

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2002-CE-04-AD]

RIN 2120-AA64

**Airworthiness Directives; Avions Mudry et Cie Model CAP 10 B Airplanes****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to supersede Airworthiness Directive (AD) 98-12-10 and AD 99-21-23, which currently apply to Avions Mudry et Cie (Avions Mudry) Model CAP 10 B airplanes. AD 98-12-10 requires installing an inspection opening in the wing, 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. AD 99-21-23 requires restricting the entry speed for performing flick maneuvers to 97 knots, inserting a copy of the AD into the Limitations Section of the CAP 10B flight manual, and fabricating and installing a placard (in the cockpit of the airplane within the pilot's clear view) that indicates this limitation. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. This proposed AD would retain the wing modification and repair requirements from AD 98-12-10. This proposed AD would also incorporate new repetitive inspection procedures, further reduce the flick maneuver speed specified in AD 99-21-23, and temporarily reduce the load factor limits prior to the initial inspection. The actions specified by this proposed AD are intended to provide the flight information necessary to the pilot so that excessive speed is not used during aerobatic maneuvers and to detect and correct structural cracks in the wing spar, which could result in the wing separating from the airplane. Such failure could lead to loss of control of the airplane.

**DATES:** The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 1, 2002.

**ADDRESSES:** Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE-04-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You

may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: 9-ACE-7-Docket@faa.gov. Comments sent electronically must contain "Docket No. 2002-CE-04-AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from APEX Aircraft, 1 Route de Troyes, F21121 Darois, France; telephone: +33 (380) 356 510; facsimile: +33 (380) 356 515. You may also view this information at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; facsimile: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:****Comments Invited***How Do I Comment on This Proposed AD?*

The FAA invites comments on this proposed 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 to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

*Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view 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 contact we have with the public that concerns the substantive parts of this proposed AD.

*How Can I Be Sure FAA Receives My Comment?*

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped

postcard. On the postcard, write "Comments to Docket No. 2002-CE-04-AD." We will date stamp and mail the postcard back to you.

**Discussion***Has FAA Taken Any Action to This Point?*

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified FAA that it was receiving reports of cracks on the upper and lower surfaces of the wing spar. The DGAC reported that the cracking was occurring 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 experiencing repetitive hard landings. This condition caused us to issue AD 98-12-10, Amendment 39-10566 (63 FR 31104, June 8, 1998). AD 98-12-10 requires the following on Model CAP 10 B airplanes, all serial numbers through 263:

- Installing an inspection opening in the wing;
- Repetitively inspecting the upper and lower wing spars for structural cracking; and
- If any cracks are found, repairing the cracks.

Accomplishment of these actions is required in accordance with Avions Mudry Service Bulletin No. 15, CAP10B-57-003, Revision 1, dated April 3, 1996, and Avions Mudry Service Bulletin CAP10B No. 16 (ATA 57-004), dated April 27, 1992.

The DGAC also reported that there was no airspeed limitation for performing flick maneuvers during aerobatic flight. The speeds listed in sections 4 and 7 of the CAP 10B flight manual are only recommendations instead of required speeds.

Without required entry speeds for flick maneuvers when performing aerobatic flight, the pilot could use excessive speed and cause the wing to separate from the airplane. This situation caused us to issue AD 99-21-23, Amendment 39-11368 (64 FR 55416, October 13, 1999). AD 99-21-23 requires the following on Model CAP 10 B airplanes, all serial numbers:

- Restricting the entry speed for performing flick maneuvers to 97 knots;
- Inserting a copy of the AD into the Limitations Section of the CAP 10B flight manual; and
- Fabricating and installing a placard (in the cockpit of the airplane within the pilot's clear view).

*What Has Happened Since AD 98-12-10 and AD 99-21-23 To Initiate This Action?*

The DGAC notified the FAA that an unsafe condition may still exist on all Avions Mudry Model CAP 10 B airplanes, which creates the need to change AD 98-12-10 and AD 99-21-23. The DGAC reports that additional fractures in the wing spar are being found that were not detected using the inspection procedures specified in AD 98-12-10.

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

APEX Aircraft has issued the following service information:

- CAP10B—Upper spar cap inspection Document No. 1000913GB, Revision No. 00, dated April 2, 2002;
- CAP10B—Landing gear attachment blocks inspection Document No. 1000914GB, Revision No. 00, dated April 2, 2002; and
- CAP10B—Main spar undersurface inspection Document No. 1000915GB, Revision No. 00, dated April 2, 2002.

*What Are the Provisions of These Service Documents?*

These service documents include procedures for inspecting specified sections of the wing spar for cracks.

*What Action Did the DGAC Take?*

The DGAC classified these service documents as mandatory and issued French AD Number 2001-616(A) R1, dated May 29, 2002, in order to ensure the continued airworthiness of these airplanes in France.

