

Therefore, it is in a dealer's financial interest to promote the health and well-being of his or her dogs in accordance with the regulations. However, if any wholesale dealers of hunting, breeding, or security dogs were not in compliance with the regulations in 9 CFR parts 2 and 3 prior to our policy announcement on July 19, 1999, they will likely have incurred expenses related to meeting these requirements. We do not have information on the number of such dealers or what their expenses might be.

The purpose of this rule is actually to remove requirements covering dealers who sell hunting, breeding, or security dogs at the retail level. Those dealers will experience no economic effects from this action since we have never enforced those provisions.

The Regulatory Flexibility Act requires that agencies consider the economic effects of rules on small entities. The Small Business Administration determines the criteria by which entities are classified as "small," using the North American Industry Classification System (NAICS) categories. Wholesale dealers of hunting, breeding, or security dogs are included within NAICS category 112990, "All Other Animal Production." Small entities in this category are ones with annual receipts of \$750,000 or less. Although data is not available on the number of wholesale dealers of hunting, breeding, or security dogs, or their incomes, we presume the majority are small entities.

While a substantial number of affected dealers may be small entities, we expect the effect of this rule on these dealers will be insignificant because licensing and inspection fees will remain the same. This action simply makes our regulations consistent with our policy and, therefore, clarifies licensing and inspection requirements for affected dealers of dogs intended for hunting, breeding, and security purposes.

This rule contains various recordkeeping requirements, which were described in our proposed rule, and which have been approved by the Office of Management and Budget (See "Paperwork Reduction Act" below).

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under

No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Animal Welfare Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0169.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### List of Subjects in 9 CFR Part 1

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, we are amending 9 CFR Part 1 as follows:

#### PART 1—DEFINITION OF TERMS

1. The authority citation of part 1 continues to read as follows:

**Authority:** 7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.7.

2. In § 1.1 the definition for *dealer* is revised to read as follows:

##### § 1.1 Definitions.

\* \* \* \* \*

*Dealer* means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of: Any dog or other animal whether alive or dead (including unborn animals, organs, limbs, blood, serum, or other parts) for research, teaching, testing, experimentation, exhibition, or for use as a pet; or any dog at the wholesale

level for hunting, security, or breeding purposes. This term does not include: A retail pet store, as defined in this section, unless such store sells any animal to a research facility, an exhibitor, or a dealer (wholesale); any retail outlet where dogs are sold for hunting, breeding, or security purposes; or any person who does not sell or negotiate the purchase or sale of any wild or exotic animal, dog, or cat and who derives no more than \$500 gross income from the sale of animals other than wild or exotic animals, dogs, or cats during any calendar year.

\* \* \* \* \*

Done in Washington, DC, this 10th day of March, 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03-6161 Filed 3-13-03; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-218-AD; Amendment 39-13084; AD 2003-05-08]

RIN 2120-AA64

#### Airworthiness Directives; Dornier Model 328-100 and -300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328-100 and -300 series airplanes, that requires replacement of certain flight data recorder (FDR) and cockpit voice recorder (CVR) impact switches with certain new impact switches. This action is necessary to prevent the loss of data recorded on the FDR and CVR, which, in the event of an accident, could result in the inability to retrieve data from the FDR and CVR during the accident investigation. This loss of data could hinder the identification of the unsafe condition which caused the accident, and prevent the FAA from developing and mandating actions to prevent additional accidents caused by that same unsafe condition.

**DATES:** Effective April 18, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 18, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D-82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328-100 and -300 series airplanes was published in the **Federal Register** on December 10, 2002 (67 FR 75822). That action proposed to require replacement of certain flight data recorder (FDR) and cockpit voice recorder (CVR) impact switches with certain new impact switches.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

#### Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### Cost Impact

The FAA estimates that 53 Model 328-100 series airplanes and 48 Model 328-300 series airplanes of U.S. registry would be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required replacement, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$1,346 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$142,006, or \$1,406 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time

necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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 adding the following new airworthiness directive:

**2003-05-08 Dornier Luftfahrt GMBH:**  
Amendment 39-13084. Docket 2002-NM-218-AD.

**Applicability:** Airplanes listed in the following table of this AD, certificated in any category:

TABLE.—APPLICABILITY

| Model                     | Serial Nos.                  |
|---------------------------|------------------------------|
| 328-100 series airplanes. | 3005 through 3119 inclusive. |
| 328-300 series airplanes. | 3105 through 3223 inclusive. |

**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 (c) 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 the loss of data recorded on the flight data recorder (FDR) and cockpit voice recorder (CVR), which, in the event of accident, could result in the inability to retrieve data from the FDR and CVR during the accident investigation, and hinder the identification of the unsafe condition which caused the accident, accomplish the following:

#### Switch Replacement

(a) For Model 328-100 series airplanes: Within 12 months after the effective date of this AD, replace the FDR and CVR 3g-impact switches, with new, 6g-impact switches, per the Accomplishment Instructions of Dornier Service Bulletin SB-328-31-390, dated September 6, 2001.

