

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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:

**McDonnell Douglas:** Docket No. FAA-2009-0783; Directorate Identifier 2009-NM-081-AD.

#### Comments Due Date

(a) We must receive comments by October 19, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all McDonnell Douglas Model MD-90-30 airplanes, certificated in any category.

#### Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

#### Unsafe Condition

(e) This AD results from reports of cracked overwing frames. We are issuing this AD to detect and correct such cracking, which could sever the frame, increase the loading of adjacent frames, and result in damage to adjacent structure and loss of overall structural integrity of the airplane.

#### Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Inspections

(g) Before the accumulation of 20,000 total flight cycles, or within 60 months after the effective date of this AD, whichever occurs later: Do general visual and high frequency eddy current inspections for cracking of the overwing frames, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90-53A031, dated April 10, 2009. Do the applicable corrective actions before further flight, in accordance with the

Accomplishment Instructions of Boeing Alert Service Bulletin MD90-53A031, dated April 10, 2009. Repeat the inspections thereafter at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin MD90-53A031, dated April 10, 2009.

#### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), 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: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5233; fax (562) 627-5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

Issued in Renton, Washington, on August 26, 2009.

**Ali Bahrami,**

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

[FR Doc. E9-21338 Filed 9-3-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0785; Directorate Identifier 2009-NM-125-AD]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier Model DHC-8-400 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. This

proposed 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:

There has been one case reported of failure of a shaft (tailstock) on an elevator Power Control Unit (PCU), Part Number (P/N) 390600-1007. Continued actuation of the affected PCU caused damage to the surrounding structure. \* \* \*

Each elevator surface has three PCUs, powered by separate independent hydraulic systems, and a single elevator PCU shaft failure may remain dormant. Such a dormant loss of redundancy, coupled with the potential for a failed shaft to produce collateral damage, including damage to hydraulic lines, could possibly affect the controllability of the aircraft.

\* \* \* \* \*

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by October 5, 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.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514-855-7401; e-mail [thd.qseries@aero.bombardier.com](mailto:thd.qseries@aero.bombardier.com); Internet <http://www.bombardier.com>.

You may review copies of the referenced 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.

#### 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 proposed 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:**

Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7318; fax (516) 794-5531.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0785; Directorate Identifier 2009-NM-125-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on 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 proposed AD.

**Discussion**

On June 3, 2009, we issued AD 2009-12-13, Amendment 39-15936 (74 FR 27686, June 11, 2009). That AD required actions intended to address an unsafe condition on the products listed above.

When we issued AD 2009-12-13, the eventual replacement of all elevator PCUs identified in paragraph (f)(1) of that AD was not required. We have now determined that further rulemaking is necessary for this action, and this proposed AD follows from that determination. We are proposing to mandate the optional terminating action in paragraph (f)(3) of AD 2009-12-13 in this AD. You may obtain further information by examining the MCAI in the AD docket.

**FAA's Determination and Requirements of This Proposed 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 proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Differences Between This 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 proposed 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 proposed AD.

**Costs of Compliance**

Based on the service information, we estimate that this proposed AD would affect about 61 products of U.S. registry.

The actions that are required by AD 2009-12-13 and retained in this proposed AD take about 3 work-hours per product, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the currently required actions is \$240 per product.

We estimate that it would take about 13 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$0 per product. Where the service information lists required parts costs that are uncovered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the new actions of this proposed AD on U.S. operators to be \$63,440, or \$1,040 per product.

**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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify 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. 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 proposed 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.

**The Proposed Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 removing Amendment 39-15936 (74 FR 27686, June 11, 2009) and adding the following new AD:

**Bombardier, Inc. (Formerly de Havilland, Inc.):** Docket No. FAA-2009-0785; Directorate Identifier 2009-NM-125-AD.

**Comments Due Date**

(a) We must receive comments by October 5, 2009.

**Affected ADs**

(b) The proposed AD supersedes AD 2009-12-13, Amendment 39-15936.

**Applicability**

(c) This AD applies to Bombardier Model DHC-8-400, DHC-8-401, and DHC-8-402 airplanes, certificated in any category, serial numbers 4135 through 4149 inclusive.

