

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0447; Directorate Identifier 2008-NM-172-AD]

RIN 2120-AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes

AGENCY: Federal Aviation Administration (FAA), 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:

During refueling, the ground crew detected smoke from the refuel/defuel panel illuminated placard 160VU. * * *

The unsafe condition is an electrical malfunction in the illuminated placard of the refuel and defuel panel, which could result in fire. 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 June 15, 2009.

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 W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Saab Aircraft AB, SAAB Aerosystems, SE-581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail saab2000.techsupport@saabgroup.com; Internet <http://www.saabgroup.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office 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 Operations 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1112; fax (425) 227-1149.

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-2009-0447; Directorate Identifier 2008-NM-172-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 based on 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 Airworthiness Directive 2008-0127R1, dated August 7, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During refueling, the ground crew detected smoke from the refuel/defuel panel illuminated placard 160VU. The design of the refuel/defuel panel illuminated placard was changed during 1997 from its original specification, to fill the cavity inside the placard with silicone to avoid moisture/fluid ingress. SAAB has reviewed the working procedure and has developed a placard filled with a bi-component silicone-based material to minimize the cavity inside the panels.

For the reasons described above, this EASA AD requires the identification of the manufacturing date of the affected placard, a visual inspection of the placard for heat and/or burn marks and the installation of a new placard in accordance with the instructions of SAAB Service Bulletin (SB) 340-28-027.

This AD has been revised to identify the affected VIBRACHOC (the part manufacturer) placard with Part Number (P/N) C4FL5031C001, instead of the corresponding SAAB P/N 9303719-001, which was (also) quoted inaccurately. In addition, it has been recognized that the original AD did not allow installation of the placards with a manufacturing date before 31/97; that has now been corrected.

The unsafe condition is an electrical malfunction in the illuminated placard of the refuel and defuel panel, which could result in fire. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Saab has issued Service Bulletin 340-28-027, Revision 01, dated July 7, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This 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 the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This 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

Based on the service information, we estimate that this proposed AD would affect about 141 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour. Required parts would cost about \$1,500 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 \$234,060, or \$1,660 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, Incorporated 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:

Saab AB, Saab Aerosystems: Docket No. FAA-2009-0447; Directorate Identifier 2008-NM-172-AD.

Comments Due Date

- (a) We must receive comments by June 15, 2009.

Affected ADs

- (b) None.

Applicability

(c) Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B airplanes; certified in any category; all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

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

During refueling, the ground crew detected smoke from the refuel/defuel panel illuminated placard 160VU. The design of the refuel/defuel panel illuminated placard was changed during 1997 from its original specification, to fill the cavity inside the placard with silicone to avoid moisture/fluid ingress. SAAB has reviewed the working procedure and has developed a placard filled with a bi-component silicone-based material to minimize the cavity inside the panels.

For the reasons described above, this EASA AD requires the identification of the manufacturing date of the affected placard, a visual inspection of the placard for heat and/or burn marks and the installation of a new placard in accordance with the instructions of SAAB Service Bulletin (SB) 340-28-027.

This AD has been revised to identify the affected VIBRACHOC (the part manufacturer) placard with Part Number (P/N) C4FL5031C001, instead of the corresponding SAAB P/N 9303719-001, which was (also) quoted inaccurately. In addition, it has been recognised that the original AD did not allow installation of the placards with a manufacturing date before 31/97; that has now been corrected.

The unsafe condition is an electrical malfunction in the illuminated placard of the refuel and defuel panel, which could result in fire.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within 3 months after the effective date of this AD, inspect the illuminated placard of the refuel and defuel panel, part number (P/N) C4FL5031C001, for signs of heat and burn marks, in accordance with Saab Service Bulletin 340-28-027, Revision 01, dated July 7, 2008.

(2) If any sign of heat or burn marks are found, before further flight, replace the illuminated placard of the refuel and defuel panel with a new illuminated placard of the refuel and defuel panel, having part number C4FL5031C001, and marked with a manufacturer date before 31/97 (i.e., week 31 of 1997), or a manufacturing date of 37/07 (i.e., week 37 of 2007) or higher and marked 'Amdt:A.', in accordance with Saab Service Bulletin 340-28-027, Revision 01, dated July 7, 2008.

(3) If no signs of heat and burn marks are found, within 12 months after accomplishing the inspection required by (f)(1) of this AD is done, replace the illuminated placard of the fuel and defuel panel with a new illuminated placard of the refuel and defuel panel, having part number C4FL5031C001, and marked with a manufacturer date before

31/97 (i.e., week 31 of 1997) or a manufacturing date of 37/07 (i.e., week 37 of 2007) or higher and marked 'Amdt:A', in accordance with Saab Service Bulletin 340-28-027, Revision 01, dated July 7, 2008.

(4) As of 15 months after the effective date of this AD, installing an illuminated placard of the refuel and defuel panel is prohibited on any airplane, unless it has a manufacturing date before 31/97, or unless it has a manufacturing date of 37/07 or higher and is marked 'Amdt:A'.

(5) Actions accomplished before the effective date of this AD in accordance with Saab Service Bulletin 340-28-027, dated April 30, 2008, are considered acceptable for compliance with the corresponding actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD.

FAA AD Differences

Note 1: 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, International Branch, ANM-116, Transport Airplane Directorate, 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1112; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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, 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 European Aviation Safety Agency Airworthiness Directive 2008-0127R1, dated August 7, 2008; and Saab Service Bulletin 340-28-027, Revision 01, dated July 7, 2008, for related information.

Issued in Renton, Washington, on May 6, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-11281 Filed 5-13-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA-2008-0517; Notice No. 09-03]

RIN 2120-AJ48

Congestion Management Rule for John F. Kennedy International Airport and Newark Liberty International Airport

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of proposed rescission.

SUMMARY: The FAA proposes to rescind the final rule *Congestion Management Rule for John F. Kennedy International Airport and Newark Liberty International Airport*. The final rule established procedures to address congestion in the New York City area by assigning slots at John F. Kennedy (JFK) and Newark Liberty (Newark) International Airports, assigning to existing operators the majority of slots at the airports, and creating a market by annually auctioning off a limited number of slots in each of the first five years of the rule. The final rule also contained provisions for minimum usage, capping unscheduled operations, and withdrawal for operational need. The rule was scheduled to sunset in ten years.

DATES: Send your comments on or before June 15, 2009.

ADDRESSES: You may send comments identified by Docket Number FAA-2008-0517 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251. For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket. Or, go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions concerning this rulemaking, contact: Molly W. Smith, Office of Aviation Policy and Plans, APO-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3275; e-mail

molly.w.smith@faa.gov. For legal questions concerning this rulemaking, contact: Rebecca MacPherson, FAA Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3073; e-mail rebecca.macpherson@faa.gov.

SUPPLEMENTARY INFORMATION: Later in this preamble, under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking documents.

Authority for This Rulemaking

The FAA has broad authority under 49 U.S.C. 40103 to regulate the use of the navigable airspace of the United States. This section authorizes the FAA to develop plans and policy for the use of navigable airspace and to assign the use that the FAA deems necessary for its safe and efficient utilization. It further