

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 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 that the 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. 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.

### 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 airworthiness directive (AD):

**Construcciones Aeronauticas, S.A. (CASA):**  
Docket No. FAA-2005-22505;  
Directorate Identifier 2003-NM-283-AD.

#### Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by October 24, 2005.

#### Affected ADs

(b) None.

Applicability: (c) This AD applies to Model C-212-CC series airplanes, certificated in any category, modified in accordance with Supplemental Type Certificate (STC) ST02129AK, or by field approval using STC ST02129AK 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 section 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 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 Airplane Flight Manual Supplement.

#### Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 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) The Manager, Anchorage Aircraft Certification Office, FAA, has the authority to

approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on September 16, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-18906 Filed 9-21-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-22504; Directorate Identifier 2003-NM-281-AD]

RIN 2120-AA64

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain CASA Model C-212-CC series airplanes. This proposed AD would 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. This proposed AD is 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 proposing 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:** We must receive comments on this proposed AD by October 24, 2005.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.

- By fax: (202) 493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can examine the contents of this 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., Room PL-401, on the plaza level of the Nassif Building, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

*Technical information:* 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.

*Plain language information:* Marcia Walters, [marcia.walters@faa.gov](mailto:marcia.walters@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-22504; Directorate Identifier 2003-NM-281-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at

<http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

**Examining the Docket**

You can examine the 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 DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

**Discussion**

The FAA has determined that an unsafe condition may exist on certain CASA Model C-212-CC series airplanes. The affected airplanes have been modified in accordance with a supplemental type certificate (STC) that involves removing some passenger seating and installing a cargo compartment with a net restraint system in place of the removed seats. The cargo compartment was certified as a class A compartment, although it is too large and remotely located from a crew member station as required by Section 25.855 ("Cargo or baggage compartments") of the Federal Aviation Regulations (14 CFR 25.855), more specifically under 14 CFR 25.857(a), and described on page 105 of Advisory Circular (AC) 25-22, dated March 14, 2000. We have learned that it is possible these airplanes are being operated as "combi" airplanes (i.e., carrying both passengers and cargo on the main deck). The main deck cargo compartment of a combi airplane should be certified to meet the requirements of a class B compartment as provided in 14 CFR 25.857(b) and the general requirements of 14 CFR 25.855. The affected airplanes, as modified by the STC, lack an essential feature of a class B cargo compartment: the ability to prevent a hazardous quantity of smoke, flames, and/or extinguishing agent from entering a compartment occupied by passengers or crew. That is, the cargo compartments on the affected airplanes, when operated in a combi configuration, must include a protective liner to contain any smoke, flames, or released extinguishing agent within the cargo compartment itself. As currently configured on these airplanes, the cargo compartments are separated from the passengers and crew by only a cargo net.

Therefore, we have determined that affected airplanes in the current STC-modified configuration, when carrying both cargo and passengers in the same

compartment, cannot achieve the level of performance required by 14 CFR 25.855. This could result in an inability to prevent a hazardous quantity of smoke, flames, and/or fire extinguishing agent from entering a compartment occupied by passengers or crew.

**FAA's Determination and Requirements of the Proposed AD**

This airplane model is manufactured in Spain and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29). We have reviewed all available information and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would restrict the operation of the affected airplanes to carrying either passengers or cargo, but not both, in the same compartment. However, the proposed AD would allow "combi" operation of airplanes that receive an FAA-approved modification that will provide appropriate means (i.e., a protective liner in the form of a barrier, a smoke curtain, or a hard wall with a door) to ensure that smoke, flames, and fire extinguishing agent do not enter a compartment occupied by passengers or crew. The requirements of this proposed AD are intended to ensure operation of the affected airplanes in compliance with the specifications of 14 CFR 25.855. Because associated systems such as smoke detection may be affected by the installation of a smoke barrier, approval of the proposed modification is contingent on the systems' compliance with 14 CFR 25.855.

**Impact on Intrastate Aviation in Alaska**

In light of the heavy reliance on aviation for intrastate transportation in Alaska, we have fully considered the effects of this proposed AD (including costs to be borne by affected operators) from the earliest possible stages of AD development. This proposed AD is based on those considerations, and was developed with regard to minimizing the economic impact on operators to the extent possible, consistent with the safety objectives of this proposed AD. In any event, the Federal Aviation Regulations require operators to correct an unsafe condition identified on an airplane to ensure operation of that airplane in an airworthy condition. We have determined in this case that the proposed requirements are necessary and the indirect costs would be outweighed by the safety benefits of the proposed AD.

### Exemption Granted

On May 16, 2003, an operator of certain CASA Model C-212-CC and -CD series airplanes (not affected by this proposed 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 proposed AD.

### Costs of Compliance

We estimate that 5 airplanes of U.S. registry would be affected by this proposed AD. We recognize that the proposed 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 proposed 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 proposed 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 proposed modification may take 40 work hours, at an average labor rate of \$65 per work hour. The cost of required parts would be about \$1,800 per airplane. A required proof of function flight test would 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 proposed AD on U.S. operators is estimated to be about \$8,400 per airplane.

As indicated previously, we specifically invite comments and other data regarding the economic aspect of the proposed 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

We have 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 that the 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. 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.

### 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 airworthiness directive (AD):

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

**Comments Due Date**

(a) The Federal Aviation Administration must receive comments on this AD action by October 24, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Model C-212-CC series 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 section 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 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 Airplane Flight Manual Supplement.

**Special Flight Permits**

(g) Special flight permits may be issued in accordance with sections 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) The Manager, Anchorage Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on September 16, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-18908 Filed 9-21-05; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

**[COTP San Francisco Bay 05-007]**

**RIN 1625-AA87**

**Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area. These security zones are an integral part of the Coast Guard's efforts to protect these facilities and the surrounding areas from destruction or damage due to accidents, subversive acts, or other causes of a similar nature. The proposed security zones would prohibit all persons and vessels from entering, transiting through or anchoring within portions of the designated waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay, unless authorized by the Captain of the Port ("COTP") or his designated representative. These zones will be subject to discretionary and random patrol and monitoring by Coast Guard, federal, state and local law enforcement assets.

**DATES:** Comments and related material must reach the Coast Guard on or before November 21, 2005.

**ADDRESSES:** You can mail comments and related material to the Waterways Safety Branch, U.S. Coast Guard Sector San Francisco, Coast Guard Island,

Alameda, California 94501. The Waterways Safety Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Waterways Safety Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ian Callander, U.S. Coast Guard Sector San Francisco, at (510) 437-3401 or the Sector San Francisco Command Center, at (415) 399-3547.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP 05-007), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Safety Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

**Background and Purpose**

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing