

issuing another notice on the subject matter in the future or committing the agency to any future course of action. Issued in Burlington, Massachusetts on March 5, 2010.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2010-0286; Directorate Identifier 2010-CE-013-AD]

RIN 2120-AA64

Airworthiness Directives; SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009-39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520-00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by May 3, 2010.

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 proposed 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:

Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329-4119; *fax:* (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2010-0286; Directorate Identifier 2010-CE-013-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed 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 proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2010-0012, dated February 5, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009-39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520-00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

DAHÉR-SOCATA has issued TBM Aircraft Service Bulletin SB 70-183, dated January 2010.

L'Hotellier has issued Service Bulletin 863520-26-001, dated December 21, 2009.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the

MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 364 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$15,470, or \$43 per product.

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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify 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. 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 proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 AD:

SOCATA: Docket No. FAA-2010-0286; Directorate Identifier 2010-CE-013-AD.

Comments Due Date

(a) We must receive comments by May 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model TBM 700 airplanes, all serial numbers (SNs), that:

- (1) Are certificated in any category; and
- (2) Are equipped with part number (P/N) 863520-00 portable fire extinguishers, serial numbers (S/N) as listed in L'Hotellier Service

Bulletin 863520-26-001, dated December 21, 2009.

Subject

(d) Air Transport Association of America (ATA) Code 26: Fire Protection.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009-39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520-00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

Actions and Compliance

(f) Unless already done, within 3 months after the effective date of this AD, do the following in accordance with DAHER-SOCATA TBM Aircraft Service Bulletin SB 70-183, dated January 2010:

(1) Inspect the fire extinguisher(s) installed or carried on board the airplane for any P/N and S/N fire extinguisher listed in L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009; and

(2) If, as a result of the inspection required by paragraph (f)(1) of this AD, you find any fire extinguisher listed in L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009, before further flight, remove it from the airplane and replace it with a serviceable unit in accordance with L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009.

(3) As of the effective date of this AD, do not install any fire extinguisher listed in L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009, on any airplane, unless it has been overhauled with compliant Halon 1211 (BCF) and re-identified, in accordance with the instructions of L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329-4119; *fax:* (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI EASA AD No.: 2010-0012, dated February 5, 2010; DAHER-SOCATA TBM Aircraft Service Bulletin SB 70-183, dated January 2010; and L'Hotellier Service Bulletin 863520-26-001, dated December 21, 2009, for related information.

Issued in Kansas City, Missouri, on March 15, 2010.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-6091 Filed 3-18-10; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 1140**

[Docket No. FDA-2010-N-0136]

RIN 0910-AG33

Request for Comment on Implementation of the Family Smoking Prevention and Tobacco Control Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking to obtain information related to the regulation of outdoor advertising of cigarettes and smokeless tobacco. Elsewhere in this issue of the **Federal Register**, FDA is reissuing a final rule restricting the sale, distribution, and use of cigarettes and smokeless tobacco to protect children and adolescents as required by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). FDA has reserved a section of that final rule for future rulemaking on restrictions related to the outdoor advertising of cigarettes and smokeless tobacco. FDA is requesting comments, data, research, or other information on the regulation of outdoor advertising of cigarettes and smokeless tobacco.

DATES: Submit electronic or written comments by May 18, 2010.

ADDRESSES: You may submit comments, identified by Docket No. FDA-2010-N-0136 and/or RIN number 0910-AG33, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *FAX:* 301-827-6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number and Regulatory Information Number (RIN) for this rulemaking. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850-3229, 1-877-287-1373, annette.marthaler@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

Elsewhere in this issue of the **Federal Register**, FDA is reissuing a 1996 final rule that restricts the sale, distribution, and use of cigarettes and smokeless tobacco. The reissuance of the final rule is required under section 102 of the Tobacco Control Act (Public Law 111-31). More specifically, section 102 requires FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to the regulation promulgated by FDA in 1996 (61 FR 44396, August 28, 1996) (1996 final rule), with certain specified exceptions. Section 102 provides that the reissued 1996 final rule shall "include such modifications to section 897.30(b), if any, that the Secretary determines are appropriate in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in *Lorillard Tobacco Co. v. Reilly* (533 U.S. 525 (2001))."

As published in 1996, § 897.30(b) stated that "[n]o outdoor advertising for cigarettes or smokeless tobacco, including billboards, posters, or placards, may be placed within 1,000 feet of the perimeter of any public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds, or basketball courts), elementary school, or secondary school." In *Lorillard* the Supreme Court struck down as violative of the First Amendment regulations promulgated by Massachusetts that, among other things, banned outdoor tobacco advertisements within 1,000 feet of any school or playground. The Supreme Court concluded that Massachusetts had a substantial state interest in protecting children and adolescents from the harms of tobacco use and that the outdoor advertising restriction advanced that interest. However, the Court ruled that the regulation violated the First Amendment because it was not adequately tailored to achieve the substantial state interest of protecting children and adolescents from tobacco products.

To best determine what modifications to § 897.30(b), if any, are appropriate in light of governing First Amendment case law, FDA has determined that § 897.30(b) (now renumbered as § 1140.30(b)) should be reserved in the