

Proposed Rules

Federal Register

Vol. 73, No. 140

Monday, July 21, 2008

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-2008-0734; Directorate Identifier 2008-NM-004-AD]

RIN 2120-AA64

Airworthiness Directives; Maryland Air Industries, Inc., Model Fairchild F-27 and FH-227 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Maryland Air Industries, Inc., Model Fairchild F-27 and FH-227 series airplanes. This proposed AD would require operators to modify their airplanes and revise their inspection or maintenance programs to incorporate instructions for maintenance and inspection of the fuel tank systems, as appropriate, by December 16, 2008, using information developed in accordance with SFAR 88. This proposed AD results from fuel system safety reviews done on similar airplane models in accordance with SFAR 88. These safety reviews identified potential unsafe conditions on Model Fairchild F-27 and FH-227 series airplanes for which the type certificate holder, Maryland Air Industries, Inc., has not conducted SFAR 88 safety reviews, has not provided corrective actions, and does not plan to do so. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by September 4, 2008.

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:

James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7321; fax (516) 794-5531.

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-2008-0734; Directorate Identifier 2008-NM-004-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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC) design approval) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to design approval holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of

previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

FAA's Findings

Maryland Air Industries, Inc., which held type certificate 7A1 for Model Fairchild F-27 and FH-227 series airplanes, stated that it did not have the resources to conduct SFAR 88 safety reviews for the affected airplane models. Therefore, Maryland Air Industries, Inc., has neither conducted the safety reviews nor provided service information required under SFAR 88 that would lead the FAA to make a finding of compliance. Furthermore, Maryland Air Industries, Inc., has surrendered the type certificate to the New York Aircraft Certification Office (ACO), FAA. Because Maryland Air Industries, Inc., has not accomplished the actions required by SFAR 88, this NPRM would propose to require that the affected operators perform these actions, or work with a third party to do so.

This NPRM proposes to require operators to modify their airplanes and revise their inspection or maintenance programs to incorporate instructions for maintenance and inspection of the fuel tank systems, as appropriate, by December 16, 2008, using information developed in accordance with SFAR 88. Note that the FAA has issued operational rules that would effectively ground the domestic fleet of F-27 and FH-227 models given that there is no maintenance information or any design change developed in accordance with SFAR 88. These operational rules (Enhanced Airworthiness Program for Airplane Systems/Fuel Tank Safety Regulations: Amendments 91-297, 121-336, 125-53, and 129-43) would have the same effect as the AD for domestic operators, but because the operational rules do not apply to foreign operators, we are obligated to issue the AD to comply with our requirements as an International Civil Aviation Organization (ICAO) member state.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information, including the results of an SFAR 88 compliance finding on similar airplane models, and determined that the unsafe conditions identified in that review are likely to exist or develop in other

products of this same type design. This proposed AD would require operators to submit a plan for compliance. Before December 16, 2008, operators would also be required to modify the airplane and revise the inspection or maintenance program to incorporate instructions for maintenance and inspection of the fuel tank system, as appropriate, using information developed in accordance with the applicable provisions of SFAR 88.

Explanation of Compliance Time

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Costs of Compliance

We estimate that this proposed AD would affect 29 airplanes of U.S. registry. We recognize that this proposed AD may impose certain costs. However, we cannot calculate those costs because we cannot anticipate the complexity or content of the plans that operators will submit to the FAA. However, continued operational safety necessitates the imposition of these costs because of the severity of the unsafe condition.

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.

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, 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:

Maryland Air Industries, Inc.: Docket No. FAA-2008-0734; Directorate Identifier 2008-NM-004-AD.

Comments Due Date

- (a) We must receive comments by September 4, 2008.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to all Model Fairchild F-27, F-27A, F-27B, F-27F, F-27G, F-27J, F-27M, FH-227, FH-227B, FH-227C, FH-227D, and FH-227E series airplanes, certificated in any category.

Unsafe Condition

- (d) This AD results from fuel system safety reviews done on similar airplane models in accordance with Special Federal Aviation Regulation No. 88 (SFAR 88). These safety reviews identified potential unsafe

conditions on Model Fairchild F-27 and FH-227 series airplanes for which the type certificate holder, Maryland Air Industries, Inc., has not conducted SFAR 88 safety reviews, has not provided corrective actions, and does not plan to do so. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Report

(f) Within 45 days after the effective date of this AD, submit a report to the Manager, New York Aircraft Certification Office, FAA. The report must include the information listed in paragraphs (f)(1) and (f)(2) of 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 contained in this AD, and assigned OMB Control Number 2120-0056.

(1) The airplane registration and operational status.

(2) A plan for how the airplane operator plans to comply with paragraph (g) of this AD.

SFAR 88 Design Modifications and Inspection or Maintenance Program Changes

(g) Before December 16, 2008, modify the airplane and revise the inspection or maintenance program to incorporate instructions for maintenance and inspection of the fuel tank system, using information developed in accordance with the applicable provisions of Special Federal Aviation Regulation No. 88 (SFAR 88), Amendment 21-78, and subsequent Amendments 21-82 and 21-83, which are included in a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001).

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, New York Aircraft Certification Office, FAA, ATTN: James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7321; fax (516) 794-5531; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. 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.

Issued in Renton, Washington, on June 12, 2008.

Ali Bahrami,

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

[FR Doc. E8-16667 Filed 7-18-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

**[Docket No. FAA-2008-0529; Airspace
Docket No. 08-AWP-6]**

Proposed Establishment and Revocation of Class E Airspace; Lake Havasu, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at the new Lake Havasu City Airport, Lake Havasu, AZ. Additional controlled airspace is necessary to accommodate aircraft using VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Lake Havasu City Airport, Lake Havasu, AZ. This action also would revoke Class E airspace at the old Lake Havasu Airport, Lake Havasu, AZ, as that airport has been abandoned. The FAA is proposing this action to enhance the safety and management of aircraft operations at Lake Havasu City Airport, Lake Havasu, AZ.

DATES: Comments must be received on or before September 4, 2008.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366-9826. You must identify FAA Docket No. FAA-2008-0529; Airspace Docket No. 08-AWP-6, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Area, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203-4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2008-0529 and Airspace Docket No. 08-AWP-6) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2008-0529 and Airspace Docket No. 08-AWP-6". The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at <http://www.faa.gov> or the **Federal Register's** web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area,