

§ 211.30 Criteria for evaluating the U.S. operations of foreign banks not subject to consolidated supervision.

(a) *General.* Pursuant to the Foreign Bank Supervision Enhancement Act, Pub.L. 102-242, 105 Stat. 2286 (1991), the Board shall develop and publish criteria to be used in evaluating the operations of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis.

(b) *Criteria.* Following a determination by the Board that, having taken into account the standards set forth in § 211.24(c)(1) of this subpart, a foreign bank is not subject to comprehensive, consolidated supervision by its home country supervisor, the Board shall consider the following criteria in determining whether the foreign bank's U.S. operations should be permitted to continue and, if so, whether any supervisory constraints should be placed upon the bank in connection with those operations:

(1) The proportion of the foreign bank's total assets and total liabilities that are located or booked in its home country, as well as the distribution and location of its assets and liabilities that are located or booked elsewhere;

(2) The extent to which the operations and assets of the foreign bank and any affiliates are subject to supervision by its home country supervisor;

(3) Whether the appropriate authorities in the home country of such foreign bank are actively working to establish arrangements for the comprehensive, consolidated supervision of such bank and whether demonstrable progress is being made;

(4) Whether the foreign bank has effective and reliable systems of internal controls and management information and reporting, which enable its management properly to oversee its worldwide operations;

(5) Whether the foreign bank's home country supervisor has any objection to the bank continuing to operate in the United States;

(6) Whether the foreign bank's home country supervisor and the home country supervisor of any parent of the foreign bank share material information regarding the operations of the foreign bank with other supervisory authorities;

(7) The relationship of the U.S. operations to the other operations of the foreign bank, including whether the foreign bank maintains funds in its U.S. offices that are in excess of amounts due to its U.S. offices from the foreign bank's non-U.S. offices;

(8) The soundness of the foreign bank's overall financial condition;

(9) The managerial resources of the foreign bank, including the competence, experience, and integrity of the officers and directors and the integrity of its principal shareholders;

(10) The scope and frequency of external audits of the foreign bank;

(11) The operating record of the foreign bank generally and its role in the banking system in its home country;

(12) The foreign bank's record of compliance with relevant laws, as well as the adequacy of its money laundering controls and procedures, in respect of its worldwide operations;

(13) The operating record of the U.S. offices of the foreign bank;

(14) The views and recommendations of the Office of the Comptroller of the Currency or the state banking regulators in those states in which the foreign bank has operations, as appropriate;

(15) Whether the foreign bank, if requested, has provided the Board with adequate assurances that such information will be made available on the operations or activities of the foreign bank and any of its affiliates as the Board deems necessary to determine and enforce compliance with the International Banking Act, the Bank Holding Company Act, and other applicable federal banking statutes; and

(16) Any other information relevant to the safety and soundness of the U.S. operations of the foreign bank.

(c) Restrictions on U.S. operations.—

(1) *Terms of agreement.* Any foreign bank that the Board determines is not subject to comprehensive supervision or regulation on a consolidated basis by its home country supervisor may be required to enter into an agreement to conduct its U.S. operations subject to such restrictions as the Board, having considered the criteria set forth in paragraph (b) of this section, determines to be appropriate in order to assure the safety and soundness of its U.S. operations.

(2) *Failure to enter into or comply with agreement.* A foreign bank that is required by the Board to enter into an agreement pursuant to paragraph (c)(1) of this section and either fails to do so or fails to comply with the terms of such agreement may be subject to enforcement action in order to assure safe and sound banking operations under 12 U.S.C. 1818, or to termination or a recommendation for termination of its U.S. operations under § 211.25 (a) and (e) of this subpart and section (7)(e) of the IBA (12 U.S.C. 3105(e)).

By order of the Board of Governors of the Federal Reserve System, February 15, 1996.
William W. Wiles,
Secretary of the Board.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 27

[Docket No. 93-ASW-2; Special Condition 27-ASW-1]

Special Condition: Eurocopter Deutschland Model EC135 Helicopter, Full Authority Digital Engine Control

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition.

SUMMARY: This special condition is issued for the Eurocopter Deutschland Model EC135 helicopter. This helicopter will have a novel or unusual design feature associated with the Turbomeca Arrius 2B or United Technologies Pratt & Whitney PW 206B engines with a full authority digital engine control (FADEC) system. This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Carroll R. Wright, Federal Aviation Administration (FAA), Rotorcraft Standards Staff, Fort Worth, Texas 76193-0111; telephone (817) 222-5120.

