the Immigration Court or the Board, whichever last held jurisdiction over the case.

(2) If the Immigration Court has jurisdiction, and grants only the motion to reopen to apply for section 212(c) relief pursuant to this section, it shall adjudicate only the section 212(c) application.

(3) If the Board has jurisdiction and grants only the motion to reopen to apply for section 212(c) relief pursuant to this section, it shall remand the case to the Immigration Court solely for adjudication of the section 212(c) application (Form I–191), unless the Board chooses to exercise its discretionary authority to adjudicate the matter on the merits without a remand.

(h) *Applicability of other exceptions to motions to reopen.* Nothing in this section shall be interpreted to preclude or restrict the applicability of any other exception to the motion to reopen provisions of this part as defined in 8 CFR 3.2(c)(3) and 3.23(b).

(i) *Limitations on eligibility for reopening under this section.* This section does not apply to:

(1) Aliens who have departed the United States;

(2) Aliens with a final order of deportation who have illegally returned to the United States; or

(3) Aliens who have not been admitted or paroled.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

5. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

6. Paragraph (g) is added to section 212.3 to read as follows:

§ 212.3 Application for the exercise of discretion under § 212(c).

* * * * *

(g) *Relief for certain aliens who were in deportation proceedings before April 24, 1996.* Section 440(d) of Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) shall not apply to any applicant for relief under this section whose deportation proceedings were commenced before the Immigration Court before April 24, 1996.

PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

7. The authority citation for 8 CFR part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681); 8 CFR part 2.

§ 240.15 [Amended]

8. In § 240.15, the reference to ''§ 3.1(d)(1–a)'' is revised to read ''§ 3.1(d)(2).''

§ 240.21 [Amended]

9. In § 240.21(c), the reference to ''§§ 3.1(d)(2) and 3.39'' is revised to read ''§§ 3.1(d)(3) and 3.39.''

§ 240.53 [Amended]

10. In § 240.53(a), the reference to § 3.1(d)(1–a)'' is revised to read ''§ 3.1(d)(2).''

Dated: January 17, 2001.

Janet Reno,

Attorney General.

[FR Doc. 01–1785 Filed 1–19–01; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–75–AD; Amendment 39–12081; AD 2001–01–11]

RIN 2120–AA64

Airworthiness Directives; Rolladen Schneider Flugzeugbau GmbH Models LS 4 and LS 4a Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Rolladen Schneider Flugzeugbau GmbH (Rolladen Schneider) Models LS 4 and LS 4a sailplanes. This AD requires you to inspect the airbrake system for damage and proper rigging, with correction, repair, or replacement, as necessary. This AD also requires you to report any damage found to the Federal Aviation Administration (FAA). This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct damage to the airbrake locking bracket caused by asymmetric loads. This condition could result in the pilot's inability to operate the airbrake controls, with consequent loss of sailplane control.

DATES: This AD becomes effective on March 9, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 9, 2001.

ADDRESSES: You may get the service information referenced in this AD from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany; phone: ++ 49 6103 204126; facsimile: ++ 49 6103 45526. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–75–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on certain Rolladen Schneider Models LS 4 and LS 4a sailplanes. The LBA reports two occurrences of damaged airbrake locking brackets found on the above-referenced sailplanes. The damage was the result of improper rigging of the airbrake system. The asymmetric load that occurs over time with an improperly rigged airbrake system could result in cracks in the welding region of the airbrake tube and lateral deformation of the airbrake locking bracket.

What are the consequences if the condition is not corrected? Damage to the airbrake locking bracket, if not detected and corrected, could result in the pilot's inability to operate the airbrake controls with consequent loss of sailplane control.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Rolladen Schneider Models LS 4 and LS 4a sailplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 9, 2000 (65 FR 67315). The NPRM proposed to require you to inspect the airbrake locking bracket on the rear landing gear box for signs of

fatigue (cracks in the paint, paint chips, or cracks in the welding region to the tube) and inspect for proper rigging of the airbrake system; reassemble the airbrake system (if improper rigging is found). If any sign of fatigue is evident, disassemble the airbrake system, obtain a modified airbrake locking bracket from the manufacturer, install this bracket, and accomplish certain adjustments after reassembling the airbrake system; and report any damage found to the FAA.

The FAA is requiring a reporting requirement so we can get an idea of how many sailplanes in the fleet have damaged or incorrectly rigged airbrake systems. We will utilize this information in deciding whether any of the required actions should be repetitive or whether we should initiate additional rulemaking.

