through (d) to signal the flightcrew in the event of a fire in any isolated room not occupiable for taxi, takeoff and landing, which can be closed off from the rest of the cabin by a door. The indication must identify the compartment where the fire is located. This does not apply to lavatories, which continue to be governed by § 25.854.

14. *Cooktops.* Each cooktop must be designed and installed to minimize any potential threat to the airplane, passengers, and crew. Compliance with this requirement must be found in accordance with the following criteria:

(a) Means, such as conspicuous burner-on indicators, physical barriers, or handholds, must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

(b) Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents, e.g., soup, sauces, etc., from the effects of flight loads and turbulence. Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop. Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable. Placarding must be installed which prohibits the use of cookware that cannot be accommodated by the restraint system.

(c) Placarding must be installed which prohibits the use of cooktops (i.e., power on any burner) during taxi, takeoff, and landing.

(d) Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop. Two acceptable means of complying with this requirement are as follows:

(1) Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended. (**Note**: This would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered.) A fire detector must be installed in the vicinity of the cooktop which provides an audible warning in the passenger cabin, and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. Access to the extinguisher may not be blocked by a fire on or around the cooktop.

(2) An automatic, thermally activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

(e) The surfaces of the galley surrounding the cooktop which would be exposed to a fire on the cooktop surface or in cookware on the cooktop must be constructed of materials that comply with the flammability requirements of part III of appendix F to part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

(f) The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils and be included in the instructions for continued airworthiness. The ventilation system ducting must be protected by a flame arrestor. [**Note**: The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, entitled ''Air Conditioning Systems for Subsonic Airplanes,'' dated August 1, 1991.]

(g) Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

(h) Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

(i) A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

(j) If the cooktop is required to have a lid to enclose the cooktop there must be a means to automatically shut off power to the cooktop when the lid is closed.

15. *Hand-Held Fire Extinguishers.*

(a) For airplanes that were originally type certificated with more than 60 passengers, the number of hand-held fire extinguishers must be the greater of—

(1) That provided in accordance with the requirements of § 25.851, or

(2) A number equal to the number of originally type certificated exit pairs, regardless of whether the exits are deactivated for the proposed configuration.

(b) Extinguishers must be evenly distributed throughout the cabin. These extinguishers are in addition to those required by paragraph 14 of this SFAR, unless it can be shown that the cooktop was installed in the immediate vicinity of the original exits.

16. *Security.* The requirements of § 25.795 are not applicable to airplanes approved in accordance with this SFAR.

Issued in Washington, DC, on February 11, 2009.

Lynne A. Osmus,

Acting Administrator.

[FR Doc. E9–10807 Filed 5–7–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0419; Directorate Identifier 2009–NM–050–AD; Amendment 39–15898; AD 2009–10–03]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–100 and –300 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During a recent Aileron Dual Load Path and Linkage Inspection, which is a certification maintenance requirement (CMR) task, the installed control rods were found to be corroded. The affected rod assemblies

were removed for investigation and it was found that the Tab Side Fitting was cracked.

Subsequently, similar cracks were found on another aeroplane in a supporting lever of the Control Rod attachment fitting of the Trim Tab. Those cracks were found during the applicable CMR inspection.

This condition, if not corrected, could lead to structural failure of the dual load path attachment arrangement of the affected trim and spring tabs, possibly resulting in a flutter problem that could lead to loss of control of the aeroplane.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 26, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 26, 2009.

We must receive comments on this AD by June 8, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0044, dated February 27, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During a recent Aileron Dual Load Path and Linkage Inspection, which is a certification maintenance requirement (CMR) task, the installed control rods were found to be corroded. The affected rod assemblies were removed for investigation and it was found that the Tab Side Fitting was cracked.
>
> Subsequently, similar cracks were found on another aeroplane in a supporting lever of the Control Rod attachment fitting of the Trim Tab. Those cracks were found during the applicable CMR inspection.
>
> This condition, if not corrected, could lead to structural failure of the dual load path attachment arrangement of the affected trim and spring tabs, possibly resulting in a flutter problem that could lead to loss of control of the aeroplane.
>
> For the reasons described above, this [EASA] AD requires a one-time inspection of all flight controls trim and spring tab assemblies and their surrounding area, the replacement of any parts that are found to be cracked and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the current [CMR] inspection interval for the affected parts may be reduced.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

328 Support Services has issued Service Bulletins SB–328–27–483 and SB–328J–27–233, both including Compliance Report, both dated December 30, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a **NOTE** within the AD.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because structural failure of the control rod attachment fittings could lead to control surface flutter, and consequent loss of control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0419; Directorate Identifier 2009–NM–050–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII,

Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify this AD:

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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD 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 FAA amends 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. The FAA amends § 39.13 by adding the following new AD:

2009–10–03 328 Support Services GmbH (Formerly, AvCraft Aerospace GmbH, formerly Fairchild Dornier GmbH, formerly Dornier Luftfahrt GmbH): Amendment 39–15898. Docket No. FAA–2009–0419; Directorate Identifier 2009–NM–050–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 26, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to 328 Support Services GmbH Dornier Model 328–100 and –300 airplanes, certificated in any category, all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

(e) The mandatory continued airworthiness information (MCAI) states:

During a recent Aileron Dual Load Path and Linkage Inspection, which is a certification maintenance requirement (CMR) task, the installed control rods were found to be corroded. The affected rod assemblies were removed for investigation and it was found that the Tab Side Fitting was cracked.

