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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

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

**[Docket No. FAA-2010-0956; Directorate Identifier 2010-NM-018-AD; Amendment 39-16951; AD 74-08-09 R3]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Various Transport Category Airplanes**

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

**ACTION:** Final rule.

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**SUMMARY:** We are revising an existing airworthiness directive (AD) for transport category airplanes that have one or more lavatories equipped with paper or linen waste receptacles. That AD currently requires installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. This new AD extends the time an airplane may be operated with certain missing ashtrays. This AD was prompted by the determination that certain compliance times required by the existing AD could be extended and still address fires occurring in lavatories caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. We are issuing this AD to correct this unsafe condition on these products.

**DATES:** This AD is effective March 28, 2012.

#### **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 address for the Docket Office (phone: 800-647-5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Alan Sinclair, Aerospace Engineer, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; phone: 425-227-2195; fax: 425-227-1232.

## **SUPPLEMENTARY INFORMATION:**

### **Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to revise AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996). That AD applies to the specified products. The NPRM published in the Federal Register on October 6, 2010 (75 FR 61657). That NPRM proposed to continue to require installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. That NPRM also proposed to extend the time an airplane may be operated with certain missing ashtrays.

### **Comments**

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (75 FR 61657, October 6, 2010) proposal and the FAA's response to each comment.

### **Support for the NPRM**

Air Line Pilots Association, International (ALPA), Boeing, and Air Transport Association (ATA) supported the intent of the NPRM (75 FR 61657, October 6, 2010).

### **Request to Credit MPD Task Cards**

MNG Airlines reported that some airplane manufacturers' maintenance planning documents (MPDs) include the requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996), in a task card, which the operators add to their own MPDs for their fleet. The commenter requested that we revise the NPRM (75 FR 61657, October 6, 2010) by indicating that, if a manufacturer's and operator's MPDs cover a task card, the AD requirements are automatically satisfied.

We disagree with the request. Operators determine how to track the implementation and compliance of the AD requirements for their fleet. We do not consider it appropriate to include AD provisions that apply only to certain operators. It is not necessary to change the final rule to include this provision.

### **Request To Clarify Relief Provisions**

ATA recommended that we simplify and clarify the proposed relief provisions for airplanes having multiple lavatory doors. For those airplanes, ATA recommended that we revise the NPRM (75 FR 61657, October 6, 2010) to provide MMEL (Master Minimum Equipment List) relief for up to—and including—50 percent of the ashtrays for 10 days. (The NPRM specified only “up to” 50 percent of the ashtrays.) ATA noted that this recommendation would (1) Remove the proposed requirement to replace half of the missing ashtrays within 3 days; (2) provide a level of safety equal to or exceeding the level proposed for airplanes having only one

lavatory door; (3) simplify the management and oversight of MMEL relief by operators and FAA inspectors; and (4) clarify that the phrase “up to” includes 50 percent, which would eliminate differing interpretations.

We have reviewed the ATA proposal. While we agree that the proposal has merit, we find that it does not account for all possible scenarios. Paragraph (j) of the AD allows 3 days to install any ashtrays if more than 50 percent of the ashtrays are missing. The commenter's proposed change, on the other hand, could ground airplanes: If, for example, 2 of 2 ashtrays are missing, 1 ash tray must be installed before further flight. We have therefore not changed the final rule regarding this issue. But, according to the provisions of paragraph (m) of this AD, we may approve requests to adjust the compliance schedule if the request includes data substantiating that the new schedule would provide an acceptable level of safety.

### **Request To Revise Compliance Time**

Thomas Edward Young requested that we clarify paragraph (j) of the NPRM (75 FR 61657, October 6, 2010) to address the case of a single ashtray missing on an airplane with multiple lavatory door ashtrays. Mr. Young provided alternative text to address this situation.

We disagree with the request. Paragraph (j) of this AD adequately covers the scenario described by the commenter. We have not changed the final rule regarding this issue.

### **Request To Clarify Proposed Changes**

ALPA requested clarification of the relief proposed in the NPRM (75 FR 61657, October 6, 2010) for two possible scenarios.

