

To prevent failure of the main landing gear (MLG) retract cylinder attachment fittings due to fatigue cracking, which could result in the inability to retract the MLG, accomplish the following:

(a) Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD, at the times indicated in those paragraphs and in accordance with Grumman Gulfstream Customer Bulletin No. 172, dated September 6, 1963.

(1) Beginning November 7, 1967 (the effective date of AD 67-31-08, amendment 39-515), and prior to each flight, conduct a visual inspection to detect cracks in the MLG retract cylinder attachment fittings on the lower surface of the right-hand and left-hand wings in the vicinity of the aft end of the fitting.

(2) Within 25 hours time-in-service after November 7, 1967, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD:

(i) Conduct a dye penetrant inspection, in conjunction with at least a 10X magnifying glass, to detect cracks in the MLG retract cylinder attachment fittings on the lower surface of the right-hand and left-hand wings in the vicinity of the aft end of the fitting. Repeat this inspection thereafter at intervals not to exceed 25 hours time-in-service. And

(ii) Modify the aft end edges of the fitting by rounding them off to approximately 1/32" radius.

(b) If any crack is found during an inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD:

(1) Replace the cracked part with a part of the same part number that has been modified and inspected in accordance with paragraph (a) of this AD, in accordance with Grumman Gulfstream Customer Bulletin No. 172, dated September 6, 1963. Thereafter, continue the inspections required by paragraph (a) of this AD. Or

(2) Replace the fitting assembly with an assembly having part number (P/N) 159WM10276-1 or -2, and balls having P/N 159WM10277-1. After accomplishing this replacement, the repetitive inspections of that fitting required by paragraph (a) of this AD may be terminated.

(c) Within 400 hours time-in-service after the effective date of this AD, replace the MLG retract cylinder attachment fitting assemblies with assemblies having part numbers (P/N) 159WM10276-1 and -2, and balls having P/N 159WM10277-1. This replacement constitutes terminating action for the inspection requirements of this AD.

(d)(1) 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, Atlanta Aircraft Certification Office (ACO), FAA, Small 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, Atlanta ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 67-31-08, amendment 39-515, are approved as alternative methods of compliance with this AD.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(e) 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.

(f) The actions shall be done in accordance with Gulfstream Customer Bulletin No. 172, dated September 6, 1963. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gulfstream Aerospace Corporation, Technical Operations Department, P.O. Box 2206, M/S D-10, Savannah, Georgia 31402-2206. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on August 7, 1997.

Issued in Renton, Washington, on June 26, 1997.

**S. R. Miller,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 97-17283 Filed 7-2-97; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-CE-36-AD; Amendment 39-10062; AD 97-13-02]

**RIN 2120-AA64**

#### **Airworthiness Directives; Diamond Aircraft Industries, Inc. Model DA 20-A1 Airplanes, Serial Numbers 10002 Through 10287**

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

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

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 97-13-02, which was sent previously to all known U.S. owners and operators of Diamond Aircraft Industries, Inc. (Diamond) Model DA 20-A1 airplanes. This AD requires fabricating and installing a placard and inserting limitations into the airplane's flight manual limitations section prohibiting spin maneuvers until a modification is

installed. This AD results from an occurrence where a pilot's shoe jammed between the rudder control pedal and the firewall during a spin recovery in a Canadian registered HOAC-Austria Model DV 20 KATANA airplane. The actions specified by this AD are intended to prevent the pilot's shoe from becoming jammed between the rudder pedal and firewall which could result in loss of control of the airplane.