(b) For Model 328-300 series airplanes: Within 12 months after the effective date of this AD, replace the FDR and CVR 3g-impact switches, with new, 6g-impact switches, per the Accomplishment Instructions of Dornier Service Bulletin SB-328J-31-118, dated September 6, 2001.

#### Alternative Methods of Compliance

(c) 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, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

#### Special Flight Permits

(d) 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.

#### Incorporation by Reference

(e) The actions shall be done in accordance with Dornier Service Bulletin SB-328-31-390, dated September 6, 2001; and Dornier Service Bulletin SB-328J-31-118, dated September 6, 2001; as applicable. 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 Fairchild Dornier, 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 3:** The subject of this AD is addressed in German airworthiness directives 2002-238 and 2002-239, both dated August 22, 2002.

#### Effective Date

(f) This amendment becomes effective on April 18, 2003.

Issued in Renton, Washington, on March 5, 2003.

Ali Bahrami,

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

[FR Doc. 03-5860 Filed 3-13-03; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 9048]

RIN 1545-BB95

#### Guidance Under Section 1502; Suspension of Losses on Certain Stock Dispositions

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations under section 1502 that redetermine the basis of stock of a subsidiary member of a consolidated group immediately prior to certain transfers of such stock and certain deconsolidations of a subsidiary member. In addition, this document contains temporary regulations that suspend certain losses recognized on the disposition of stock of a subsidiary member. The regulations apply to corporations filing consolidated returns. The text of the temporary regulations

serves as the text of the proposed regulations set forth in the Proposed Rules section of this issue of the **Federal Register**.

**DATES:** *Effective date:* These regulations are effective March 14, 2003.

*Applicability Date:* For dates of applicability, see §§ 1.1502-21T(h)(7), 1.1502-32T(h)(6), and 1.1502-35T(j).

**FOR FURTHER INFORMATION CONTACT:** Aimee K. Meacham, (202) 622-7530 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these temporary regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545-1828. Responses to this collection of information are voluntary.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

##### Background and Explanation of Provisions

On October 18, 2002, the IRS and Treasury Department issued a notice of proposed rulemaking (REG-131478-02, 2002-47 I.R.B. 892 [67 FR 65060]) that included proposed regulations reflecting the principle set forth in Notice 2002-18 (2002-12 I.R.B. 644) that a consolidated group should not be able to obtain more than one tax benefit from a single economic loss. The rules in the proposed regulations were intended to address at least two situations in which a group may obtain more than one tax

benefit from a single economic loss. In one situation, a group first recognizes and absorbs a subsidiary member's inside loss (e.g., a loss carryforward, a deferred deduction, or a loss inherent in an asset) and a member of the group later recognizes a loss on the subsidiary member's stock that is duplicative of the previously recognized and absorbed inside loss. In the second situation, a member of the group recognizes a loss on a non-deconsolidating disposition of the subsidiary member's stock, the stock loss duplicates an unrecognized or unabsorbed loss of the subsidiary member, and the group later recognizes and absorbs the subsidiary's inside loss.

The proposed regulations consist primarily of two rules: a basis redetermination rule and a loss suspension rule. The proposed regulations also include a basis reduction rule that addresses certain cases of loss duplication that are not within the scope of the loss suspension rule, such as losses arising from the worthlessness of subsidiary member stock.

No public hearing regarding the proposed regulations was requested or held. Comments, however, were submitted.

The IRS and Treasury Department have studied, and are continuing to study, the comments received. The IRS and Treasury Department believe that the comments received, as well as the issues more generally raised by Notice 2002-18 and the proposed regulations, require significant further consideration. Accordingly, the IRS and Treasury Department will continue to study these issues and, as more fully set forth below, request comments on, and suggestions for possible alternative approaches to, the issues addressed in the regulations. Nonetheless, the IRS and Treasury Department believe that immediately effective rules are necessary to address the duplication of loss within a consolidated group so as to clearly reflect the income tax liability of the group. Accordingly, the IRS and Treasury Department are promulgating the proposed regulations as temporary regulations in this Treasury decision. The temporary regulations are substantially similar to the proposed regulations, but reflect certain revisions that were made based on comments received. The following sections describe these revisions.

##### *A. Application of Basis Redetermination Rule Upon Deconsolidation of a Subsidiary Member*

The proposed regulations require the reallocation of the basis of subsidiary member stock held by members of the