

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 129

[Docket No. 19238; SFAR 40]

**Special Federal Aviation Regulation
No. 40; Operation of Model DC-10
Airplanes in United States Prohibited**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This special regulation prohibits the operation of any Model DC-10 airplane within the airspace of the United States. This emergency regulation is necessary to provide adequately for safety in air commerce within the United States.

DATES: Effective date: June 6, 1979, at 6 p.m. EDT.

Comments by: August 3, 1979.

ADDRESS: Send Comments to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket, AGC-24, 800 Independence Ave., S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Sullivan, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone (202) 755-8716

SUPPLEMENTARY INFORMATION:

Background

On or about May 25, 1979, an accident occurred involving a McDonnell Douglas DC-10 series airplane at Chicago, Illinois. Subsequent to the accident the FAA issued several airworthiness directives applicable to all DC-10 series airplanes. As a result of the inspections required by the airworthiness directives, the FAA continued to be advised of the existence of cracks in the pylon mounting assemblies of certain airplanes and it appeared that the Model DC-10 airplane might not meet the applicable certification criteria of Part 25 of the Federal Aviation Regulations. Furthermore, the preliminary findings of an FAA post audit of the airplane type certification data indicated that it might not comply with the type certification basis set forth in § 25.571 of the Federal Aviation Regulations. As a consequence, there was reason to believe the Model DC-10 series airplane might not meet the requirements of section 603(a) of the Federal Aviation Act for a Type

Certificate in that it might not be of proper design, material, specification, construction, and performance for safe operation, or meet the minimum standards, rules and regulations prescribed by the Administrator.

Therefore, on June 6, 1979, the Administrator of the FAA issued an emergency order suspending the Type Certificate issued for the Model DC-10 airplane. Notification of the Order was given to all known owners and operators of the airplane.

However, the FAA Order does not apply to or prohibit the operation of any Model DC-10 airplane that is not registered in the United States. In view of the serious safety problems currently involving operation of that airplane, the Administrator finds that a safety emergency exists which justifies adoption of a special regulation prohibiting operation in the United States of all Model DC-10 airplanes, including those on foreign registries.

Since a safety emergency exists which requires immediate action in the interest of ensuring safety in air commerce and air transportation, the Administrator finds that notice and public procedure are impractical and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

Interested persons are invited to submit such written data, views, or arguments as they may desire regarding the SFAR. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before August 3, 1979, will be considered by the Administrator and this SFAR may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Adoption of the Amendment

Accordingly, the following Special Federal Aviation Regulations is adopted, effective immediately:

Section 1. Contrary provisions of Parts 91, 121 and 129 of the Federal Aviation Regulations notwithstanding, no person may land or takeoff any Model DC-10 airplane within the United States, except as authorized under Section 2 or otherwise authorized by the Administrator.

Section 2. This regulation does not apply to a foreign registered Model DC-

10 airplane which, at the time this regulation takes effect, is enroute to a place in the United States or is at a place within the United States. These airplanes may depart from the airport at which they are located, or at which they arrive, for a place outside the United States, using the most direct, feasible route, and without passengers or cargo on board.

This Special Federal Aviation Regulation is effective until amended or terminated by the Administrator.

(Secs. 313(a), 307, 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. Sections 1354, 1348, 1421 and 1423); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. Section 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this document is being issued as an emergency regulation, in accordance with DOT Policies and Procedures, an evaluation will be prepared and placed in the public docket as soon as possible.

Issued in Washington, D.C., on June 6, 1979 at 6:00 p.m. EDT.

Langhorne Bond,
Administrator.

[FR Doc. 79-18120 Filed 6-7-79; 9:32 am]

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F5-79-323-R

(As published in the Federal Register (44 F.R. 33389) on June 8, 1979)

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 129

[Docket No. 19238; SFAR 40]

Termination of Special Federal Aviation Regulation No. 40; Operation of Model DC-10 Airplanes in United States

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Final rule.

