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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2011-0157; Directorate Identifier 2010-NM-261-AD; Amendment 39-16630; AD 2011-04-09]

RIN 2120-AA64

#### **Airworthiness Directives; Various Transport Category Airplanes Equipped With Chemical Oxygen Generators Installed in a Lavatory**

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

**ACTION:** Final rule; request for comments.

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**SUMMARY:** This document publishes in the Federal Register an amendment adopting airworthiness directive (AD) 2011-04-09 that was sent previously by individual notices to the known U.S. owners and operators of affected airplanes identified above. This AD requires modifying the chemical oxygen generators in the lavatory. This AD was prompted by reports that the current design of these oxygen generators presents a hazard that could jeopardize flight safety. We are issuing this AD to eliminate this hazard.

**DATES:** This AD becomes effective March 14, 2011 to all persons except those persons to whom it was made immediately effective by AD 2011-04-09, which contained the requirements of this amendment.

We must receive comments on this AD by April 22, 2011.

**ADDRESSES:** You may send comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

## Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gardlin, Aerospace Engineer, Cabin Safety Branch, ANM-115, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone 425-227-2136; fax 425-227-1149; e-mail [jeff.gardlin@faa.gov](mailto:jeff.gardlin@faa.gov); or

Robert Hettman, Aerospace Engineer, Propulsion and Mechanical Systems Branch, ANM-112, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2683; fax (425) 227-1149; e-mail [robert.hettman@faa.gov](mailto:robert.hettman@faa.gov).

**SUPPLEMENTARY INFORMATION:** On February 10, 2011, we issued AD 2011-04-09, which applies to certain passenger-carrying transport category airplanes operating in 14 CFR part 121 air carrier service; or U.S.-registered and operating under 14 CFR part 129, with a maximum passenger capacity of 20 or greater; and equipped with any chemical oxygen generator installed in any lavatory.

## Background

This AD was prompted by reports that the current design of these oxygen generators presents a hazard that could jeopardize flight safety. We are issuing this AD to eliminate this hazard.

## FAA's Determination and Requirements of This AD

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, we issued AD 2011-04-09 to eliminate a hazard with chemical oxygen generators in the lavatory, which, if not corrected, could jeopardize flight safety. The AD requires either activating all chemical oxygen generators in the lavatories until the generator oxygen supply is expended, or removing the oxygen generator(s); and, for each chemical oxygen generator, after the generator is expended (or removed), removing or re-stowing the oxygen masks and closing the mask dispenser door.

We have determined that notice and opportunity for prior public comment on AD 2011-04-09 were contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on February 10, 2011, to the known U.S. owners and operators of certain passenger-carrying transport category airplanes operating in 14 CFR part 121 air carrier service; or U.S.-registered and operating under 14 CFR part 129, with a maximum passenger capacity of 20 or greater; and equipped with any chemical oxygen generator installed in any lavatory.

These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

## Differences Between This Federal Register Version and the Individual Notices

This Federal Register version of the AD is different from the individual notices previously issued. These individual notices contained a time-limited flight crew notification procedure. This procedure required that the pilot in command be notified that the oxygen generators in the lavatories had been rendered inoperative, and instructed the pilot in command to brief the crew that in the event

of a rapid decompression the lavatories needed to be checked. Since flight crews have been made aware of this AD by the actions in the individual notices, and these procedures were to be applied for a limited time (30 days) only, the procedures are considered no longer necessary, and are not included in this AD. Flight crews are still made aware of corrective actions taken as a result of this AD since maintenance activities are recorded and available to the flight crew using existing maintenance procedures.

### **Related Rulemaking**

We are currently planning to issue a special Federal Aviation Regulation (SFAR) to address the regulatory compliance issues resulting from carrying out the actions required by this AD until the type certification and operational rules are modified.

This AD is applicable to U.S.-registered transport category airplanes operating under 14 CFR part 129 as identified in paragraph (c) of this AD. We will monitor actions taken by other airworthiness authorities to implement the requirements of this AD into their own fleets to determine if additional rulemaking actions are necessary.

