

for award and shall be conducted as promptly as possible. The issue as to whether the position of OFHEO in the underlying adversary adjudication was substantially justified shall be determined on the basis of the whole administrative record that was made in the underlying adversary adjudication.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought on the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

**§ 1735.26 Decision of the adjudicative officer.**

(a) The adjudicative officer shall make the initial decision on the basis of the written record, except if further proceedings are ordered under § 1735.25.

(b) The adjudicative officer shall issue a written initial decision on the application for award within 30 days after completion of proceedings on the application. The initial decision shall become the final decision of OFHEO after 30 days from the day it was issued, unless review is ordered under § 1735.27.

(c) In all initial decisions, the adjudicative officer shall include findings and conclusions with respect to the applicant's eligibility and an explanation of the reasons for any difference between the amount requested by the applicant and the amount awarded. If the applicant has sought an award against more than one agency, the adjudicative officer shall also include findings and conclusions with respect to the allocation of payment of any award made.

(d) In initial decisions on applications filed pursuant to § 1735.4(a), the adjudicative officer shall include findings and conclusions as to whether OFHEO made a demand that was substantially in excess of the decision in the underlying adversary adjudication and that was unreasonable when compared with that decision; and, if at issue, whether the applicant has committed a willful violation of the law or otherwise acted in bad faith, or whether special circumstances would make the award unjust.

(e) In decisions on applications filed pursuant to § 1735.4(b), the adjudicative officer shall include written findings and conclusions as to whether the applicant is a prevailing party and whether the position of OFHEO was substantially justified; and, if at issue, whether the applicant unduly protracted or delayed the underlying adversary adjudication or whether

special circumstance make the award unjust.

**§ 1735.27 Review by OFHEO.**

Within 30 days after the adjudicative officer issues an initial decision under § 1735.26, either the applicant or agency counsel may request the Director of OFHEO to review the initial decision of the adjudicative officer. The Director of OFHEO or his or her designee may also decide, on his or her own initiative, to review the initial decision. Whether to review a decision is at the discretion of the Director of OFHEO or his or her designee. If review is ordered, the Director of OFHEO or his or her designee shall issue a final decision on the application for award or remand the application for award to the adjudicative officer for further proceedings under § 1735.25.

**§ 1735.28 Judicial review.**

Any party, other than the United States, that is dissatisfied with the final decision on an application for award of fees and expenses under this part may seek judicial review as provided in 5 U.S.C. 504(c)(2).

**§ 1735.29 Payment of award.**

To receive payment of an award of fees and other expenses granted under this part, the applicant shall submit a copy of the final decision that grants the award and a certification that the applicant will not seek review of the decision in the United States courts to the Director, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Washington, DC 20552. OFHEO shall pay the amount awarded to the applicant within 60 days of receipt of the submission of the copy of the final decision and the certification, unless judicial review of the award has been sought by any party to the proceedings.

Dated: May 2, 2000.

**Armando Falcon, Jr.,**

*Director, Office of Federal Housing Enterprise Oversight.*

[FR Doc. 00-11524 Filed 5-8-00; 8:45 am]

**BILLING CODE 4220-01-U**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2000-CE-04-AD; Amendment 39-11715; AD 2000-09-06]

**RIN 2120-AA64**

**Airworthiness Directives; Maule Aerospace Technology, Inc. M-4, M-5, M-6, M-7, MX-7, and MXT-7 Series Airplanes and Models MT-7-235 and M-8-235 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Maule Aerospace Technology, Inc. (Maule) M-4, M-5, M-6, M-7, MX-7, and MXT-7 series airplanes and Models MT-7-235 and M-8-235 airplanes. This AD requires you to inspect all Nicopress™ sleeve terminal ends for correct size compression, with adjustment or replacement, as necessary. This AD results from a report of the rudder cable slipping out of the Nicopress™ sleeve while one of the affected airplanes was landing. The actions specified by this AD are intended to detect and correct improper crimping of the Nicopress™ sleeve, which could cause a control cable to slip from the sleeve. This could result in loss of rudder, elevator, aileron, or flap control.

