. Retain condition for which cabin pressure is maintained.

———— If cabin pressure is not restored:

- NORM/EMERG pressure selector switch .....EMERG

Figure 4 continued

———————— If cabin pressure is restored:

- Continue flight at highest possible altitude.
- CREW temperature controller ..... As required

———————— If temperature gets too high during descent:

- CREW air conditioning valve switch ..... OFF

———————— If cabin pressure cannot be restored:

-  light pushbutton ..... On
- Passenger oxygen masks ..... OVERRIDE/Donned

———————— If necessary:

- Execute an emergency descent down to the safe altitude or to 14,000 ft."

(e) For Model Mystere-Falcon 900 series airplanes having serial numbers 179 and subsequent: Within 10 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM by including the procedures listed in Figure 5 of this AD. This revision may be done by inserting a copy of Figure 5 into the AFM.

Figure 5

"PRESSURIZATION – TOO HIGH CABIN ALTITUDE OR SLOW DEPRESSURIZATION

WARNING – MASTER with CABIN lights on and "CABIN" voice warning.

– Cabin altitude higher than 10,000 ft.

– Crew oxygen masks ..... Donned/Normal

– Microphone selector ..... MASK

– CREW and PASSENGER air conditioning switches . AUTO - Checked

– PRV 2 and PRV 3 BLEED AIR switches ..... On - Checked

– BAG switch ..... ISOL

- BAG ISOL light ..... On - Checked

– UP – DN control ..... Between 1 and 2 o'clock

– AUTO/MAN pressure selector switch ..... MAN

– UP – DN control ..... DN (as required)

——————— If cabin pressure cannot be restored:

- Isolation rotary switch ..... ISOLATION
- ISOL light ..... On - Checked

——————— If cabin pressure is restored:

- Cycle PASSENGER and/or CREW air conditioning valve switches alternatively to OFF and ON. Retain condition for which cabin pressure is maintained.
- Crossfeed valve *or COND control lever* ..... TIED

——————— If cabin pressure is not restored:

- NORM/EMERG pressure selector switch ..... EMERG

Figure 5 continued

———————— If cabin pressure is restored:

- Continue flight at highest possible altitude.
- CREW temperature controller .....As required

———————— If temperature gets too high during descent:

- CREW air conditioning valve switch ..... OFF

———————— If cabin pressure cannot be restored:

-  .....On
- Passenger oxygen masks..... OVERRIDE - Donned

———————— If necessary:

- Execute an emergency descent down to the safe altitude or to 14,000 ft."

(f) For Model Mystere-Falcon 50 series airplanes having serial numbers 251, 253, and subsequent: Within 10 days after the effective date of this AD, revise the Abnormal Procedures section of the AFM by including the procedures listed in Figure 6 of this AD. This revision may be done by inserting a copy of Figure 6 into the AFM.

Figure 6

"PRESSURIZATION – TOO HIGH CABIN ALTITUDE OR SLOW DEPRESSURIZATION

WARNING – MASTER light on + aural warning with CABIN light on.

– Cabin altitude higher than 10,000 ft.

– Crew oxygen masks .....Donned – Normal

– Microphone selector.....MASK and test

– HP 1, 2 and 3 BLEED AIR switches ..... AUTO – Checked

– BLEED AIR: CREW and CABIN switches .....On

———— If depressurization persists:

– UP – DN control .....Between 1 and 2 o'clock

– Cabin pressure selector switch.....MAN (as required)

– UP – DN control ..... DN (as required)

———— If necessary:

-  .....On
- Passenger oxygen masks.....Donned – Checked
- NOSE ..... Closed

———— If necessary:

- Execute an EMERGENCY DESCENT (see page 2–120–1) down to 14,000 ft or safe altitude."

BILLING CODE 4910–13–C

Note 1: If the manufacturer publishes AFM temporary or general revisions that include the corresponding procedures required by paragraphs (a) through (f) of this AD, those revisions may be incorporated into the AFM, provided the information in the revisions is identical to that in the Figures of this AD; and those Figures may be removed from the AFM.