**DATES:** Effective July 14 1997, to all persons except those to whom it was made immediately effective by priority letter AD 97-13-02, issued June 12, 1997, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 1997.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 97-CE-36-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Diamond Aircraft Industries, Inc., 1560 Crumlin Sideroad, London, Ontario, Canada N5V 1S2; telephone (519) 457-4041; facsimile (519) 457-4045. This information may also be examined at the Rules Docket at the address above, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Gregory J. Michalik, Senior Aerospace Engineer, Chicago Aircraft Certification Office, 2300 East Devon Ave., Des Plaines, Illinois 60018, telephone (847) 294-7135; facsimile (847) 294-7834

#### **SUPPLEMENTARY INFORMATION:**

##### **Discussion**

On June 12, 1997, the FAA issued priority letter AD 97-13-02, which applies to Diamond Model DA 20-A1 airplanes. That AD resulted from an occurrence where a pilot's shoe jammed between the rudder control pedal and the firewall during a spin recovery in a Canadian registered HOAC-Austria Model DV 20 KATANA airplane. Investigation of the occurrence by Transport Canada, which is the airworthiness authority for Canada, revealed that the pilot's shoe caught on the head of a screw protruding from the firewall just above the rudder control pedals. There are two screws in this area

that secure the battery box to the firewall.

Further examination of the design of the HOAC-Austria Model DV 20 KATANA airplane indicates that the potential for jamming of a pilot's shoe between the rudder pedal and the firewall also exists for Diamond Model DA 20-A1 airplanes. The Model DV 20 KATANA is manufactured in Austria, and is of similar design to the Model DA 20-A1 which is manufactured in Canada. The situation can develop when aggressive full rudder is applied such as in a spin entry, with simultaneous placement of the pilot's feet high on the toe brakes. The pilot's shoe can become jammed between the rudder pedal and firewall which could result in loss of control of the airplane.

#### **Relevant Service Information**

Diamond Aircraft has issued Alert Service Bulletin No. DA 20-53-01A, which specifies procedures for modifying the rudder control pedal area with skid plates and countersunk screws to preclude the pilot's shoe from catching on the battery box mounting screws and thus restricting the movement of the rudder pedals.

In order to assure the continued airworthiness of these airplanes in Canada, Transport Canada has classified this service bulletin as mandatory and issued Canadian AD No. CF-97-09, applicable to Diamond Model DA 20-A1 airplanes, which requires fabricating and installing a placard and inserting limitations into the airplane's flight manual limitations (AFM) section prohibiting spin maneuvers until the above modification is installed.

This airplane model is manufactured in Canada 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, Transport Canada has kept the FAA informed of the situation described above.

#### **The FAA's Determination and Explanation of the AD**

Since an unsafe condition has been identified that is likely to exist or develop in other Diamond Model DA 20-A1 airplanes of the same type design, the FAA issued priority letter AD 97-13-02 to prevent the pilot's shoe from jamming between the rudder pedal and firewall which could result in loss of control of the airplane. The AD requires fabricating and installing a placard (with 1/8-inch letters) in the clear view of the pilot that reads:

"SPINS PROHIBITED", and amending the airplane flight manual (AFM) limitations section to indicate that spinning is not permitted.

The placard fabrication and AFM insertion can be accomplished by an owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7).

In addition, this AD requires accomplishing a modification to the rudder control pedal area with skid plates and countersunk screws at which time the AFM limitation and the placard can be removed. The modification is to be done in accordance with the instructions in Diamond Alert Service Bulletin No. DA 20-53-01A, Rev. 0, dated June 5, 1997.

#### **Determination of the Effective Date of the AD**

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on June 12, 1997 to all known U.S. operators of Diamond Model DA 20-A1 airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

#### **Comments Invited**

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to 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 should identify the Rules Docket number and be submitted in triplicate to the address specified above. 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 No. 97-CE-13-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 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 USC 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

**97-13-02 Diamond Aircraft Industries, Inc.:** Amendment 39-10062; Docket 97-CE-36-AD.

*Applicability:* Model DA 20-A1 airplanes, serial numbers 10002 through 10287, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (g) 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 in the body of this AD, unless already accomplished, except to those operators receiving this action by priority letter issued June 12, 1997, which made these actions effective immediately upon receipt.

To prevent the pilot's shoe from becoming jammed between the rudder pedal and firewall which could result in loss of control of the airplane, accomplish the following:

(a) Prior to further flight after the effective date of this AD, fabricate a placard in 1/8-inch letters with the words "SPINS PROHIBITED", and install this placard in the airplane cabin within the pilot's clear view.