*Was This in Accordance With the Bilateral Airworthiness Agreement?*

These airplane models are manufactured in France and are 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 FAA informed of the situation described above.

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

*What Has FAA Decided?*

The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that:

- The unsafe condition referenced in this document exists or could develop on all Avions Mudry Model CAP 10 B airplanes of the same type design that are on the U.S. registry;
- The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
- AD action should be taken in order to correct this unsafe condition.

What Would the Proposed AD Require? This proposed AD Would Supersede AD 98-12-10 and AD 99-21-23 with a new AD that would require the following:

- Installing an inspecting opening in each wing;

- Temporarily reducing the load factor limits until completion of the initial inspection of the upper and lower surfaces of the wing spar and landing gear attachment blocks and are found free of cracks;
- Repetitively inspecting the upper and lower surfaces of the wing spar and the landing gear attachment blocks for cracks;
- Reducing the flick maneuver speed;
- Inserting a copy of the AD into the Limitation Section of the CAP 10B flight manual; and
- Fabricating and installing a placard that indicates the flick maneuver speed in the cockpit in the pilot's clear view. The placard will incorporate the following language:

“The Never-Exceed Airspeed for Positive or Negative Flick Maneuvers Is 160 KM/H (86 KTS)”

**Cost Impact**

*How Many Airplanes Would This Proposed AD Impact?*

We estimate that this proposed AD affects 36 airplanes in the U.S. registry.

*What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?*

We estimate the following costs to accomplish the proposed installation of the inspection opening:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
18 work hours × \$60 per hour = \$1,080 .....	No parts required to make the inspection .....	\$1,080	\$1,080 × 36 = \$38,880

We estimate the following costs to accomplish the proposed inspection(s):

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours × \$60 per hour = \$300 .....	No parts required to perform the inspection .....	\$300	\$300 × 36 = \$10,800

The FAA has no method of determining the number of repetitive inspections each owner/operator would incur over the life of each of the affected airplanes so the cost impact is based on the initial inspection.

The FAA has no method of determining the number of repairs each owner/operator would incur over the life of each of the affected airplanes based on the results of the proposed inspections. We have no way of

determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Accomplishing the proposed flight manual and placard requirements of this proposed AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this proposed AD in

accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). The only cost impact of this proposed action is the time it would take each owner/operator of the affected airplanes to insert the information into the flight manual and fabricate and install the placard.

*What Is the Difference Between the Cost Impact of This Proposed AD and the Cost Impacts of AD 98-12-10 and AD 99-21-23?*

The only difference between this proposed AD and AD 98-12-10 and AD 99-21-23 is the change of inspection procedures. The FAA has determined that the costs of these proposed changes are minimal and does not increase the cost impact over that already required by the previous ADs.

**Regulatory Impact**

*Would This Proposed AD Impact Various Entities?*

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 proposed rule would not have federalism implications under Executive Order 13132.

*Would This Proposed AD Involve a Significant Rule or Regulatory Action?*

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, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations 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 § 39.13 by removing Airworthiness Directive (AD) 98-12-10, Amendment 39-10566 (63 FR 31104, June 8, 1988), and AD 99-21-23, Amendment 39-11368 (64 FR 55416, October 13, 1999), and by adding a new AD to read as follows:

**Avions Mudry et Cie:** Docket No. 2002-CE-04-AD; Supersedes AD 98-12-10, Amendment 39-10566, and AD 99-21-23, Amendment 39-11368.

(a) *What airplanes are affected by this AD?* This AD affects Model CAP 10B airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to provide the flight information necessary to the pilot so that excessive speed is not used during aerobatic maneuvers and to detect and correct structural cracks in the wing spar, which could result in the wing separating from the airplane. Such failure could lead to loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) For CAP 10 B airplanes, all serial numbers through 263, install a permanent inspection opening in the No. 1 wing rib. Inspection openings are incorporated during production for airplanes having a serial number of 264 or higher.	Within the next 100 hours time-in-service (TIS) after July 23, 1993 (the effective date of AD 93-10-11, which was superseded by AD 98-12-10), unless already accomplished.	In accordance with Avions Mudry Service Bulletin CAP10B No. 16 (ATA 57-004), dated April 27, 1992.
(2) For all airplanes, accomplish the following: (i) Restrict the load factors limitation to +5 & -3 G's. (ii) Restrict the entry speed for performing flick maneuvers to 86 knots through the incorporation of the following information into the CAP 10B flight manual: “The never-exceed airspeed for positive or negative flick maneuvers is 160 km/h (86 knots).”.. (iii) Fabricate a placard that incorporates the following words (using at least 1/8-inch letters) and install this placard on the instrument panel within the pilots clear view: THE NEVER EXCEED AIRSPEED FOR POSITIVE OR NEGATIVE FLICK MANEUVERS IS 160 KM/H (86 KNOTS)”.	Within the next 25 hours TIS after the effective date of this AD.	Accomplish the limitations of paragraphs (d)(2)(i) and (d)(2)(ii) of this AD by inserting a copy of the AD into the Limitations Section of the CAP 10B flight manual. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may accomplish this flight manual insertion and the placard requirements of paragraph (d)(2)(iii) of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(3) Inspect the upper wing spar cap, the main wing spar undersurface, and the landing gear attachment blocks for cracks.	Within the next 50 hours TIS after the effective date of this AD and thereafter at repetitive intervals not-to-exceed 50 hours TIS.	In accordance with APEX Aircraft CAP10B—Upper spar cap inspection Document No. 1000913GB, Revision No. 00, dated April 2, 2002; APEX Aircraft CAP10B—Landing gear attachment blocks inspection Document No. 1000914GB, Revision No. 00, dated April 2, 2002; and APEX Aircraft CAP10B—Main spar undersurface inspection Document No. 1000915GB, Revision No. 00, dated April 2, 2002.

