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 (AD) to read as follows:

Dornier Luftfahrt GmBH: Docket No. 97–CE–121–AD.

Applicability: Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, serial numbers 0001 through 8235, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent a false warning indication of landing gear failure because of the design of the landing gear warning system, which could result in incorrect actions from the pilot based on the warning indications, accomplish the following:

(a) Modify the logic in the failure detection circuits of the landing gear uplock switches in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995.

(b) Special flight permits may be issued in accordance with sections 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64016. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Dornier Service Bulletin No. SB–228–215, Revision No. 1, dated January 31, 1995, should be directed to Daimler-Benz Aerospace, Dornier, Product Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 302985. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 95–246, dated August 23, 1995.

Issued in Kansas City, Missouri, on March 19, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–7888 Filed 3–25–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–126–AD]

RIN 2120–AA64

Airworthiness Directives; Avions Mudry & Cie Model CAP 10B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede airworthiness directive (AD) 93–10–11, which currently requires the following actions on Avions Mudry & Cie (Avions) Model CAP 10B airplanes: installing an inspection opening in the wing, repetitively inspecting the upper wing spar cap for cracks, and repairing any cracks. The proposed action would retain the same actions already required by AD 93–10–11, but would add inspecting, and repairing if necessary, the lower surface of the wing spar. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent structural cracks in the wing spar, which, if not corrected, could lead to loss of a wing and loss of control of the airplane.

DATES: Comments must be received on or before April 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–126–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Avions Mudry & Cie, B.P. 214, 27300 Bernay, France: telephone (33) 32.43.47.34; facsimile (33) 32.43.47.90. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Karl M. Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

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 should 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 notice may be changed in light of the comments received.

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 that summarizes 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–126–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–126–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 93–10–11, Amendment 39–8592, (58 FR 31342, June 2, 1993) currently requires

installing a permanent inspection opening and repetitively inspecting the upper wing spar caps for cracks on Avions Model CAP 10B airplanes, and if any cracks are found, prior to further flight, repairing the cracks in accordance with a repair scheme provided by the manufacturer.

Actions Since Issuance of Previous Rule

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may still exist on certain Avions Mudry & Cie (Avions) Model CAP 10B airplanes.

The DGAC advises that they are still receiving reports of cracks on the upper surfaces of the wing, and cracks have now been showing up on the underside of the wing spar. The DGAC reports that this cracking occurs as a result of exceeding the load limit determined for the airplane, executing snap roll maneuvers outside the envelope for which the airplane is certificated, and repetitive hard landings.

Avions has used the information received from field reports to revise the service information regarding the inspection procedures for detecting cracks in the critical structure of the wings. Some reports have noted cracks along the No. 1 spar ribs, on the roots left and right of the wing, and cracks caused by over stress on the spar. Some damage has been extending to the lower surface of the spar and has occurred along the undercarriage attachment fitting. Cracks in these areas lead to separation of the spruce filler, delamination of the lower surfaces of the spar, and splits in the plywood skin of the lower wing spar surface.

Relevant Service Information

Avions has issued Service Bulletin CAP10B–57–003, Revision 1, dated April 3, 1996, which specifies procedures for inspecting the upper and lower wing spar for cracks, and determining whether any cracks found are compression cracks or lengthwise wood fissures. The revised service information simplifies the inspection procedure for the upper surface of the wing spar, recommends contacting the manufacturer for a repair method to fix any cracks found, and adds a new inspection to the lower surface of the wing spar along the undercarriage attachment fitting.

The inspections to the lower wing surface would also include determining what type of spruce filler is used at the underwing location, and depending on the type of spruce filler the wing is equipped with, a boroscope inspection would be performed. If any cracks are found, the service information recommends that the operator contact the manufacturer for the appropriate repair method. The manufacturer recommends repetitively inspecting for cracks in the same areas regardless of whether a repair was made.

The DGAC classified this service bulletin as mandatory and issued French AD 92–240(A)R1, dated October 22, 1997, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

This airplane model is manufactured in France and is 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. 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 the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Avions Model CAP 10B airplanes of the same type design registered for operation in the United States, the proposed AD would supersede AD 93–10–11 with a new AD that would require repetitively inspecting the upper and lower wing spars for structural cracking, and if any cracks are found, repairing the cracks in accordance with a repair method provided by the manufacturer through the FAA.

Cost Impact

The FAA estimates that 37 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. There is no cost for parts associated with the proposed AD. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $11,100 or $300 per airplane.

Regulatory Impact

The regulations proposed herein would 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 Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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) 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 has been placed 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 removing Airworthiness Directive (AD) 93–10–11, Amendment 39–8592, and by adding a new AD to read as follows:

Avions Mudry & Cie: Docket No. 97–CE–126–AD; Supersedes AD 93–10–11, Amendment 39–8592.

