

oxygen systems on Model 35 airplanes were certificated properly, and to determine if any unsafe design features exist in the pressurization and oxygen systems.

The SCR team found that there have been several accidents and incidents that may have involved incapacitation of the flightcrews during flight. In one case, the airplane flightcrew did not activate the pressurization system or don their oxygen masks and the airplane flew in excess of 35,000 feet altitude. In another case, the airplane flightcrews did not don their oxygen masks when the cabin altitude aural warning was activated. Further review by the SCR team indicates that the Airplane Flight Manual (AFM) of Learjet Model 35 and 36 airplanes does not have an emergency procedure that requires donning the flightcrew oxygen masks when the cabin altitude aural warning is activated. Additional review has found that the AFMs of Learjet Model 35A and 36A airplanes also do not contain appropriate flightcrew actions when the cabin altitude aural warning is activated. However, the AFMs do contain an abnormal procedure that allows the flightcrew to troubleshoot the pressurization system prior to donning the oxygen masks after the cabin altitude aural warning sounds. Troubleshooting may delay donning of the oxygen masks to the point that flightcrews may become incapable of donning their oxygen masks.

The SCR findings indicated that the most likely cause for incapacitation was hypoxia (lack of oxygen). The only other plausible cause of incapacitation is exposure to toxic substances. However, no evidence was found to support the existence of toxic substances.

Delayed response of the flightcrew in donning oxygen masks as a first and immediate action upon the activation of the cabin altitude warning could lead to incapacitation of the flightcrew and loss of control of the airplane.

Explanation of Applicability of Proposed AD

We have previously issued AD 2003-03-15, amendment 13039 (68 FR 4892, January 31, 2003). That AD revises the AFM for various Boeing and McDonnell Douglas transport category airplanes to advise the flightcrew to don oxygen masks as a first and immediate step when the cabin altitude aural warning sounds. Boeing Model 737-600, 737-700, 737-700C, 737-800, 737-900, 757, and 767 series airplanes were not included in the applicability of that AD because we determined that appropriate instructions for donning oxygen masks

were included in the Airplane Operations Manual for those airplanes.

After the issuance of the NPRM for AD 2003-03-15, we repeated the review of the AFMs for Boeing Model 737-600, 737-700, 737-700C, 737-800, 737-900, 757, and 767 series airplanes. Based on the results of this second review, we have determined that further rulemaking is necessary to ensure that the AFMs for those airplanes contain appropriate instructions for the flightcrew to immediately don emergency oxygen masks when a cabin altitude aural warning occurs. This proposed AD follows from that determination.

Other Related Rulemaking

We have previously issued AD 2000-23-10, amendment 39-11980 (65 FR 70294, November 22, 2000), which applies to all Lockheed Model 188A and 188C series airplanes. That AD requires a revision of the AFM to add procedures for donning the flightcrew oxygen masks when the cabin altitude aural warning sounds. The requirements of that AD are intended to prevent incapacitation of the flightcrew as a result of lack of oxygen and consequent loss of control of the airplane.

We have also previously issued AD 2001-22-10, amendment 39-12489 (66 FR 54425, October 29, 2001), which applies to all Dassault Model Mystere-Falcon 50, Mystere-Falcon 900, and Falcon 900EX series airplanes. That AD requires revising the Emergency Procedures and Abnormal Procedures sections of the AFM to advise the flightcrew to immediately don oxygen masks in the event of significant pressurization or oxygen level changes. The requirements of that AD are intended to prevent incapacitation of the flightcrew due to lack of oxygen, which could result in their inability to continue to control the airplane.

We are continuing to review emergency procedures in the AFMs for other airplane models to ensure that the AFMs contain appropriate instructions for donning the flightcrew oxygen masks. We may consider further rulemaking based on the results of these reviews.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require revising the Emergency Procedures or Non-Normal Procedures section of the AFM, as applicable, to advise the flightcrew to don oxygen masks as a first and immediate step

when the cabin altitude aural warning sounds.

Cost Impact

There are approximately 3,107 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,599 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revision, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$95,940, or \$60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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 draft regulatory 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, Safety.