

certification or authentication of records may be granted in the discretion of the General Counsel. Waivers will not be granted routinely. If you request a waiver, your request for records or testimony must state the reasons why a waiver should be granted.

**§ 792.48 If my request is granted, what restrictions apply?**

(a) *Records.* The General Counsel may impose conditions or restrictions on the release of nonpublic records, including a requirement that you obtain a protective order or execute a confidentiality agreement with the other parties in the legal proceeding that limits access to and any further disclosure of the nonpublic records. The terms of a confidentiality agreement or protective order must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, the NCUA may condition the release of nonpublic records on an amendment to the existing protective order or confidentiality agreement.

(b) *Testimony.* The General Counsel may impose conditions or restrictions on the testimony of NCUA employees, including, for example, limiting the areas of testimony or requiring you and the other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which you requested the testimony. The General Counsel may also require you to provide a copy of the transcript of the testimony to the NCUA at your expense.

**§ 792.49 Definitions.**

*Legal proceedings* means any matter before any federal, state or foreign administrative or judicial authority, including courts, agencies, commissions, boards or other tribunals, involving such proceedings as lawsuits, licensing matters, hearings, trials, discovery, investigations, mediation or arbitration. When the NCUA is a party to a legal proceeding, it will be subject to the applicable rules of civil procedure governing production of documents and witnesses, however, this subpart will still apply to the testimony of former NCUA employees.

*NCUA employee* means current and former officials, members of the Board, officers, directors, employees and agents of the National Credit Union Administration, including contract employees and consultants and their employees. This definition does not include persons who are no longer employed by the NCUA and are retained or hired as expert witnesses or agree to

testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment.

*Nonpublic records* means any NCUA records that are exempt from disclosure under §792.3, the NCUA regulations implementing the provisions of the Freedom of Information Act. For example, this means records created in connection with NCUA's examination and supervision of insured credit unions, including examination reports, internal memoranda, and correspondence, and, also, records created in connection with NCUA's enforcement and investigatory responsibilities.

*Subpoena* means any order, subpoena for records or other tangible things or for testimony, summons, notice or legal process issued in a legal proceeding.

*Testimony* means any written or oral statements made by an individual in connection with a legal proceeding including personal appearances in court or at depositions, interviews in person or by telephone, responses to written interrogatories or other written statements such as reports, declarations, affidavits, or certifications or any response involving more than the delivery of records.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 97-NM-84-AD; Amendment 39-10178; AD 97-06-07 R1]

RIN 2120-AA64

**Airworthiness Directives; Dornier Model 328-100 Series Airplanes Equipped With Burns Aerospace Corporation Passenger Seats**

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

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

**SUMMARY:** This amendment revises an existing airworthiness directive (AD), applicable to certain Dornier Model 328-100 series airplanes, that currently requires modification of the restraining systems of certain passenger seats by replacing anchor point fasteners with fasteners that are able to withstand required 16g load conditions. That AD was prompted by a report indicating that the restraining systems on these

seats failed to meet 16g test load requirements during dynamic testing. The actions specified by that AD are intended to prevent the fasteners from failing, which could result in release of the seat restraint and consequent injury to passengers. This amendment revises the applicability of the existing AD to specify serial numbers of the affected passenger seats.

**DATES:** Effective November 13, 1997.

The incorporation by reference of Dornier Service Bulletin SB-328-25-114, Revision 1, dated April 17, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of November 13, 1997.

The incorporation by reference of Dornier Service Bulletin SB-328-25-114, dated July 10, 1995, as listed in the regulations, was approved previously by the Director of the Federal Register as of April 18, 1997 (62 FR 12081, March 14, 1997).

Comments for inclusion in the Rules Docket must be received on or before November 28, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-84-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D-82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Connie Beane, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2796; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** On March 6, 1997, the FAA issued AD 97-06-07, amendment 39-9964 (62 FR 12081, March 14, 1997), applicable to certain Dornier Model 328-100 series airplanes, to require modification of the restraining systems on certain passenger seats by replacing the anchor point fasteners with new fasteners that are able to withstand the required 16g load conditions. That action was prompted by a report indicating that the restraining systems on these seats failed to meet 16g test load requirements during dynamic testing. The requirements of that AD are intended to prevent the fasteners from failing, which

could result in release of the seat restraint and consequent injury to passengers.

#### Actions Since Issuance of Previous Rule

Since the issuance of that AD, Dornier has issued Service Bulletin SB-328-25-114, Revision 1, dated April 17, 1997. The modification procedures described in this revision are identical to those described in the original version of the service bulletin (which was referenced in AD 97-06-07 as the appropriate source of service information for accomplishment of the modification). The only change made by Revision 1 is to limit the effectivity to airplanes on which seats with specific serial numbers are installed. Seats with later serial numbers have been modified in production. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in Germany.

