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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0790; Project Identifier MCAI-2021-01007-T; Amendment 39-21738; AD 2021-19-20]

RIN 2120-AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a report of defects on the piston hole associated with the O2 saver feature that may prevent efficient deactivation of the O2 saver function. This AD requires amending the existing airplane flight manual (AFM) to incorporate a check and an operating limitation regarding the O2 saver function, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also limits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 16, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publications listed in this AD as of September 16, 2021.

The FAA must receive comments on this AD by November 1, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to https://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: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at https://ad.easa.europa.eu. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2021-0790.

Examining the AD Docket

You may examine the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2021-0790; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3226; email Tom.Rodriguez@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include "Docket No. FAA-2021-0790; Project Identifier MCAI-2021-01007-T" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to https://www.regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3226; email Tom.Rodriguez@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2021-0202-E, dated September 9, 2021 (EASA Emergency AD 2021-0202-E) (also referred to as the MCAI), to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. EASA subsequently issued EASA AD 2021-0202R1, dated September 10, 2021 (EASA AD 2021-0202R1) to address an incorrect reference to a non-existing part number within the definition of the affected part.

This AD was prompted by a report of plastic molding burrs and defects found on the piston hole associated with the O2 saver feature during production of certain SAFRAN flightcrew oxygen masks. The O2 saver function allows the flightcrew to wear the oxygen mask with limited oxygen consumption to save oxygen by delivering it only when needed, either automatically in case of depressurization, or manually by switching the 100% or EMERG mode button. Defects on the piston hole may prevent efficient deactivation of the O2 saver function. The FAA is issuing this AD to address this condition, which could lead to inadequate oxygen supply to the flightcrew in case of decompression of the airplane or smoke or fire in the flight deck. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021-0202R1 specifies procedures for amending the existing AFM to incorporate a specific check to ensure that the O2 saver function is not activated and an operating limitation to prevent use of the O2 saver function. EASA AD 2021-0202R1 also limits the installation of affected parts under certain conditions. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021-0202R1 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

EASA AD 2021-0202R1 requires operators to “inform all flight crews” of amendments to the AFM, and thereafter to “operate the aeroplane accordingly.” However, this AD does not specifically require those actions as they are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (e.g., 14 CFR 121.137), and to ensure that pilots are familiar with the AFM (e.g., 14 CFR 91.505). As with any other training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that no person may operate a civil aircraft without complying with the operating limitations specified in the AFM. Therefore, including a requirement in this AD to operate the airplane according to the amended AFM would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021-0202R1 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2021-0202R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021-0202R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2021-0202R1. Service information required by EASA AD 2021-0202R1 for compliance will be available at https://www.regulations.gov by searching for and locating Docket No. FAA-2021-0790 after this AD is published.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because failure to deactivate the O2 saver function could lead to inadequate oxygen supply to the flightcrew in case of decompression of the airplane or smoke or fire in the flight deck. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 20 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

Estimated Costs for Required Actions

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	Up to $1,700

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.

The FAA is 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

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 that this AD:

(1) Is not a “significant regulatory action” under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

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 airworthiness directive:

2021-19-20 Dassault Aviation: Amendment 39-21738; Docket No. FAA-2021-0790; Project Identifier MCAI-2021-01007-T.

(a) Effective Date

This airworthiness directive (AD) is effective September 16, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 7X airplanes, certificated in any category.

Note 1 to paragraph (c): Model FALCON 7X airplanes with Dassault modification M1000 incorporated are commonly referred to as "Model FALCON 8X" as a marketing designation.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by report of defects on the piston hole associated with the O2 saver feature that may prevent efficient deactivation of the O2 saver function. The FAA is issuing this AD to address this condition, which could lead to inadequate oxygen supply to the flightcrew in case of decompression of the airplane or smoke or fire in the flight deck.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021-0202R1, dated September 10, 2021 (EASA AD 2021-0202R1).

(h) Exceptions to EASA AD 2021-0202R1

(1) Where EASA AD 2021-0202R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) Paragraph (1) of EASA AD 2021-0202R1 specifies amending "the applicable AFM [airplane flight manual]," but this AD requires amending the applicable existing AFM and applicable corresponding operational procedures.

(3) Whereas paragraph (1) of EASA AD 2021-0202R1 requires operators to "inform all flight crews" of the AFM amendments, and thereafter to "operate the aeroplane accordingly," this AD does not specifically require those actions as they are already required by FAA regulations.

(4) This AD does not mandate compliance with the "Remarks" section of EASA AD 2021-0202R1.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the actions can be performed, provided the flight is nonpressurized.

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3226; email Tom.Rodriguez@faa.gov.

(l) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021-0202R1, dated September 10, 2021.

(ii) [Reserved]

(3) For EASA AD 2021-0202R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; Internet www.easa.europa.eu. You may find this EASA AD on the EASA website at https://ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to https://www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued on September 13, 2021.
Lance T. Gant,
Director, Compliance & Airworthiness Division, Aircraft Certification Service.
[FR Doc. 2021-20126 Filed 9-14-21; 11:15 am]