Subsequently, similar cracks were found on another aeroplane in a supporting lever of the Control Rod attachment fitting of the Trim Tab. Those cracks were found during the applicable CMR inspection.

This condition, if not corrected, could lead to structural failure of the dual load path attachment arrangement of the affected trim and spring tabs, possibly resulting in a flutter problem that could lead to loss of control of the aeroplane.

For the reasons described above, this [European Aviation Safety Agency (EASA)] AD requires a one-time inspection of all flight controls trim- and spring tab assemblies and their surrounding area, the replacement of any parts that are found to be cracked and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the current [CMR] inspection interval for the affected parts may be reduced.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 3 months after the effective date of this AD: Do a detailed visual inspection of all flight controls trim and spring tab assemblies and their surrounding area, in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–27–483 or 328 Support Services Service Bulletin SB–328J–27–233, both dated December 30, 2008, as applicable.

(2) If any crack is detected during any inspection required by this AD: Before further flight, replace the cracked fitting with a new fitting in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–27–483 or 328 Support Services Service Bulletin SB–328J–27–233, both dated December 30, 2008, as applicable.

(3) At the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD: Using the Compliance Report attached to 328 Support Services SB–328–27–483 or 328 Support Services Service Bulletin SB–328J–27–233, both dated December 30, 2008, as applicable, send 328 Support Services GmbH a report of findings (both positive and negative) found during the inspection required by paragraph (f)(1) of this AD. The report must include the inspection results, a description of any cracks found, the airplane serial number, and the number of landings and flight hours on the airplane. Send the report to: Attention: Dept. P1, 328 Support Services, Customer Services, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax 49 8153 88111 6565; e-mail *gsc.op@328support.de.*

(i) For any inspection done on or after the effective date of this AD: Within 30 days after the inspection.

(ii) For any inspection done before the effective date of this AD: Within 30 days after the effective date of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2009–0044, dated February 27, 2009; and 328 Support Services Service Bulletins SB–328–27–483 and SB–328J–27–233, both dated December 30, 2008; for related information.

Material Incorporated by Reference

(i) You must use 328 Support Services Service Bulletin SB–328–27–483, dated December 30, 2008, including Compliance Report; or 328 Support Services Service Bulletin SB–328J–27–233, dated December 30, 2008, including Compliance Report; as applicable; to do the actions required by this AD, unless the AD specifies otherwise. (Only the odd-numbered pages of these documents contain the issue date of the documents.)

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de;* Internet *http://www.328support.de.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on April 29, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10655 Filed 5–7–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[Docket ID: DOD–2007–HA–0048]

TRICARE; Hospital Outpatient Prospective Payment System (OPPS): Statement Concerning Additional Public Comments Following Final Rule Issuance

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Response to comments.

SUMMARY: This document is to inform the public of DoD's views regarding the additional public comments that were invited by the document published February 6, 2009 (74 FR 6228), on the final rule issued December 10, 2008 (73 FR 74945). DoD is making no changes to the final rule as implementation of the Temporary Military Contingency Payment Adjustment (TMCPA) included in the final rule will accommodate the major concerns expressed in the additional public comments.

DATES: *Effective Date:* The effective date of the final rule issued December 10, 2008, is unchanged; it continues to be May 1, 2009.

FOR FURTHER INFORMATION CONTACT: David Bennett or Martha M. Maxey, TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch; *telephone:* (303) 676–3494 or (303) 676–3627.

SUPPLEMENTARY INFORMATION:

DoD received approximately 300 public comments during the additional comment period, mostly following a similar pattern from or on behalf of hospitals. In the additional public comments received, there were three predominant themes: (1) That for some hospitals, particularly some close to military installations, TRICARE OPPS would have a significant financial impact; (2) DoD should follow the Medicare precedent in making first-year OPPS implementation cost neutral; and (3) DoD should follow the TRICARE CHAMPUS Maximum Allowable Charge physician payment system reform precedent and limit reductions to no more than 15 percent per year during the transition period.

DoD is not making any changes to the final rule. Implementation of the TMCPAs under the final rule will accommodate the concerns expressed by hospitals. TMA has provided instructions to TRICARE Regional Offices on TMCPAs and included additional guidance in the TRICARE Reimbursement Manual, Chapter 13, Section 3, paragraph III.D.5.g. at *http://manuals.tricare.osd.mil.* A Transitional Adjustment Information Paper is also available on TMA's OPPS Web site at *http://www.tricare.mil/opps/.*

Dated: May 5, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–10708 Filed 5–7–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2009–0107]

RIN 1625–AA08

Special Local Regulations for Marine Events; Patuxent River, Patuxent River, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for ''U.S. Naval Air Station Patuxent River Air Expo 2009'', an aerial demonstration to be held over the waters of the Patuxent River adjacent to Patuxent River, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in portions of the Patuxent River during the aerial demonstration.

DATES: This rule is effective from May 21 through May 24, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0107 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0107 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, at 757–398–6204 or e-mail at *Dennis.M.Sens@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 24, 2009, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Patuxent River, Patuxent