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[Page 42019-42021]  
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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2005-22504; Directorate Identifier 2003-NM-281-AD; Amendment 39-14691; AD 2006-15-11]**

**RIN 2120-AA64**

### **Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C-212-CC Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain CASA Model C-212-CC airplanes. This AD restricts the operation of the airplane to carrying either passengers or cargo (but not both) in the same compartment, unless the airplane is modified to include an approved protective liner between the passengers and the cargo. This AD results from our determination that affected airplanes, when carrying both cargo and passengers in the same compartment, cannot achieve the required level of performance. We are issuing this AD to prevent a hazardous quantity of smoke, flames, and/or fire extinguishing agent from the cargo compartment from entering a compartment occupied by passengers or crew.

**DATES:** This AD becomes effective August 29, 2006.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Della Swartz, Aerospace Engineer, ACE-115N, FAA, Anchorage Aircraft Certification Office, 222 West 7th Avenue, Unit 14, Room 128, Anchorage, Alaska 99513; telephone (907) 271-2672; fax (907) 271-6365.

### **SUPPLEMENTARY INFORMATION:**

#### **Examining the Docket**

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through

Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the ADDRESSES section.

## **Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain CASA Model C-212-CC series airplanes. That NPRM was published in the Federal Register on September 22, 2005 (70 FR 55604). That NPRM proposed to restrict the operation of the airplane to carrying either passengers or cargo (but not both) in the same compartment, unless the airplane is modified to include an approved protective liner between the passengers and the cargo.

## **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

## **Request for Conformance to Technical Standard Order (TSO)**

The Modification and Repair Parts Association (MARPA) recommends that we place additional requirements on the type of smoke detectors that could be used for this application (i.e., that they must fully meet all requirements of the associated technical standard order (TSO)). In addition, the MARPA feels that 14 CFR part 39 does not permit the modification of other parts of the CFR, such as 21.303, for economic or other seemingly quixotic rationale. The MARPA concludes that it would appear we do not possess the legal authority in part 39 to waive other requirements of the CFR for reasons that do not contribute to continued airworthiness.

We considered the comments, but for the reasons below do not concur.

The use of appliances that are not "FAA-approved" is not without precedent. Handheld fire extinguishers, for example, are not specifically approved by the FAA. We also permit smoke detectors that do not meet TSO requirements to be used in lavatories on commercial airplanes because the presence of flight attendants and passengers makes it unlikely that a fire could transition from a small smoldering fire to a flaming fire without notice.

Regarding Model C-212-CC series airplanes, the presence of two smoke detectors that do not meet TSO requirements, the close proximity of the cargo to passengers, and flammability test data for fire containment covers led us to conclude that there was no need to require smoke detectors that fully meet TSO requirements in this application. It should be noted that these detectors are placed on the cargo; the cargo and detectors are then placed within fire containment covers, which must completely surround the cargo and detectors. Two detectors are required for each enclosed cargo to be carried on the airplane. We have determined that this provides an acceptable level of safety.

Regarding 14 CFR 21.303, the MARPA apparently misunderstands the requirements of § 21.303. This section regulates production of parts, and requires FAA parts manufacturer approval (PMA) for persons who produce parts "for sale for installation on type certificated products." ADs, on the other hand, impose requirements on operators and do not affect requirements for parts production. In this case, the phrase, "building-type smoke detectors" refers to parts that are presumably not produced for sale for installation on a type-certificated product; i.e., they are produced for use in buildings. Therefore, this AD neither modifies nor conflicts with § 21.303. Regarding the FAA's authority under part 39, § 39.5 identifies the criteria for issuing ADs: " \* \* \* an unsafe condition exists in a product and it is likely to exist or develop in other products of the same type design." Those criteria are clearly met in this case. Nothing in part 39 limits the actions that we may require to address the unsafe condition. In fact, § 39.11 provides us with maximum flexibility in defining necessary corrective actions: "Airworthiness directives specify inspections you must carry

out, conditions and limitations you must comply with, and any actions you must take to resolve the unsafe condition." This certainly includes installation of smoke detectors that we have determined to adequately fulfill the safety needs in the unusual circumstances of this AD.

### **Clarification of Alternative Method of Compliance (AMOC) Paragraph**

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

### **Explanation of Change to Applicability**

We have revised the applicability of the proposed AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

### **Conclusion**

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that the changes will neither increase the economic burden on any operator nor increase the scope of the AD.

### **Exemption Granted**

On May 16, 2003, an operator of certain CASA Model C-212-CC and -CD airplanes (not affected by this AD) in Alaska was granted Exemption 7779A to provide an acceptable level of fire protection that will allow those airplanes to be operated in the combi configuration. (Documents related to the exemption may be viewed at <http://dms.dot.gov>, under docket number FAA-2001-11150.) The exemption was granted based on public interest, with the following limitations:

1. A means will be provided to extinguish or control a fire without requiring a crewmember to enter the compartment. Fire containment covers (FCCs) of woven fiberglass-based materials that will pass the oil burner test of FAR Part 25, Appendix F, Part II, must be used. FCCs will completely surround all cargo, including being underneath the cargo, except for obviously non-flammable items, such as metal stock, machinery, and non-flammable fluids without flammable packaging. Cargo restraint nets will be installed over the FCCs. A valve will be installed in the FCCs to allow fire-fighting attempts without removing or loosening the FCCs.