SUPPLEMENTARY INFORMATION:

Background

Eurocopter Deutschland, Munich, Germany, submitted an application on October 31, 1990, for a Type Certificate for the Model BO-108 (EC135) helicopter to the FAA Brussels Certification Office through the German Luftfahrt-Bundesamt Authorities (LBA). Notice of Proposed Special Condition 27-ASW-1 was published, based on this application, for protection of systems that perform critical functions from High Intensity Radiated Fields (HIRF). Due to delays and a redefinition of the proposed helicopter, a new application was submitted for Type Certification of the EC135 B-1 and D-1 helicopter on December 12, 1994, through the German LBA Authorities to the FAA Brussels Aircraft Certification Office. The Model EC135 is a 5-7 passenger, two engine, 5,511-lb

maximum take-off gross weight, normal category helicopter. This model helicopter may be equipped with either the Turbomeca Arrius 2B or the United Technologies Pratt & Whitney PW 206B engines. Both of these type engines utilize a FADEC system.

Type Certification Basis

The certification basis established for the Model EC135 includes:

1. 14 Code of Federal Regulations (CFR) 21.29.

2. 14 CFR part 27, Amendment 30, dated October 3, 1994; and the following additional requirements to part 27, Amendment 30:

a. Section 27.65 with the following changes: the introductory portion of § 27.65(b)(2) is changed to read "The steady rate of climb must be determined," and § 27.65(b)(2)(ii) is changed to read "Within the range from sea level up to the maximum altitude for which certification is requested."

b. Section 27.1141 plus a new requirement that "Each control must be able to maintain any set position without (1) Constant attention; or (2) Tendency to creep due to control loads or vibration."

c. Additional requirements for rotor brake controls state that (1) It must be impossible to apply the rotor brake inadvertently in flight, and (2) There must be means to warn the crew if the rotor brake has not been completely released before takeoff."

3. Applicable paragraphs of part 29, Amendment 36, dated January 31, 1996; as follows: 29.861(a), 29.901(c), 29.903(b), (c), (e), 29.908(a), 29.917(b), (c)(1), 29.927(c)(1), 29.953(a), 29.1027(a), 20.1045(a)(1), (b), (c), (d), (f), 29.1047(a), 29.1181(a), 29.1189(c), 29.1191(a)(1), 29.1193(e), 29.1305(a)(6), (b), 29.1309(b)(2)(i), (d), 29.1331(b), 29.1351(d)(2).

4. Noise Requirements of part 36 Noise Standards Appendix J amended by Amendments 36-1 through the latest amendment in effect at the time of certification.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Model EC135 helicopter because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.101(b)(2) establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b) and become a part of the type certification basis, as provided by § 21.101(b)(2). In addition to the

applicable airworthiness regulations and special conditions, the Model EC135 helicopter must comply with the noise certification requirements of part 36 and the engine emission requirements of Special Federal Aviation Regulation (SFAR) 27.

Discussion of Comments

Notice of Proposed Special Condition No. SC-93-SW was published in the Federal Register on January 22, 1993 (58 FR 5666). Two comments were received from the manufacturer. One comment corrected the name of the manufacturer. The other comment stated that the laboratory test option should satisfy this special condition for VFR including operation below 500 feet AGL. The FAA agrees with both comments. The name is corrected in this final special condition, and the other comment does not require a change to the rule as proposed. Therefore, except for the name change, the special condition is adopted as proposed.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Feature

The Eurocopter Deutschland Model EC135 helicopter has been identified as incorporating one and possibly more electrical or electronic systems that will be performing functions critical to the continued safe flight and landing of the helicopter. FADEC is an electronic device that performs the critical functions of engine control. The control of the engines is critical to the continued safe flight and landing of the helicopter during visual flight rules (VFR) and instrument flight rules (IFR) operations.

If it is determined that this helicopter will incorporate other electrical or electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

As discussed above, these special conditions are applicable initially the Model EC135 helicopter. Should Eurocopter Deutschland apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would

apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only one unusual or novel design feature on one series of helicopters. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the affected helicopter.

List of Subjects in 14 CFR Parts 21 and 27

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C.(g), 40113, 44701, 44702, and 44704.

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Eurocopter Deutschland Model EC-135 helicopter.

Protection for Electrical/Electronic Systems From High Intensity Radiated Fields.

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on February 9, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

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14 CFR Part 39

[Docket No. 95-NM-20-AD; Amendment 39-9493; AD 96-02-05]

Airworthiness Directives; McDonnell Douglas Model DC-9 and Model DC-9-80 Series Airplanes; Model MD-88 Airplanes; and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 and Model DC-9-80 series airplanes; Model MD-88 airplanes; and C-9 (military) series