**Subject**

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

**Reason**

(e) The mandatory continuing airworthiness information (MCAI) states: There has been one case reported of failure of a shaft (tailstock) on an elevator Power Control Unit (PCU), Part Number (P/N) 390600-1007. Continued actuation of the affected PCU caused damage to the surrounding structure. Subsequent investigation determined that the failure was the result of a material defect and that the shafts installed on a total of 88 suspect PCUs \* \* \* may contain a similar defect.

Each elevator surface has three PCUs, powered by separate independent hydraulic systems, and a single elevator PCU shaft failure may remain dormant. Such a dormant loss of redundancy, coupled with the potential for a failed shaft to produce collateral damage, including damage to hydraulic lines, could possibly affect the controllability of the aircraft.

This directive mandates an identification check for elevator PCU serial numbers, a daily check for correct operation of all suspect PCUs and, finally, replacement of all suspect PCUs.

**Restatement of Requirements of AD 2009-12-13, Without Optional Terminating Action**

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

(1) Within 30 days after June 26, 2009 (the effective date of AD 2009-12-13), inspect the serial number of each of the six installed elevator PCUs having P/N 390600-1007. If one or more of the six installed elevator PCUs, P/N 390600-1007, have any of the PCU serial numbers 238, 698, 783 through 788 inclusive, 790, 793, 795, 802, 806, 807, 810, 820 through 823 inclusive, 826 through 828 inclusive, 831, 835, 838, 840, 886 through 889 inclusive, or 898 through 955 inclusive; without a suffix "A" after the serial number: Within 30 days after June 26, 2009, perform a check for the correct operation of all installed elevator PCUs in accordance with the procedures detailed in Appendix A, B, or C of Bombardier Q400 All Operator Message 217B, dated April 26, 2007. Repeat the check thereafter before the first flight of each day until the replacement specified in paragraph (g) of this AD is done. The checks in Appendix A and B of Bombardier Q400 All Operator Message 217B, dated April 26, 2007, must be performed by the flight crew, while the check specified in Appendix C of the all operator

message must be performed by certificated maintenance personnel.

**Note 1:** Suffix "A" after the serial number indicates that the PCU has already passed a magnetic particle inspection and is cleared for continued use.

(2) If incorrect operation of any elevator PCU is found during any check required by paragraph (f)(1) of this AD, before further flight, replace the elevator PCU with a PCU, P/N 390600-1007, having a serial number not specified in paragraph (f)(1) of this AD; or with a PCU, P/N 390600-1007, having the suffix "A" after the serial number; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008.

(3) Actions accomplished before June 26, 2009, according to Bombardier Service Bulletin 84-27-32, dated May 1, 2007, are considered acceptable for compliance with the corresponding action specified in this AD.

**New Requirements of This AD: Actions and Compliance**

(g) Unless already done, within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs later, replace all PCUs, P/N 390600-1007, having a serial number specified in paragraph (f)(1) of this AD, and not having suffix "A" after the serial number, with PCUs, P/N 390600-1007, having a serial number not specified in paragraph (f)(1) of this AD; or with PCUs, P/N 390600-1007, having the suffix "A" after the serial number; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008. This action terminates the requirements of paragraph (f)(1) of this AD.

**FAA AD Differences**

**Note 2:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), 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: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7318; fax (516) 794-5531. 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**

(i) Refer to MCAI Canadian Airworthiness Directive CF-2009-16, dated April 20, 2009; Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008; and Bombardier Q400 All Operator Message 217B, dated April 26, 2007; for related information.

Issued in Renton, Washington, on August 26, 2009.

**Ali Bahrami,**

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

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-139068-08]

RIN 1545-BI31

**Modification to Consolidated Return Regulation Permitting an Election To Treat a Liquidation of a Target, Followed by a Recontribution to a New Target, as a Cross-Chain Reorganization**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 1502 of the Internal Revenue Code (Code). The temporary regulations modify the election under which a consolidated group can avoid immediately taking into account an intercompany item after the liquidation of a target corporation. This modification was made necessary in light of the regulations under section 368 that were issued in October 2007 addressing transfers of assets or stock following a reorganization. The temporary regulations apply to corporations filing consolidated returns. The text of those temporary regulations also serves as the text of these proposed regulations.