2. A means will be provided to exclude hazardous quantities of smoke, flames, or extinguishing agent from any compartment occupied by the crew or passengers. There is an approved procedure for elimination of smoke and fumes in the airplane flight manual (AFM).

3. A separate approved smoke detector or fire detector system will be installed in the cargo area and a fire/smoke warning indicator will be provided in the cockpit. Smoke or fire detectors placed within each FCC fully enclosed volume provide such a means. The use of non-TSO'd inexpensive building-type smoke detectors is permitted. Detectors may be wired or wireless, as long as they incorporate provisions for sensor redundancy, testing, and remote cockpit indication. At least two detectors must be placed within each FCC fully enclosed volume.

4. Crew members must receive training in the use of the fire extinguishers and the cargo fire containment covers; they must also receive training in the use of the approved procedure for the elimination of smoke and fumes that is specified in the AFM.

5. Two additional fire extinguishers must be carried on the airplane.

6. Limitations 1 through 5 must be documented as operating limitations in the limitations section of the Airplane Flight Manual Supplement.

We anticipate that adherence to these six terms and conditions, in a method approved by the FAA, would be considered a means of compliance with this AD.

## **Costs of Compliance**

We estimate that 5 airplanes of U.S. registry will be affected by this AD. We recognize that the operational restrictions may impose indirect and adverse economic effects on operators from a potential loss of revenue. Those indirect costs are difficult to calculate because the lost revenue from combi-operated flights is not readily measurable. Nevertheless, because of the severity of the identified unsafe condition, we have determined that continued operational safety necessitates these costs to the operators.

An operator may choose to modify the cargo compartment rather than restrict its operations. However, since a modification commensurate with the requirements of this AD has not been developed, we cannot provide specific information regarding the number of work hours or the cost of parts to accomplish that modification. Further, modification costs would likely vary, depending on the airplane configuration. The compliance time of 12 months should provide ample time for the development, approval, and installation of an appropriate modification, and also ensure the necessary level of flight safety. Based on a similar modification accomplished previously, we can reasonably estimate that the modification may take 40 work hours, at an average labor rate of \$65 per work hour. The cost of required parts will be about \$1,800 per airplane. A required proof of function flight test will cost about \$4,000 including the services of a Designated Engineering Representative, pilot, test airplane, and test equipment. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$8,400 per airplane.

## **Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## **Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. See the ADDRESSES section for a location to examine the regulatory evaluation.

## **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

## **Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

# AIRWORTHINESS DIRECTIVE

[www.faa.gov/aircraft/safety/alerts/](http://www.faa.gov/aircraft/safety/alerts/)  
[www.gpoaccess.gov/fr/advanced.html](http://www.gpoaccess.gov/fr/advanced.html)

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**



**2006-15-11 Construcciones Aeronauticas, S.A. (CASA):** Amendment 39-14691. Docket No. FAA-2005-22504; Directorate Identifier 2003-NM-281-AD.

## Effective Date

- (a) This AD becomes effective August 29, 2006.

## Affected ADs

- (b) None.

## Applicability

(c) This AD applies to CASA Model C-212-CC airplanes, certificated in any category, modified in accordance with Supplemental Type Certificate (STC) ST02177AK, or by field approval using STC ST02177AK as a basis for the field approval.

## Unsafe Condition

(d) This AD was prompted by our determination that affected airplanes, when carrying both cargo and passengers in the same compartment, cannot achieve the required level of performance. We are issuing this AD to prevent a hazardous quantity of smoke, flames, and/or fire extinguishing agent from the cargo compartment from entering a compartment occupied by passengers or crew.

## Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

## Modification

(f) As of 12 months after the effective date of this AD, no person may operate an airplane in the combi configuration, unless the actions specified by either paragraph (f)(1) or (f)(2) are done in accordance with a method approved by the Manager, Anchorage Aircraft Certification Office (ACO), FAA.

(1) Modify the airplane to incorporate a protective liner between the passengers and the cargo and to ensure compliance with § 25.855 ("Cargo or baggage compartment") of the Federal Aviation Regulations (14 CFR 25.855).

(2) Comply with the terms and conditions specified in paragraphs (f)(2)(i) through (f)(2)(vi) of this AD.

(i) There are means to extinguish or control a fire without requiring a crewmember to enter the compartment.

(ii) There are means to exclude hazardous quantities of smoke, flames, or extinguishing agent from any compartment occupied by the crew or passengers.

(iii) There is a separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station.

- (iv) Crew members must receive training in the use of the fire extinguishers and the cargo fire containment covers; they must also receive training in the use of the approved procedure for the elimination of smoke and fumes that is specified in the airplane flight manual (AFM).
- (v) Two additional fire extinguishers must be carried on the airplane.
- (vi) Limitations (f)(2)(i) through (f)(2)(v) must be documented as operating limitations in the Limitations section of the CASA C-212-CC AFM supplement.

### **Special Flight Permits**

(g) Special flight permits may be issued in accordance with §§ 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 airplane can be modified (if the operator elects to do so), provided no passengers are onboard.

### **Alternative Methods of Compliance (AMOCs)**

(h)(1) The Manager, Anchorage ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

### **Material Incorporated by Reference**

- (i) None.

Issued in Renton, Washington, on July 14, 2006.  
Ali Bahrami,  
Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. E6-11701 Filed 7-24-06; 8:45 am]