**DATES:** This AD becomes effective on May 30, 2000. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of May 30, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before June 23, 2000.

**ADDRESSES:** Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-04-AD, 901 Locust, Room 506, Kansas City, MO 64106.

You may get the service information referenced in this AD from Maule Aerospace Technology Inc., 2099 Georgia Highway 133 South, Moultrie, GA 31768; telephone: (912) 985-2045, facsimile: (912) 890-2402.

You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-04-AD, 901 Locust, Room 506, Kansas City, MO 64106; or at the Office of the Federal

Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, GA 30349; telephone: (770) 703-6078, facsimile: (770) 703-6097.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

*What Events Have Caused This AD?*

The FAA has received a report of the rudder cable slipping out of the Nicopress™ sleeve while a Maule Model M-7-235C airplane was landing. Investigation of this accident revealed that the Nicopress™ sleeve was not adequately crimped and was slightly larger than the gauge dimension.

*What Is the Cause of the Problem?*

Maule did not set a crimping tool to correct specification for the elevator and rudder cables that were installed on certain Maule airplane models on Type Certificate No. 3A23, Revision 26, dated April 6, 2000. Maule has no way of determining exactly what time frame the crimping tool was not set to specification. Each airplane utilizes approximately 27 Nicopress™ sleeves.

The airplane models affected are listed in the AD portion of this document.

*What Are the Consequences if the Condition Is Not Corrected?*

An improperly crimped Nicopress™ sleeve, if not detected and corrected, could cause a control cable to slip from the sleeve. This could result in loss of rudder, elevator, aileron, or flap control.

*Is There Service Information That Applies to This Subject?*

Maule has issued Mandatory Service Bulletin No. 20, dated December 27, 1999.

*What Are the Provisions of This Service Bulletin?*

The service bulletin:

- Includes procedures for inspection of all Nicopress™ sleeve terminal ends for correct size compression; and
- Specifies provisions for adjustment or replacement, as necessary.

**FAA's Determination and an Explanation of the Provisions of the AD**

*What Has FAA Decided?*

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, FAA has determined that:

- An unsafe condition exists or could develop on certain Maule M-4, M-5, M-6, M-7, MX-7, and MXT-7 series airplanes and Models MT-7-235 and M-8-235 airplanes of the same type design; and

- AD action should be taken in order to detect and correct improper crimping of the Nicopress™ sleeve, which could cause a control cable to slip from the sleeve.

*What Does This AD Require?*

This AD requires you to inspect all Nicopress™ sleeve terminal ends for correct size compression, with adjustment or replacement, as necessary.

*Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?*

Because the unsafe condition described in this document could result in loss of rudder, elevator, aileron, or flap control, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

The FAA specifically invites comments on the overall regulatory,

economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000-CE-04-AD." We will date stamp and mail the postcard back to you.

**Regulatory Impact**

These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. We have determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If FAA determines that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation. You may obtain a copy of the evaluation (if required) from the Rules Docket.

**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 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

**2000-09-06 Maule Aerospace Technology, Inc.:** Amendment 39-11715; Docket No. 2000-CE-04-AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers, certificated in any category:

**GROUP 1 AIRPLANES**

Models	Serial numbers
MX-7-160C	34001C.
M-7-260C	30001C through 30004C, 30007C through 30011C, 30013C, and 30014C.
M-7-420AC	29001C.
MX-7-180C	28001C through 28011C.
MT-7-260 ..	27001C and 27003C.
M-7-260 ....	26002C through 26007C.
M-7-235C	25001C through 25037C, 25040C, 25041C, and 25044C.
M-7-235A ..	24001C.
M-7-235B ..	23001C through 23056C, 23058C, and 23059C.
MX-7-180B	22001C through 22016C.
MXT-7-180A.	21001C through 21067C, 21070C, 21072C, 21076C, 21077C, 21079C, and 21081C.
MX-7-180A	20001C through 20063C.
MX-7-160 ..	19001C through 19046C.
MXT-7-160	17001C through 17008C.
MT-7-235 ..	18001C through 18041C, 18044C, and 18047C.
M-8-235 ....	15001C through 15005C.
MXT-7-180	14000C through 14095C.
MX-7-180 ..	11066C through 11097C.
MX-7-235 ..	10081C through 10122C.