First, ALPA was concerned about possible confusion of the AD requirements for airplanes with an odd number of multiple lavatory doors with missing or inoperative ashtrays. In this case, the 50 percent criteria specified in the AD would result in a fractional number. ALPA therefore suggested that we revise the NPRM (75 FR 61657, October 6, 2010) to ensure that a fractional number of ashtrays be rounded to the next higher whole number.

Second, ALPA noted that, if there are groups of lavatories in multiple locations throughout an airplane, compliance with the proposed requirements aircraft-wide could result in all of the ashtrays in a group being missing or inoperative. To ensure that the required extinguishing capability is retained, ALPA therefore recommended an additional requirement to ensure that at least one lavatory door in each group of lavatories has a serviceable ashtray.

We disagree with the requests, although we considered both recommendations during the drafting of this revision of the AD. We determined that the commenter's first recommendation (to address airplanes with an odd number of missing ashtrays) would have only added to the complexity of the AD. If the calculation of ashtrays needing to be replaced results in a fractional number, operators will need to round up this figure. The only way to replace 2.5 ashtrays, for example, is to replace 3 ashtrays. We find that additional clarification is not necessary.

We determined that the commenter's second recommendation (to address airplanes with all ashtrays missing in a group of lavatories) would have resulted in confusing and overly complicated requirements. The AD's more simplified approach adequately addresses the unsafe condition.

We have not changed the AD regarding these issues.

### **Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

## Costs of Compliance

This action merely extends a certain compliance time and does not add any new additional economic burden on affected operators. The relief provided by this AD allows operators to continue to operate airplanes without the required number of ashtrays for a longer period of time than was previously permitted. This results in reduced costs to affected operators since it reduces the potential interruptions in service to reinstall the ashtrays. The current costs associated with this AD are provided below for the convenience of affected operators. The following table provides the estimated costs for U.S. operators to comply with this AD.

### Estimated Costs

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane
Placard installations	1	\$85	Negligible	\$85
Inspections	2	\$85	\$0	\$170 per inspection cycle

## 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),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) 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.

## 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 removing airworthiness directive (AD) 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996), and adding the following new AD:



**74-08-09 R3 Transport category airplanes:** Amendment 39-16951; Docket No. FAA-2010-0956; Directorate Identifier 2010-NM-018-AD.

**(a) Effective Date**

This airworthiness directive (AD) is effective March 28, 2012.

**(b) Affected ADs**

This AD revises AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996).

**(c) Applicability**

This AD applies to transport category airplanes, certificated in any category, that have one or more lavatories equipped with paper or linen waste receptacles. These lavatories may be on various airplanes, identified in but not limited to the airplanes of the manufacturers included in table 1 of this AD.

**Table 1–Affected Airplanes**

<b>Airplane manufacturer</b>
328 Support Services GmbH (Type Certificate previously held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH)
AEROSPATIALE (Societe Nationale Industrielle Aerospatiale)
Airbus
ATR – GIE Avions de Transport Régional
BAE Systems (Operations) Limited
The Boeing Company
Bombardier, Inc.
British Aerospace Regional Aircraft
Cessna Aircraft Company
DASSAULT AVIATION
EADS CASA (Type Certificate previously held by Construcciones Aeronauticas, S.A.)
Empresa Brasileira de Aeronautica S.A. (EMBRAER)
Fokker Services B.V.
Gulfstream Aerospace Corporation

Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.)

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Hamburger Flugzeugbau GmbH

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Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company; Beech Aircraft Corporation)

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Israel Aircraft Industries, Ltd.

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Learjet Inc.

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Lockheed Aircraft Corporation

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Lockheed Martin Corporation / Lockheed Martin Aeronautics Company

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Maryland Air Industries, Inc.

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McDonnell Douglas Corporation

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Mitsubishi Heavy Industries, Ltd.

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Saab AB, Saab Aerosystems

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Sabreliner Corporation

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Short Brothers PLC

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Vickers-Armstrongs (Aircraft Limited)

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Viking Air Limited (Type Certificate previously held by Bombardier, Inc.)

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**(d) Subject**

Air Transport Association (ATA) of America Code 25: Equipment/furnishings.

**(e) Unsafe Condition**

This revision to the AD (AD 74-08-09 R2 (61 FR 32318, June 24, 1996)) was prompted by the determination that certain compliance times required by the existing AD may be extended and still address fires occurring in lavatories caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. This revision to the AD would continue to prevent possible fires that could result from smoking materials being dropped into lavatory paper or linen waste receptacles.