Alternative Methods of Compliance

(g) 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 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.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–536–032(B), dated December 27, 2000.

Issued in Renton, Washington, on April 9, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–9191 Filed 4–16–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 915]

RIN: 1512–AC26

Proposed Addition of New Grape Variety Names for American Wines (2000R–307P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms has received petitions proposing to add two new names, ''Counoise'' and ''St. Laurent,'' to the list of prime grape variety names for use in designating American wines.

DATES: Written comments must be received by June 18, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 915).

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Bureau of Alcohol, Tobacco and Firearms, Regulations Division, 111 W. Huron Street, Room 219, Buffalo, NY 14202–2301; Telephone (716) 551–4048.

SUPPLEMENTARY INFORMATION:

1. Background

Under 27 CFR 4.23 (b), a wine bottler may use a grape variety name as the designation of a wine if not less than 75 percent of the wine (51 percent in circumstances detailed in § 4.23(c)) is derived from that grape variety. Under § 4.23(d), a bottler may use two or more grape variety names as the designation of a wine if:

- All grapes used to make the wine are the labeled varieties;
- The percentage of the wine derived from each grape variety is shown on the label; and
- If labeled with multiple appellations, the percentage of the wine derived from each varietal from each appellation is shown on the label.

Treasury Decision ATF–370 (61 FR 522), January 8, 1996, adopted a list of grape variety names that ATF has determined to be appropriate for use in designating American wines. The list of prime grape names and their synonyms appears at § 4.91, while additional alternative grape names temporarily authorized for use are listed at § 4.92.

ATF has received petitions proposing that new grape variety names be listed in § 4.91. Under § 4.93 any interested person may petition ATF to include additional grape varieties in the list of prime grape names. Information with a petition should provide evidence of the following:

- Acceptance of the new grape variety;
- The validity of the name for identifying the grape variety;
- That the variety is used or will be used in winemaking; and
- That the variety is grown and used in the United States.

For the approval of names of new grape varieties, the petition may include:

- A reference to the publication of the name of the variety in a scientific or professional journal of horticulture or a published report by a professional, scientific or winegrowers' organization;
- A reference to a plant patent, if patented; and
- Information about the commercial potential of the variety, such as the acreage planted and its location or market studies.

Section 4.93 also places certain eligibility restrictions on the approval of grape variety names. A grape variety name will not be approved:

- If the name has previously been used for a different grape variety;
- If the name contains a term or name found to be misleading under § 4.39; or
- If the name of a new grape variety contains the term ''Riesling.''

The Director reserves the authority to disapprove the name of a new grape variety developed in the United States if the name contains words of geographical significance, place names, or foreign words which are misleading under § 4.39. The Director will not approve the use of a grape variety name that is misleading.

2. Petitions

Counoise Petition

Tablas Creek Vineyard in Paso Robles, California, has petitioned ATF proposing the addition of the name ''Counoise'' to the list of prime grape variety names approved for the designation of American wines. Counoise is a red varietal originally from the Rhône region of France, where it has traditionally been a component of Châteauneuf-du-Pape.

The petitioner has submitted the following published references to Counoise to establish its acceptance as a grape and the validity of its name:

- Cépages et Vignobles de France, Volume II, by Pierre Galet, 1990, pp. 106–107.
- Catalogue of Selected Wine Grape Varieties and Clones Cultivated in France, published by the French Ministry of Agriculture, Fisheries and Food, 1997, pp. 67 & 216.
- Traité General de Viticulture Ampelographie, Volume II, by P. Viala and V. Vermoral, 1991, pp. 78–80.
- Guide to Wine Grapes, Oxford University Press, 1996, by Jancis Robinson, p. 61.

The first three references are scientific articles that discuss the grape's origin, cultivation, and ampelography (the study and classification of grapevines). The *Guide to Wine Grapes,* intended for the general reader, discusses the cultivation of Counoise in the Rhône region and notes that it is ''one of the more rarefied ingredients in red Châteauneuf-du-Pape.''

Tablas Creek Vineyard states that it imported the Counoise plant into the USDA station in Geneva, New York, in 1990. The plant was declared virus free