**GROUP 1 AIRPLANES—Continued**

Models	Serial numbers
M-7-235 ....	4078C, 4080C, 4083C, 4086C, and 4089C through 4132C.
M-6-235 ....	7508C, 7510C, 7516C, and 7518C through 7521C.

**GROUP 2 AIRPLANES**

Models	Serial numbers
Bee Dee M-4.	3 through 14.
M-4 .....	3 through 94 (Bee Dee: 3-14; and M-4: 15-94).
M-4C .....	1C through 11C.
M-4S .....	1S, 2S, and 3S.
M-4T .....	1T, 2T, and 3T.
M-4-210 ....	1001 through 1045.
M-4-210C	1001C through 1117C.
M-4-220C	2001C through 2190C.
M-4-220S ..	2001S.
M-4-180C	3001C through 3006C.
M-5-200 ....	8015C and 8022C.
M-5-210C	6001C through 6206C.
M-5-220C	5001C through 5057C.
M-5-235C	7001C through 7248C, 7250C through 7353C, A7354C, A7355C, 7356C, 7357C, A7358C, 7359C, A7360C, A7361C, 7362C through 7365C, A7366C, A7367C, 7368C through 7376C, 7445C, 7451C, 7460C, 7467C, 7470C, 7478C through 7480C, 7484C through 7487C, and 7515C.
M-5-180C	8001C through 8014C, 8016C through 8019C, 8021C, 8023C through 8042C, 8044C through 8064C, and 8068C through 8094C.

**GROUP 2 AIRPLANES—Continued**

Models	Serial numbers
M-5-210T ..	9001C through 9010C.
M-6-235 ....	7249C, 7356C, 7379C through 7444C, 7446C through 7450C, 7452C through 7459C, 7461C through 7466C, 7468C, 7469C, 7471C through 7475C, 7488C through 7507C, 7509C, 7511C through 7514C, and 7517C.
M-6-180 ....	8020C, 8043C, and 8065C through 8067C.
M-7-235 ....	4001C through 4077C, 4079C, 4081C, 4082C, 4084C, 4085C, 4087C, and 4088C.
M-7-235 ....	12001C and 12002C. These airplanes were manufactured as Model M-7-235 airplanes and then modified in accordance with STC SA2661SO. This modification changed the model designation of these airplanes to M-7-420.
MX-7-235 ..	10001C through 10080C.
MX-7-180 ..	11001C through 11065C.
MX-7-420 ..	13001C through 13003C.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct improper crimping of the Nicopress™ sleeve, which could cause a control cable to slip from the sleeve. This could result in loss of rudder, elevator, aileron, or flap control.

(d) *What must I do to address this problem?* To address this problem, accomplish the following:

Action	Compliance time	Procedures
Inspect all Nicopress™ sleeve terminal ends for correct size compression..	For Group 1 airplanes: Within the next 25 hours time-in-service (TIS) after May 30, 2000 (the effective date of this AD); and.  For Group 2 airplanes: Within the next 100 hours TIS after May 30, 2000 (the effective date of this AD)..	Accomplish in accordance with the ACTION TO BE TAKEN AND TOOLS REQUIRED section of Maule Mandatory Service Bulletin No. 20, dated December 27, 1999.
Adjust or replace any terminal compressions that are outside of the limits specified in the service information..	Prior to further flight after the inspection required by this AD..	Accomplish in accordance with the ACTION TO BE TAKEN AND TOOLS REQUIRED section of Maule Mandatory Service Bulletin No. 20, dated December 27, 1999.
Do not install a Nicopress™ sleeve without assuring that the terminal compressions are within the limits specified in the service information..	As of May 30, 2000 (the effective date of this AD)..	Accomplish in accordance with the ACTION TO BE TAKEN AND TOOLS REQUIRED section of Maule Mandatory Service Bulletin No. 20, dated December 27, 1999.