**(f) Compliance**

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

(g) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996): Placard Installation

Within 60 days after August 6, 1974 (the effective date of AD 74-08-09, Amendment 39-1917 (39 FR 28229, August 6, 1974)), or before the accumulation of any time in service on a new production aircraft after delivery, whichever occurs later—except that new production aircraft may be flown in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished: Accomplish the requirements of paragraphs (g)(1) and (g)(2) of this AD.

(1) Install a placard on each side of each lavatory door over the door knob, or on each side of each lavatory door, or adjacent to each side of each lavatory door. The placards must contain the legible words "No Smoking in Lavatory" or "No Smoking," or contain "No Smoking" symbology in lieu of words, or contain both wording and symbology, to indicate that smoking is prohibited in the lavatory. The placards must be of sufficient size and contrast and be located so as to be conspicuous to lavatory users. And

(2) Install a placard on or near each lavatory paper or linen waste disposal receptacle door, containing the legible words or symbology indicating "No Cigarette Disposal."

**(h) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996): Announcement Procedures**

Within 30 days after August 6, 1974 (the effective date of AD 74-08-09, Amendment 39-1917 (39 FR 28229, August 6, 1974)), establish a procedure that requires that, no later than a time immediately after the "No Smoking" sign is extinguished following takeoff, an announcement be made by a crewmember to inform all aircraft occupants that smoking is prohibited in the aircraft lavatories; except that, if the aircraft is not equipped with a "No Smoking" sign, the required procedure must provide that the announcement be made prior to each takeoff.

**(i) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996): Ashtray Installation**

Except as provided by paragraph (j) of this AD: Within 180 days after August 6, 1974 (the effective date of AD 74-08-09, Amendment 39-1917 (39 FR 28229, August 6, 1974)), or before the accumulation of any time in service on a new production aircraft, whichever occurs later—except that new production aircraft may be flown in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished: Install a self-contained, removable ashtray on or near the entry side of each lavatory door. One ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served.

**(j) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996), with Revised Compliance Times: Allowances for Partial Replacement**

An airplane with multiple lavatory doors may be operated with up to 50 percent of the lavatory door ashtrays missing or inoperative, provided 50 percent of the missing or inoperative ashtrays are replaced within 3 days and all remaining missing or inoperative ashtrays are replaced within 10 days. An airplane with only 1 lavatory door may be operated for a period of 10 days with the lavatory door ashtray missing or inoperative.

**Note 1** to paragraph (j) of this AD: This AD permits a lavatory door ashtray to be missing, although the FAA-approved Master Minimum Equipment List (MMEL) may not allow such provision. In any case, the provisions of this AD prevail.

**(k) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996): Inspections**

Within 30 days after August 6, 1974 (the effective date of AD 74-08-09, Amendment 39-1917 (39 FR 28229, August 6, 1974)), and thereafter at intervals not to exceed 1,000 hours' time-in-service from the last inspections, accomplish the following:

(1) Inspect all lavatory paper and linen waste receptacle enclosure access doors and disposal doors for proper operation, fit, sealing, and latching for the containment of possible trash fires.



(2) Correct all defects found during the inspections required by paragraph (k)(1) of this AD.

**(l) Restatement of Requirements of AD 74-08-09 R2, Amendment 39-9680 (61 FR 32318, June 24, 1996): Adjustments to Inspection Intervals**

Upon the request of an operator, the FAA Principal Maintenance Inspector (PMI) may adjust the 1,000-hour repetitive inspection interval specified in paragraph (k) of this AD to permit compliance at an established inspection period of the operator if the request contains data to justify the requested change in the inspection interval.

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

(1) The Manager, Airframe/Cabin Safety Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(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.

**(n) Related Information**

For more information about this AD, contact Alan Sinclair, Aerospace Engineer, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; phone: 425-227-2195; fax: 425-227-1232; email: alan.sinclair@faa.gov.

**(o) Material Incorporated by Reference**

None.

Issued in Renton, Washington, on January 27, 2012.  
Kalene C. Yanamura,  
Acting Manager, Transport Airplane Directorate,  
Aircraft Certification Service.