Applicability: Model CAP 10B airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or

repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, or within the next 1,000 hours TIS after the last inspection required in accordance with AD 93–10–11, Amendment 39–8592, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 1,000 hours TIS.

To prevent structural cracks in the wing spars, which, if not corrected, could lead to loss of a wing and loss of control of the airplane, accomplish the following:

(a) Inspect the upper and lower wing surfaces of both wing spars for cracks in accordance with Avions Mudry & Cie (Avions) Service Bulletin (SB) CAP10B–57–003, Revision 1, dated April 3, 1996.

(b) If any cracks are found, prior to further flight, repair the cracks with a repair scheme obtained from the manufacturer through the FAA Project Officer at the Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

Note 2: The compliance times required in this AD take precedence over the compliance times stated in Avions SB CAP10B–57–003, Revision 1, dated April 3, 1996.

(c) Special flight permits may be issued in accordance with sections 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.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate. Alternative methods of compliance approved in accordance with AD 93–10–11 are not considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Avions Mudry & Cie Service Bulletin CAP10B–57–003, Revision 1, dated April 3, 1996, should be directed to Avions Mudry & Cie, B.P. 214, 27300 Bernay, France: telephone (33) 32 43 47 34; facsimile (33) 32 43 47 90. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) This amendment supersedes AD 93–10–11, Amendment 39–8592.

Note 4: The subject of this AD is addressed in French AD 92–240(A)R1, dated October 22, 1997.

Issued in Kansas City, Missouri, on March 19, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–7889 Filed 3–25–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

RIN 1515–AB49

Gray Market Imports and Other Trademarked Goods

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations in light of the 1993 decision of the U.S. Court of Appeals for the District of Columbia in *Lever Bros. Co.* v. *United States.* In line with that decision, the proposed rule would, upon application by the U.S trademark owner, restrict importation of certain gray market articles that bear genuine trademarks identical to or substantially indistinguishable from those appearing on articles authorized by the U.S. trademark owner for importation or sale in the U.S., and that thereby create a likelihood of consumer confusion, in circumstances where the gray market articles and those bearing the authorized U.S trademark are physically and materially different. The proposed restrictions would apply notwithstanding that the U.S. and foreign trademark owners are the same, are parent and subsidiary companies, or are otherwise subject to common ownership or control. The proposed restrictions would not be applicable if the otherwise restricted articles are labeled in accordance with proposed standards to eliminate consumer confusion.

In addition, it is proposed to reorganize the Customs Regulations, with respect to importations bearing recorded trademarks or trade names, in order to clarify Customs enforcement of trademark rights as they relate to products bearing counterfeit, copying, or simulating marks and trade names, and to clarify Customs enforcement against gray market goods.

DATES: Comments must be received on or before May 26, 1998.

ADDRESSES: Comments (preferably in triplicate) must be submitted to and may be inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Michael Smith, Intellectual Property Rights Branch, (202–927–2330).

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1993, the United States Court of Appeals for the District of Columbia issued a decision in *Lever Bros. Co.* v. *United States,* 981 F.2d 1330 (D.C. Cir. 1993) (*Lever*) regarding certain prohibitions against the importation of certain ''gray market'' goods. In general, gray market goods are articles that are genuine but are not authorized for importation by the U.S trademark owner. In light of this decision, a number of regulatory changes to part 133, Customs Regulations (19 CFR part 133) are proposed.

The Lever Decision

Lever Brothers Company (''Lever U.S.'') owned the domestic trademarks ''SHIELD'' and ''SUNLIGHT,'' and manufactured products in the United States bearing those trademarks. Lever Brothers Limited (''Lever U.K.'') owned the foreign trademarks ''SHIELD'' and ''SUNLIGHT,'' and manufactured products abroad bearing those trademarks. Lever U.S. and Lever U.K. were affiliated through Unilever, a Dutch company. The *Lever* court proceeded on the uncontested assumption that the articles produced for the U.S. and foreign markets respectively differed in terms of composition, and performance characteristics, among other things.

A third party, unrelated to either Lever U.S. or Lever U.K., imported into the United States, without the authorization of Lever U.S., ''SHIELD'' deodorant soap and ''SUNLIGHT'' dishwashing products manufactured abroad by Lever U.K. Customs declined to restrict these importations, based on § 133.21(c)(2) of the Customs Regulations, 19 CFR 133.21(c)(2), which states that no protection against unauthorized genuine goods bearing otherwise restricted marks is provided when the foreign and domestic trademark owners are subject to common ownership or control.

Lever U.S. brought suit to compel Customs to deny entry, claiming that the differences between the Lever U.K. and Lever U.S. products resulted in consumer confusion and deception about the nature and origin of the imported merchandise, thereby constituting a violation of section 42 of