(b) Prior to further flight after the effective date of this AD, insert a copy of this priority letter AD into the limitations section of the Airplane Flight Manual (AFM).

(c) Fabricating and installing the placard and inserting a copy of this AD into the AFM limitations section may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the airplane's records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations.

(d) Within the next 30 days after the effective date of this AD, modify the rudder control pedal area in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Diamond Alert Service Bulletin No. DA20-53-01A, Rev. 0, dated June 5, 1997.

(e) Accomplishing the modification in paragraph (d) of this AD eliminates the need for the placard and AFM limitations requirements specified in paragraphs (a) and (b) of this AD.

(f) 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.

(g) An alternative method of compliance or adjustment of the compliance times that

provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office, 2300 East Devon Ave., Des Plaines, Illinois 60018. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager Chicago Aircraft Certification Office.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Chicago Aircraft Certification Office.

(h) The modification required by this AD shall be done in accordance with Diamond Aircraft Alert Service Bulletin No. DA20-53-01A, Rev. 0, dated June 5, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Diamond Aircraft Industries, Inc., 1560 Crumlin Sideroad, London, Ontario, Canada N5V 1S2. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) This amendment (39-10062) becomes effective on July 14, 1997 to all persons except those persons to whom it was made immediately effective by priority letter AD 97-13-02, issued June 12, 1997, which contained the requirements of this amendment.

Issued in Kansas City, Missouri, on June 26, 1997.

**James E. Jackson,**

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

[FR Doc. 97-17450 Filed 7-2-97; 8:45 am]

BILLING CODE 4910-13-P

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Parts 2200, 2203, 2204

#### Revisions to Procedural Rules Governing Practice Before the Occupational Safety and Health Review Commission

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Final rule.

**SUMMARY:** This document makes several revisions to the procedural rules governing practice before the Occupational Safety and Health Review Commission.

**DATES:** Effective July 3, 1997.

**FOR FURTHER INFORMATION CONTACT:** Earl R. Ohman, Jr., General Counsel, (202) 606-5410, Occupational Safety and Health Review Commission, 1120 20th St., N.W., Ninth Floor, Washington, DC 20036-3419.

**SUPPLEMENTARY INFORMATION:** On March 14, 1997 the Commission published in the **Federal Register** several proposed changes to its Rules of Procedure. 62 FR 12134 (March 14, 1997). The Commission found the comments received pursuant to that proposal to be very helpful. As a result, several proposals have been modified or eliminated. The Commission wishes to thank those who responded for their time and interest, and the quality of their comments.

### 1. Service and Notice

The Commission proposed amending Rule 7(g) by revising the language in the form at the end of the rule from "All pleadings relevant to this matter may be inspected at:" to "All papers relevant \* \* \*" This is a technical change that conforms the form to the language in the first paragraph of the rule and should have no significant impact on Commission practice. The Commission received no comments regarding this change and the Commission adopts the amendment as proposed.

### 2. Facsimile Transmission

The Commission proposed amending Rule 8(f) to allow a document to be filed with the Commission by facsimile transmission only when all of the parties are served by fax. The purpose of the amendment was to prevent confusion regarding the time of filing and, therefore, the applicability of the 3-day mail box.

All comments addressing this proposed rule were opposed to the amendment. The commentators opined that the Commission is addressing a nonexistent problem and suggested that there is no confusion regarding the date of service when a party is served by mail and the document filed with the Commission by fax because dates are calculated from the time of service on the parties, not when the document is received by the Commission. The commentators also noted that, under the proposal, faxing would be prohibited whenever one of the parties (probably a pro se) does not have a fax machine.

The Commission finds the comments to be well-taken and it withdraws the proposed amendment.

### 3. Claims of Privilege

Currently, Rule 11(c) allows a party fifteen days to respond to another party's claim of privilege. The Commission proposed amending its rule to require that the time for responding to such claims be ten days, the same as other motions.

While the proposal found no support, four commentators expressed similar