#### FAA's Findings

This airplane model is manufactured in Germany and is 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 LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD revises AD 97-06-07 to continue to require modification of the restraining systems on certain passenger seats installed on Dornier Model 328-100 series airplanes. This AD also revises the applicability of the existing AD to specify serial numbers of the affected passenger seats.

#### Determination of Rule's Effective Date

As with all AD's, AD 97-06-07 requires accomplishment of certain actions "unless accomplished previously." For the airplanes that are excluded from the applicability of this AD by this revision, the required actions have been "accomplished previously" during production, and this revision simply identifies explicitly those

airplanes on which no further action is required. Consequently, this revision makes no substantive change to the requirements of the existing AD. For this reason, it is found that the notice and opportunity for prior public comment hereon for this action are unnecessary, and that 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 that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-84-AD." The postcard will be date stamped and returned to the commenter.

#### Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism

implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

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

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

#### Adoption of the Amendment

Accordingly, pursuant to 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. Section 39.13 is amended by removing amendment 39-9964 (62 FR 12081, arch 14, 1997), and by adding a new airworthiness directive (AD), amendment 39-10178, to read as follows:

**97-06-07 R1 Dornier:** Amendment 39-10178. Docket 97-NM-84-AD. Revises AD 97-06-07, Amendment 39-9964.

**Applicability:** Model 328-100 series airplanes equipped with Burns Aerospace Corporation commuter seat models JB6.8-1-22 and JB6.8-2-42 passenger seats having serial numbers up to and including 384616; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (b) 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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the anchor point fasteners on the seat restraining system, which could result in release of the seat restraint and consequent injury to passengers, accomplish the following:

(a) Within 60 days after April 18, 1997 (the effective date of AD 97-06-07, amendment 39-9964), replace each anchor point fastener on the restraining system of each seat with a fastener of improved design, in accordance with Dornier Service Bulletin SB-328-25-114, dated July 10, 1995, or Revision 1, dated April 17, 1997.

**Note 2:** The referenced Dornier service bulletin refers to Burns Aerospace Corporation Service Bulletin 25-20-989, Revision B, dated June 14, 1995, or Revision D, dated August 25, 1995, as an additional source of service information for identifying the affected seats and replacing the anchor point fasteners on their restraining systems.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Dornier Service Bulletin SB-328-25-114, dated July 10, 1995, or Dornier Service Bulletin SB-328-25-114, Revision 1, dated April 17, 1997.

(1) The incorporation by reference of Dornier Service Bulletin SB-328-25-114, Revision 1, dated April 17, 1997, is approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Dornier Service Bulletin SB-328-25-114, dated July 10, 1995, was approved previously by the Director of the Federal Register as of April 18, 1997 (62 FR 12081, March 14, 1997).

(3) Copies may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D-82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 4:** The subject of this AD is addressed in German airworthiness directive 95-240/2, dated August 10, 1995.

(e) This amendment becomes effective on November 13, 1997.

Issued in Renton, Washington, on October 21, 1997.

**James V. Devany,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-CE-24-AD; Amendment 39-10182; AD 97-22-10]

RIN 2120-AA64

#### **Airworthiness Directives; Partenavia Costruzioni Aeronauticas, S.p.A. Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all Partenavia Costruzioni Aeronauticas, S.p.A. (Partenavia) Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" airplanes. This AD requires amending the Limitations Section of the airplane flight manual (AFM) to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight. This AFM amendment will include a statement of consequences if the limitation is not followed. This AD results from numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight. The actions specified by this AD are intended to prevent loss of airplane control or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

**EFFECTIVE DATE:** December 5, 1997.

**ADDRESSES:** Information related to this AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97-CE-24-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** J. Mike Kiesov, Aerospace Engineer, Small

Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426-6934; facsimile (816) 426-2169.

#### **SUPPLEMENTARY INFORMATION:**

#### **Events Leading to the Issuance of This AD**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Partenavia Models AP68TP 300 "Spartacus" and AP68TP 600 "Viator" airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 1997 (62 FR 35702).

The NPRM proposed to require amending the Limitations Section of the AFM to prohibit the positioning of the power levers below the flight idle stop while the airplane is in flight, including a statement of consequences if the limitation is not followed. This AFM amendment shall consist of the following language:

Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.

The NPRM is the result of numerous incidents and five documented accidents involving airplanes equipped with turboprop engines where the propeller beta was improperly utilized during flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

#### **The FAA's Determination**

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

#### **Compliance Time of This AD**

The FAA has determined that the compliance time of this AD should be specified in calendar time instead of hours time-in-service. While the condition addressed by this AD is unsafe while the airplane is in flight, the condition is not a result of repetitive airplane operation; the potential of the