(e) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

- (i) Your alternative method of compliance provides an equivalent level of safety; and
- (ii) The Manager, Atlanta Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who

may add comments and then send it to the Manager, Atlanta ACO.

(2) 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 (e)(1) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, GA 30349; telephone: (770) 703-6078; facsimile, (770) 703-6097.

(g) *What if I need to fly the airplane to another location to comply with this AD?* FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with Maule Mandatory Service Bulletin No. 20, dated December 27, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Maule Aerospace Technology, Inc., 2099 Georgia Hwy. 133 South, Moultrie, GA 31768. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, MO, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on May 30, 2000.

Issued in Kansas City, Missouri, on April 27, 2000.

**Michael Gallagher,**

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

[FR Doc. 00-11176 Filed 5-8-00; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-244-AD; Amendment 39-11704; AD 2000-08-18]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes, and Model MD-88 and MD-90-30 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 series airplanes, and Model MD-88 and MD-90-30 airplanes, that requires replacement of the lanyard assembly pins of the evacuation slides with solid corrosion-resistant pins. This amendment is prompted by a report that, due to stress

corrosion on the lanyard pins, the arms of the lanyard assembly of the evacuation slide were found to be frozen. The actions specified by this AD are intended to prevent the improper deployment of the evacuation slide due to stress corrosion, which could delay or impede evacuation of passengers during an emergency.

**DATES:** Effective June 13, 2000. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 2000.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, CA 90846, Attention: Technical Publications Business Administration, Dept. C1-L51 (2-60).

This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, WA; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Alan Sinclair, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; telephone (562) 627-5338; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9 series airplanes, and Model MD-88 and MD-90-30 airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 26, 1999 (64 FR 66417). That action proposed to require replacement of the lanyard assembly pins of the evacuation slides with solid corrosion-resistant pins.

#### **Comments Received**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### **Support for Proposed AD**

One commenter supports the proposed AD. Another commenter states

that the proposed AD does not affect its fleet.

#### **Requests To Revise Applicability Statement of Proposed AD**

Two commenters request that the applicability statement of the proposed AD be revised to exclude freighter airplanes on which emergency evacuation slides have not been installed. The commenters state that such a revision would eliminate alternative method of compliance (AMOC) requests. The commenters did not provide any data to substantiate their request.

The FAA does not concur. The FAA is unable to verify that all freighter airplanes are not equipped with evacuation slides. Therefore, all affected freighter airplanes must be included in the applicability statement of the final rule. However, under the provisions of paragraph (c) of the final rule, the FAA may consider requests for approval of an AMOC if sufficient data are submitted to substantiate that replacement of the lanyard pins with solid corrosion-resistant pin are not necessary.

One commenter questions whether Boeing latch assembly, part number (P/N) 69-70843-1, should be included in the applicability statement of the proposed AD. The commenter states that the roll pin, P/N MS39086-140, which resulted in the corrosion problem, is present in the Boeing latch assembly, as well as the Douglas latch assembly, P/N's 3961899-1 and 3956939-501.

The FAA has determined that the subject Boeing latch assemblies are not susceptible to stress corrosion, and therefore, are not subject to the identified unsafe condition of this AD. Therefore, no change to the final rule is necessary.

#### **Requests for Alternative Method of Compliance (AMOC)**

One commenter requests that the FAA approve lanyard assembly pin, P/N MS16555-627, as an AMOC for the pin required by the AD (reference McDonnell Douglas Alert Service Bulletin DC9-25A357, dated February 11, 1997). The commenter states that this pin is shorter and would not require any machining. If the FAA does not approve the pin having P/N MS16555-627, the commenter requests that the FAA approve the installation of an unmodified pin, P/N MS16555-628, which would protrude from the latch assembly. The commenter states that both of these alternatives would not interfere with the operation of the lanyard or deployment of the slide and