

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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 335

[Docket No. 93-026-4]

RIN 0579-AA61

Introduction of Nonindigenous Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; withdrawal.

SUMMARY: We are withdrawing a proposed rule to establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. Additionally, we are notifying the public of our intent to publish an advance notice of proposed rulemaking to solicit further public comment regarding what should be proposed in any new proposed rule. We are taking this action after considering the comments on the proposed rule.

DATES: Withdrawal of proposed rule effective June 16, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew H. Royer, Chief Operations Officer, Biological Assessment and Taxonomic Support, PPQ, APHIS, Suite 4A01, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-7654.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1995, the Animal and Plant Health Inspection Service (APHIS) published a proposed rule in the **Federal Register** (60 FR 5288-5307, Docket No. 93-026-1) to establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. In that document, APHIS stated that the proposed rule appeared to be necessary

because the plant pest regulations under which the movement of certain nonindigenous organisms are currently regulated do not adequately address the introduction of nonindigenous organisms that may potentially be plant pests. The proposed regulations were intended to provide a means of screening certain nonindigenous organisms prior to their introduction to determine the potential plant pest risk associated with a particular introduction.

We initially solicited comments on the proposed rule for 60 days ending on March 27, 1995. We also hosted three public hearings regarding the proposed rule during that initial comment period, in Kansas City, MO, on March 6, 1995; in Sacramento, CA, on March 7, 1995; and in Washington, DC, on March 10, 1995. We received several requests for an extension of the comment period to allow interested parties additional time to comment on the proposal, as well as a request that we hold a public hearing in Hawaii. In response to those requests, we published a notice in the **Federal Register** on March 21, 1995 (60 FR 14928-14929, Docket No. 93-026-2), that extended the comment period for the proposed rule until May 26, 1995, and announced that a public hearing would be held in Honolulu, HI, on April 6, 1995.

By the close of the extended comment period, we had received a total of 251 comments. The comments were submitted by farmers; weed control committees and districts; university researchers; biological control researchers, producers, distributors, and practitioners; waste treatment and recycling facilities; composters; members of Congress; local, State, and Federal agencies; commercial laboratories; organic farmers and cooperatives; private citizens; a fish hatchery; collections and museums; industry associations; scientific societies; and foreign government agencies.

None of the commenters supported the proposed rule as written. Some commenters requested that the proposed rule be withdrawn and reconsidered, while others recommended that we incorporate changes in any final rule to be published. Many commenters disagreed with the proposed lists of regulated organisms and exempted organisms, or expressed the belief that

the proposed rule would impose unnecessary restrictions on the introduction of organisms. Finally, many commenters disagreed with APHIS' analysis of the economic impact of the proposed rule, stating that they believed that the costs of complying with the proposed regulations would be greater than APHIS had anticipated.

After considering all the comments, we have concluded that we should not proceed with a final rule based on the proposal because the revisions that would be necessary to reconcile the proposed regulations with the very diverse views expressed in the comments would be so significant that the final rule would be substantially different from the proposed rule on which the public had the opportunity to comment. Therefore, we are withdrawing the January 26, 1995, proposed rule. We do, however, plan to develop new proposed regulations to address the inadequacies in our current plant pest regulations and to provide a means of screening organisms prior to their introduction to determine the potential plant pest risks associated with such introductions. The concerns and recommendations of all those who commented on the proposed rule that we are withdrawing will be considered during the development of any new proposed regulations. Further, we will publish an advance notice of proposed rulemaking in a future issue of the **Federal Register** to solicit additional input from interested persons and to present opportunities for additional public participation in discussions of the scope, rationale, and basis of any new proposed regulations.

Authority: 7 U.S.C. 150aa-150jj, 151-164a, 167, and 1622(n); 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 9th day of June 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-NM-19-AD]

Airworthiness Directives; General Dynamics (Convair) Model 240 Series Airplanes, Including Model T-29 (Military) Airplanes; Model 340 and 440 Series Airplanes; and Model C-131 (Military) Airplanes; Including Those Modified for Turbo-Propeller Power**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 various General Dynamics (Convair) airplanes. This proposal would require revising the Airplane Flight Manual to require that the flight crew limit the flap settings during certain icing conditions and air temperatures. This proposal is prompted by reports indicating that incidents involving uncommanded pitch excursions have occurred due to ice contaminated tailplane stall (ICTS) that occurred during or following flight in icing conditions. If flap settings are increased for landing when ICTS is present, elevator control could be affected adversely and the airplane could descend uncontrollably. The actions specified by the proposed AD are intended to ensure that the flight crew is advised of the potential hazard related to increasing the flap settings when ICTS is present, and the procedures necessary to address it.

DATES: Comments must be received by August 14, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-19-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.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5338; fax (310) 627-5210.

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 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 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-19-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-103, Attention: Rules Docket No. 95-NM-19-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports indicating that incidents involving uncommanded pitch excursions have occurred on various turbo-propeller powered airplanes, including General Dynamics (Convair) airplanes. These pitch excursions were caused by ice contaminated tailplane stall (ICTS), which occurred during or following flight in icing conditions. If the flap settings are increased for landing when ICTS is present, elevator control could be affected adversely. This condition, if not corrected, could result in uncontrollable descent of the airplane.

