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:
- Fax: (202) 493–2251.
- 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 AD and 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 64110; 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; you may 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 ongoing investigations 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 Administrator finds necessary for safety in air commerce. This regulation specifies the FAA's authority to issue product.

As we do not control warranty coverage, there will be no charge for these costs. 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.

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.

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

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; and
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:


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

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

(1) 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:

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 FSOD.

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


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. 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 regulating 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., playground 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

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 regulating 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., playground 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.

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