### **Action by the State of Design**

This AD is applicable to all transport category airplanes identified in paragraph (c) of this AD. For the purposes of the FAA's responsibility to notify other airworthiness authorities of continued airworthiness issues under International Civil Aviation Organization (ICAO) Annex 8, this AD is considered an action by the State of Design for United States products.

### **Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the ADDRESSES section. Include "Docket No. FAA-2011-0157; Directorate Identifier 2010-NM-261-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

### **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

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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

## 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 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 FAA amends § 39.13 by adding the following new airworthiness directive (AD):



**2011-04-09 Transport Category Airplanes:** Amendment 39-16630. Docket No. FAA-2011-0157; Directorate Identifier 2010-NM-261-AD.

#### Effective Date

(a) This AD becomes effective March 14, 2011, to all persons except those persons to whom it was made immediately effective by AD 2011-04-09, issued on February 10, 2011, which contained the requirements of this amendment.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to transport category airplanes, in passenger-carrying operations, that are equipped with any chemical oxygen generator installed in any lavatory, and are:

- (1) Operating under 14 CFR part 121; or
- (2) U.S.-registered and operating under 14 CFR part 129, with a maximum passenger capacity of 20 or greater.

#### Subject

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 35, Oxygen.

#### Unsafe Condition

(e) This AD was prompted by reports that the current design of chemical oxygen generators in the lavatories presents a hazard that could jeopardize flight safety. We are issuing this AD to eliminate this hazard.

#### Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

#### Oxygen Generator Deactivation

(g) Within 21 days after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Activate all chemical oxygen generators in the lavatories until the generator oxygen supply is expended. An operator may also remove the oxygen generator(s), in accordance with existing maintenance practice, in lieu of activating it.

(2) For each chemical oxygen generator, after the generator is expended (or removed), remove or re-stow the oxygen masks and close the mask dispenser door.

**Note 1:** Chemical oxygen generators are considered a hazardous material and subject to specific requirements under Title 49 CFR for shipping. Oxygen generators must be expended prior to disposal but are considered a hazardous waste; therefore, disposal must be in accordance with all Federal, State, and local regulations. Expended oxygen generators are forbidden in air transportation as cargo. For more information, contact 1-800-HMR-4922.

**Note 2:** Design approval holders are not expected to release service instructions for this action.

## **Compliance with Federal Aviation Regulations**

(h) Notwithstanding the requirements of Sections 25.1447, 121.329, 121.333, and 129.13 of the Federal Aviation Regulations (14 CFR 25.1447, 121.329, 121.333, and 129.13), operators complying with this AD are authorized to operate affected airplanes until this action is superseded by other rulemaking.

## **Parts Installation**

(i) After the effective date of this AD, no person may install a chemical oxygen generator in any lavatory on any affected airplane.

## **Special Flight Permit**

(j) Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

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

(k)(1) The Manager, Transport Standards Staff, ANM-110, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to an individual identified in either paragraph (k)(1)(i) or (k)(1)(ii) of this AD.

(i) Jeff Gardlin, Aerospace Engineer, Cabin Safety Branch, ANM-115, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2136; fax (425) 227-1149; e-mail [jeff.gardlin@faa.gov](mailto:jeff.gardlin@faa.gov).

(ii) Robert Hettman, Aerospace Engineer, Propulsion and Mechanical Systems Branch, ANM-112, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2683; fax (425) 227-1149; e-mail [robert.hettman@faa.gov](mailto:robert.hettman@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector or, lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

## **Contact Information**

(1) For technical information about this AD, contact:

(1) Jeff Gardlin, Aerospace Engineer, Cabin Safety Branch, ANM-115, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2136; fax (425) 227-1149; e-mail [jeff.gardlin@faa.gov](mailto:jeff.gardlin@faa.gov).

(2) Robert Hettman, Aerospace Engineer, Propulsion and Mechanical Systems Branch, ANM-112, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2683; fax (425) 227-1149; e-mail [robert.hettman@faa.gov](mailto:robert.hettman@faa.gov).

(m) For FAA Flight Standards information about this AD, contact the manager at your local certificate management office (CMO) or certificate management team (CMT).

Issued in Renton, Washington, on March 2, 2011.  
Ali Bahrami,  
Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

SUPERSEDED