Icing conditions can be encountered during the approach for the landing phase of flight. Further, ice can accumulate on the tailplane before it begins to accumulate on the wings. Since ice may form quickly, in the case

of the tailplane, such ice formation could reach hazardous proportions during the approach phase without any prior evidence of its presence in the "clean" (cruise) configuration.

The flight crew can only determine if ice is forming on the airplane by looking out the window at the wings. If the flight crew does not observe any ice on the wings, they could assume that the airplane is free of ice and proceed to select certain flap settings during the approach phase without properly configuring the airplane for icing conditions by turning on the anti-icing system. In addition, the flight crew may increase the flap settings for landing and, consequently, elevator control can be affected adversely.

In response to the reports of uncommanded pitch excursions, the FAA and the National Aeronautics and Space Administration (NASA) sponsored two International Tailplane Icing workshops in November 1991 and April 1993. In addition to representatives from the FAA and NASA, workshop participants included representatives from certain foreign airworthiness authorities, foreign and domestic manufacturers, and industry. As a result of these workshops, emphasis was placed on improving flight crew awareness of ICTS. For the longer term, a review of certain Federal Aviation Regulations (FAR) that pertain to ice protection/detection and tailplane aerodynamic issues also was conducted.

Additionally, the FAA conducted flight tests on various turbo-propeller powered airplanes, including General Dynamics (Convair) Model 5800 series airplanes. (This airplane model is similar to a Model 340 series airplane equipped with turbo-prop engines.) During the certification of Model 5800 series airplanes, the FAA performed a series of flight test maneuvers to determine if the airplane would be susceptible to ICTS. Results of these flight test maneuvers indicate that these airplanes are susceptible to ICTS. Such susceptibility is directly related to the angle-of-attack (AOA) of the tailplane and the sensitivity of the airfoil to degradation by contamination often associated with efficient airfoil design.

The FAA has issued a number of airworthiness directives (AD) to correct the same unsafe condition described previously on various transport category airplane types. Examples of those AD's include the following:

- AD 86-20-02, amendment 39-5429 (51 FR 34452, September 29, 1986), applicable to Aerospatiale Model ATR-42 series airplanes;
- AD 91-16-01, amendment 39-7091 (56 FR 37468, August 7, 1991),

applicable to Mitsubishi Heavy Industries (MHI) Model YS-11 and -11A series airplanes; and —AD 86-06-03 R1, amendment 39-5917 (53 FR 16385, May 9, 1988), applicable to SAAAB-Fairchild Model SF-340A series airplanes.

The FAA finds that the FAA-approved Airplane Flight Manual (AFM) for General Dynamics (Convair) Model 240 series airplanes [including Model T-29 (military) airplanes], Model 340 and 440 series airplanes, and Model C-131 (military) airplanes, including those modified for turbo-propeller power, must be revised. This revision must include procedures to ensure that the flight crew does not select a flap setting of more than 30 degrees after icing conditions have been encountered, when icing conditions are anticipated during approach and landing, or when the outside air temperature is +5 degrees Celsius or below and any visible moisture is present. The FAA has determined that such procedures currently are not defined adequately in the AFM for these airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require revising the Limitations Section of the FAA-approved AFM to limit flap selection during certain icing conditions and air temperatures.

There are approximately 282 Model 240 series airplanes, including Model T-29 (military) airplanes; Model 340 and 440 series airplanes; Model C-131 (military) airplanes, and those models modified for turbo-propeller power; of the affected design in the worldwide fleet. The FAA estimates that 197 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$11,820, or \$60 per airplane.

The total 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 AD were not adopted.

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 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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Dynamics (Convair): Docket 95-NM-19-AD.

Applicability: All Model 240 series airplanes, including Model T-29 (military) airplanes; Model 340 and 440 series airplanes; and Model C-131 (military) airplanes; including those models modified for turbo-propeller power (commonly referred to as Model 580, 600, and 640 series airplanes); certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is advised of the potential hazard associated with increasing the flap settings when ice contaminated tailplane stall (ICTS) is present, and the procedures necessary to address it, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following procedures,

which will limit the flap settings during certain icing conditions and air temperatures. This may be accomplished by inserting a copy of this AD in the AFM.

"Flap Limitation in Icing Conditions

Flap selection is limited to a maximum of 30 degrees after icing conditions have been encountered; or when icing conditions are anticipated during approach and landing; or when the outside air temperature is +5 degrees Celsius or below and any visible moisture is present."

(b) 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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(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.

Issued in Renton, Washington, on June 12, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-14766 Filed 6-15-95; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 95-NM-50-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10-10 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 certain McDonnell Douglas DC-10-10 series airplanes. This proposal would require inspections of the wings to detect cracks in the aft spar lower cap, in certain stringer butterfly clips on the bulkheads, and in certain fastener holes; and repair, if necessary. This proposal would also require modification of those areas of the wings, which would terminate the repetitive inspection requirements. This proposal is prompted by reports indicating that, during fatigue testing of the wing structure, cracks developed in the aft spar lower cap, in certain stringer