SUMMARY: This action terminates the prohibition against the operation of any Model DC-10 airplane within the airspace of the United States. This amendment is necessary to reflect the reinstatement of the Type Certificate for that airplane.

DATES: Effective date: July 13, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Jonathan Howe, Deputy Chief Counsel, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone (202) 426-3775.

Termination of Special Federal Aviation Regulation 40

By Emergency Order of Suspension issued by the Administrator of the Federal Aviation Administration June 6, 1979, Type Certificate No. A22WE issued to McDonnell Douglas Corporation was suspended on an emergency basis, said suspension to be effective until such time as it is found by the Administrator that the Model DC-10 series aircraft meets the applicable certification criteria of Part 25 of the Federal Aviation Regulations (FAR) and is eligible for a type certificate.

The suspension occurred subsequent to an accident on May 25, 1979, involving a McDonnell Douglas DC-10 series aircraft at Chicago, Illinois and was based on information and belief that the aircraft might not meet the

requirements of Section 603(a) of the Federal Aviation Act for a type certificate in that it might not be of proper design, material, specification, construction, and performance for safe operation, or meet the minimum standards, rules, and regulations prescribed by the Administrator.

The suspension of Type Certificate No. A22WE was not effective as to operations in the United States of DC-10 series aircraft of foreign registry. Therefore, as stated in its preamble, Special Federal Aviation Regulation (SFAR) 40 was issued on June 6, 1979, to be " * * * effective until it is found by the Administrator that the Model DC-10 series airplane meets the applicable certification criteria of Part 25 of the FAR and is eligible for a type certificate [44 FR 33389, June 8, 1979]."

On June 7, 1979, the Administrator, pursuant to his authority under sections 313, 609, 1002 and 1004 of the Act, ordered through the Chief Counsel of the FAA that formal investigations be undertaken into the matters of (1) type certification of the engine to wing attachment structure of the Model DC-10 series aircraft and (2) air carrier maintenance and airworthiness procedures for said aircraft. Incident to and in the course of the investigation of type certification, he also directed that a thorough reexamination be made of the design and operation of the leading edge outboard slat control system of said aircraft with respect to the effects of asymmetric slat conditions on controllability of the aircraft in critical flight regimes.

As a result of these investigations, he received three reports as follows:

1. Presiding Officer's Report to the Administrator on the Investigation of the McDonnell Douglas Corporation and the Model DC-10 Aircraft, dated July 9, 1979.
2. Report to the Administrator in the Matter of Maintenance and Airworthiness Procedures concerning DC-10 aircraft, dated June 25, 1979.
3. Report to the Administrator on Investigation of Compliance of the DC-10 Aircraft Leading Edge Outboard Slat

with Type Certification Requirements, under Asymmetric Slat Conditions, dated July 9, 1979.

Upon thorough review of the analyses, findings and recommendations contained in these reports, and further, upon consideration of actions taken by the Federal Aviation Administration as a result of these investigations, the Administrator found, with respect to those matters investigated, that the Douglas Model DC-10 series aircraft meets the requirements of Section 603(a)(2) of the Act for issuance of a type certificate in that, in such respects, said aircraft is of proper design, material, specification, construction and performance for safe operation and meets the applicable certification criteria of Part 25 of the Federal Aviation Regulations and is eligible for a type certificate.

Thereupon, the Emergency Order of Suspension of Type Certificate No. A22WE for the McDonnell Douglas Model DC-10 airplane was terminated July 13, 1979. Since the stated purpose of SFAR 40 has been accomplished, notice and comment on its termination are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

Termination of Special Federal Aviation Regulation No. 40

Accordingly, Special Federal Aviation Regulation 40 is terminated, effective immediately.

(Secs. 313(a), 307, 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1348, 1421 and 1423); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures [44 FR 11034; February 28, 1979].

Issued in Washington, D.C., on July 13, 1979.

Langhorne Bond,
Administrator.

[FR Doc. 79-22387 Filed 7-18-79; 8:45 am]

[As published in the Federal Register (44 FR 42170) on July 19, 1979.]

FS-79-322-R