Actions	Compliance	Procedures
(4) If cracks are found during any inspection required in paragraph (d)(3) of this AD, accomplish the following: (i) Obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (f) of this AD; (ii) Incorporate this repair scheme; and ..... (iii) The repair scheme will indicate whether or not you may raise the load factor limits.	Obtain and incorporate the repair scheme prior to further flight after the inspection in which the cracks are found. Continue to inspect as specified in paragraph (d)(3) of this AD.	In accordance with the repair scheme obtained from APEX Aircraft, Direction Technique, 1b Route de Troyes, F21121, Darois, France. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD.
(5) If no cracks are found during the initial inspection required in paragraph (d)(3) of this AD, you may raise load factor limits back to +6 & -4.5 G's.	Prior to further flight after the initial inspection required in paragraph (d)(3) of this AD in which no cracks were found.	Not applicable.

**Note 1:** The service information specified in paragraph (d)(3) of this AD is available on CD-ROM from the manufacturer. You may contact them at the address and phone number in paragraph (h) of this AD.

(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 Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

(2) Alternative methods of compliance approved in accordance with AD 98-12-10 and AD 99-21-23, which are superseded by this AD, are not approved as alternative methods of compliance with this AD.

**Note 2:** This AD applies to each airplane identified in paragraph (a) of this AD, 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) 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 S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; facsimile: (816) 329-4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The 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) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from APEX AIRCRAFT, 1 Route de Troyes, 21121

Darois, France; telephone: +33 (380) 356 510; facsimile: +33 (380) 356 515. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 98-12-10, Amendment 39-10566 and AD 99-21-23, Amendment 39-11368.

**Note 3:** The subject of this AD is addressed in French AD Number 2001-616(A) R1, dated May 29, 2002.

Issued in Kansas City, Missouri, on June 25, 2002.

**Michael Gallagher,**

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-16533 Filed 7-1-02; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic Atmospheric Administration

#### 15 CFR Part 930

[Docket No. 020422093-2093]

RIN 0648-AP98

### Procedural Changes to the Federal Consistency Process

**AGENCY:** Office of Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic Atmospheric Administration (NOAA), Department of Commerce (Commerce).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** NOAA is evaluating whether limited and specific procedural changes or guidance to the existing Federal consistency regulations are needed to improve efficiencies in the Federal consistency procedures and Secretarial appeals process, particularly for energy development on the Outer Continental Shelf (OCS). This advance notice of proposed rulemaking requests public

comment on the need for limited and specific changes or guidance on what such changes or guidance should be.

**DATES:** Comments on this advance notice of proposed rulemaking must be received by September 3, 2002.

**ADDRESSES:** Address all comments regarding this advance notice of proposed rulemaking to David Kaiser, Federal Consistency Coordinator, Coastal Programs Division, Office of Ocean and Coastal Resource Management, NOAA, 1305 East-West Highway, 11th Floor, Silver Spring, MD 20910. Attention: Federal Consistency Energy Review Comments.

#### FOR FURTHER INFORMATION CONTACT:

David Kaiser, Federal Consistency Coordinator, Office of Ocean and Coastal Resource Management, NOAA, 301-713-3155 ext. 144.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

For nearly 30 years the Coastal Zone Management Act (CZMA) has met the needs of coastal States and Territories (referred to as States), Federal agencies, industry and the public to balance the protection of coastal resources with coastal development, including energy development. The CZMA requires States to adequately consider the national interest in the siting of energy facilities in the coastal zone through the development and implementation of their federally approved State Coastal Management Programs (CMPs). States have collaborated with industry on a variety of energy facilities, including oil and gas pipelines, nuclear power plants, hydroelectric facilities, and alternative energy development. States have reviewed and approved thousands of offshore oil and gas facilities and related onshore support facilities. On December 8, 2000, NOAA issued a comprehensive revision to the Federal Consistency regulations, which reflected substantial effort and participation by Federal agencies, States, industry, and the