Was the public invited to comment? Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

—Will not change the meaning of the AD; and

—Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many sailplanes does this AD impact? We estimate that this AD affects 78 sailplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected sailplanes? We estimate the following costs to accomplish the inspection and any necessary reassembly:

Labor cost	Parts cost	Total cost per sailplane	Total cost on U.S. operators
1 workhour × $60 per hour = $60	Not applicable	$60 per sailplane	$60 × 78 = $4,680.

We estimate the following costs to accomplish any necessary modification that will be required based on the results of the inspection. We have no way of determining the number of sailplanes that may need such modification:

Labor cost	Parts cost	Total cost per sailplane
2 workhours × $60 per hour = $120	The manufacturer will modify the airbrake bracket free of charge.	$120 per sailplane.

Compliance Time of this AD

What is the compliance time of this AD? The compliance time of this AD is within the next 30 calendar days after the effective date of this AD.

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Damage to the airbrake locking brake occurs as a result of sailplane operation. However, the reason the damage occurs is because of incorrect rigging of the airbrake system. We have determined that a calendar time for compliance is necessary because this incorrect rigging is not directly related to sailplane operation. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it is for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time will be utilized in this AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Why is the compliance time of this AD different than the German AD and the service information? The service information specifies the actions required in this AD ''prior to further flight'' and the German AD mandates these actions ''prior to further flight'' for sailplanes registered for operation in Germany. The FAA does not have justification for requiring the action prior to further flight. Instead, the FAA has determined that 30 calendar days is a reasonable time period for accomplishing the actions in this AD.

Regulatory Impact

Does this AD impact various entities? 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.

Does this AD involve a significant rule or regulatory action? 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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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, under 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. FAA amends § 39.13 by adding a new AD to read as follows:

2001–01–11 Rolladen Schneider Flugzeugbau GMBH:

Amendment 39–12081; Docket No. 99–CE–75–AD.

(a) *What sailplanes are affected by this AD?* This AD affects models LS 4 and LS 4a sailplanes, serial numbers 4000 through 4852, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage to the airbrake locking bracket caused by asymmetric loads. This condition could result in the pilot's inability to operate the airbrake controls with consequent loss of sailplane control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the airbrake locking bracket on the rear landing gear box for signs of fatigue (cracks in the paint, paint chips, or cracks in the welding region to the tube) and inspect for proper rigging of the airbrake system.	Within the next 30 calendar days after March 9, 2001 (the effective date of this AD).	Inspect for proper rigging in accordance with the procedures contained in the applicable maintenance manual. Inspect the airbrake locking bracket in accordance with the procedures contained in Rolladen Schneider Technical Bulletin No 4042, dated July 2, 1999.
(2) If any sign of fatigue is evident, accomplish the following: (i) Disassemble the airbrake system; (ii) Obtain a modified airbrake locking bracket from the manufacturer (2-day turnaround time) and install this bracket; and (iii) Reassemble the airbrake system and accomplish the adjustments listed in the service bulletin.	Accomplish all actions prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Accomplish the disassembly, installation, assembly, and adjustments in accordance with procedures contained in the applicable maintenance manual and the procedures in Rolladen Schneider Technical Bulletin No. 4042, dated July 2, 1999.
(3) If no signs of fatigue are found but the airbrake system is incorrectly assembled, disassemble the system and reassemble, including accomplishing the adjustments listed in the service bulletin.	Accomplish all actions prior to further flight after the inspection required in paragraph (d)(1) of this AD.	Accomplish in accordance with procedures contained in the applicable maintenance manual and the procedures in Rolladen Schneider Technical Bulletin No. 4042, dated July 2, 1999.
(4) If no signs of fatigue are found and the airbrake system is correctly assembled, then no further action is required by this AD.	AD complied with	AD complied with.
(5) If any discrepancy is found that requires additional work as required by paragraphs (d)(2) and (d)(3) of this AD, then send information describing the discrepancies found and the follow-on work that was necessary to the FAA.	Within 10 days after the inspection required by this AD or within 10 days after March 9, 2001 (the effective date of this AD), whichever occurs later.	Mail the information to: FAA, Small Airplane Directorate (ACE–112), Attention: Docket No. 99–CE–75–AD, 901 Locust, Room 301, Kansas City, Missouri 64106.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes 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 (e) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Brian Hancock, Aerospace Engineer, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143; facsimile: (816) 329–4090.

(g) *What if I need to fly the sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Rolladen Schneider Technical Bulletin No. 4042, dated July 2, 1999. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Rolladen-Schneider Flugzeugbau GmbH, Muhlstrasse 10, D–63329 Egelsbach, Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on March 9, 2001.

Note 2: The subject of this AD is addressed in German AD 1999–270, dated July 22, 1999.

Issued in Kansas City, Missouri, on January 8, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–1230 Filed 1–19–01; 8:45 am]

BILLING CODE 4910–13–P