

reviewed today's final rule under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

XV. Review Under Executive Order 13175

Under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), 65 FR 67249 (November 9, 2000), DOE is required to consult with Indian tribal officials in development of regulatory policies that have tribal implications. Today's action would not have such implications. Accordingly, Executive Order 13175 does not apply to this final rule.

XVI. Review Under Executive Order 13045

Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks), 62 FR 19885 (April 23, 1997), contains special requirements that apply to certain rulemakings that are economically significant under Executive Order 12866. Today's action is not economically significant. Accordingly, Executive Order 13045 does not apply to this rulemaking.

XVII. Review Under Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use), 66 FR 28355 (May 22, 2001), requires preparation and submission to OMB of a Statement of Energy Effects for significant regulatory actions under Executive Order 12866 that are likely to have a significant adverse effect on the supply, distribution, or use of energy. A determination that a private and local government fleet AFV acquisition program is not "necessary" under EPCA section 507(e) does not require private and local government fleets, suppliers of energy, or distributors of energy to do or to refrain from doing anything. Thus, although today's negative determination is a significant regulatory action, the finalization of this determination will not have a significant adverse impact on the supply, distribution, or use of energy. Consequently, DOE has concluded there is no need for a Statement of Energy Effects.

XVIII. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

XIX. Approval by the Office of the Secretary

The issuance of the final rule for the Private and Local Government Fleet Determination has been approved by the Office of the Secretary.

Issued in Washington, DC, on January 23, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 04-1923 Filed 1-28-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-SW-28-AD; Amendment 39-13438; AD 2004-02-03]

RIN 2120-AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Agusta S.p.A. (Agusta) model helicopters that requires modifying each passenger compartment sliding door (door) by applying a kit to replace the levers and links. This amendment is prompted by instances of a door inadvertently opening during flight due to the unstable configuration of the door. The actions specified by this AD are intended to prevent the inadvertent opening of a door during flight and loss of a passenger or other objects from the cabin.

DATES: Effective March 4, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605-222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety

Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5116, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified Agusta model helicopters was published in the **Federal Register** on October 22, 2003 (68 FR 60300). That action proposed to require modifying the doors by installing a new lever and link and other hardware contained in kits, part number (P/N) 109-0823-25-101 (left hand) and P/N 109-0823-25-102 (right hand).

The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model A109E helicopters. ENAC advises that the doors should be modified.

Agusta has issued Alert Bollettino Tecnico No. 109EP-33, dated March 19, 2003 (ABT), which specifies modifying the opening and closing mechanism of the passenger compartment sliding doors by installing a new lever and a new link to avoid the possibility of the mechanism not reaching the stowed position. Agusta reports the accidental opening during flight of one of the doors, on a few helicopters, without any harm to the passengers. ENAC classified this ABT as mandatory and issued AD No. 2003-109, dated March 27, 2003, to ensure the continued airworthiness of these helicopters in Italy.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 34 helicopters of U.S. registry, and the required actions will take approximately 4 work hours per helicopter to accomplish at an average labor rate of \$65 per work hour. Required parts will cost approximately \$3000 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be \$110,840 (\$3260 per helicopter). However Agusta states in its ABT that it will supply the parts at no cost and will reimburse up to 4 work hours to modify the doors at a fixed rate of \$40. Assuming this warranty coverage, the estimated total cost impact of this AD on U.S. operators is \$3400 (\$100 per helicopter).

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 a new airworthiness directive to read as follows:

2004-02-03 Agusta S.p.A.: Amendment 39-13438. Docket No. 2003-SW-28-AD.

Applicability: Model A109E helicopters, up to and including serial number (S/N) 11150 with Pratt & Whitney Canada, Inc. PW206C engines, and S/N 11501 through 11509 with Turbomeca Arrius TM2K1 engines, with a passenger compartment sliding door (door), part number (P/N) 109-0360-48-101 (left-hand (LH)), P/N 109-0360-48-102 (right-hand (RH)), P/N 109-0360-48-201 (LH), or P/N 109-0360-48-202 (RH), installed, certificated in any category.

Compliance: Required within 90 days, unless accomplished previously.

To prevent the inadvertent opening of a door and loss of a passenger or other objects from the cabin, accomplish the following:

(a) Modify the doors by replacing levers, P/N 109-0362-30-103 (LH) and P/N 109-0362-30-104 (RH), and links, P/N 109-

0362-05-101; with levers P/N 109-0362-30-109 (LH) and P/N 109-0362-30-110 (RH), and links, P/N 109-0362-05-105, and the hardware contained in kits, P/N 109-0823-25-101 (LH) and P/N 109-0823-25-102 (RH) in accordance with the Compliance Instructions in Agusta Bollettino Tecnico No. 109 EP-33, dated March 19, 2003.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

(c) The modification shall be done in accordance with Agusta Bollettino Tecnico No. 109 EP-33, dated March 19, 2003. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 2291111, fax 39 (0331) 229605-222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(d) This amendment becomes effective on March 4, 2004.

Note: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2003-109, dated March 27, 2003.

Issued in Fort Worth, Texas, on January 16, 2004.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 04-1686 Filed 1-28-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-NM-276-AD; Amendment 39-13439; AD 2004-02-04]

RIN 2120-AA64

Airworthiness Directives; Dassault Model Falcon 900EX Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Dassault Model Falcon 900EX series airplanes. This action requires revising the airplane flight manual to advise the flightcrew about limitations on operating in icing conditions, and to require that the

airplane be operated per these limitations. This action is necessary to ensure that the flightcrew is aware of the potential for reductions in climb performance in certain situations while operating in icing conditions, and the actions they must take to avoid this condition, which could result in an inability to avoid low-level obstacles during takeoff and consequent controlled flight into terrain. This action is intended to address the identified unsafe condition.

DATES: Effective February 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 13, 2004.

Comments for inclusion in the Rules Docket must be received on or before March 1, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-276-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-iarccomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2003-NM-276-AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Dassault Model Falcon 900EX series airplanes. The DGAC