

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 action was prompted by fires occurring in lavatories, which were caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. The actions specified by the AD are intended to prevent such fires. This amendment provides for an alternative action regarding the current requirement to install specific placards at certain locations.

EFFECTIVE DATE: June 1, 1995.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Monica Nemecek, Aerospace Engineer, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2773; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 74-08-09, amendment 39-1917, which is applicable to all transport category airplanes having one or more lavatories equipped with paper or linen waste receptacles, was published in the *Federal Register* on November 1, 1994 (59 FR 54535). The action proposed to provide for an alternative action regarding the current requirement to install specific placards at certain locations.

Disposition of Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

The FAA responds to additional comments and requests for revision of the proposal as follows:

Request To Add Inspections of Smoke Detectors

One commenter requests that the proposal be revised to include an additional requirement for a periodic inspection and test of the lavatory smoke detector. The commenter

suggests that such inspections be required either every six months or at the same time as the inspections of the trash receptacle doors are required. This commenter considers that such inspections are necessary because smoke and fire, as a result of smoking materials deposited in lavatories, continue to be a hazard. The commenter points out that, in the span of time since the AD was originally issued in 1974, there have been numerous lavatory fires reported on transport category airplanes; many of these fires were not detected by the smoke detectors, but by passengers and crew. The commenter acknowledges that it is not clear whether the fire detector failed to function in these cases of fire; however, it is clear that the detector failed to perform as intended. Since the National Fire Protection Association recommends inspection and testing of residential smoke detectors because they are subject to failure, the commenter believes that a comparable test and inspection of detectors on airplanes is also warranted.

The FAA does not concur with the commenter's suggestion to revise the proposal. The FAA has issued numerous AD's, applicable to specific aircraft models, whenever an unsafe condition has been identified relative to potential fires in the lavatories. In fact, many AD's as well as many individual operator's maintenance programs already call for repetitive inspections of the smoke detectors located in the lavatories. Notwithstanding these current AD's and practices, the FAA will continue to monitor the situation within the transport fleet and may consider the commenter's comments for possible separate rulemaking action.

Request To Revise Applicability of AD

One commenter requests that the applicability of the proposal be revised to include only those aircraft types known to be affected by the existing AD's provisions, and to exclude all aircraft that were type certificated after August 6, 1974 (the effective date of AD 74-08-09), when the FAA has confirmed that the approved type design incorporates the provisions intended by AD 74-08-09. As justification for this request, the commenter points out the following:

1. The current applicability of the AD makes it applicable to all transport category airplanes ever built, including those that were type certificated after the effective date of AD 74-08-09. It also encompasses all aircraft certificated under Federal Aviation Regulations (FAR) part 25 (14 CFR part 25) whose type design has originated during the

past 20 years. The applicability of the AD appears to be a burdensome action placed on the aviation industry for only a minor FAA administrative convenience.

2. The current "open-ended" applicability of the AD places the manufacturer of airplanes type certificated after August 6, 1974, in a peculiar position: The FAA makes a finding during type certification that, in compliance with FAR 21.21(b)(2), "* * * no feature or characteristic makes it unsafe for the category in which certification is requested;" yet, at the same time, the FAA states that a newly type certificated/manufactured airplane is "unsafe" by the terms of AD 74-08-09.

The FAA does not consider that revising the applicability of this AD, as requested by the commenter, is necessary for the following reasons:

As for Item 1, above, the FAA acknowledges that almost all of the requirements of this AD are similar to other requirements of newly-certified airplanes. However, the FAA does not consider that accomplishment of the requirements of this AD constitutes any additional undue burden on operators. For the most part, operators will be required merely to enter a one-time sign-off in the airplane log to indicate compliance. (The only requirement of this AD that is not similar to any other is the requirement that calls for repetitive inspections of the waste receptacle doors. As is explained later in this preamble, service history data indicates that the 1,000-hour repetitive inspections are necessary and appropriate.) To the extent that the requirements of this AD are similar to those of other rules, their continued presence as part of this AD emphasizes their importance and makes it less likely that they will be overlooked.

Additionally, since the various requirements of this AD were adopted in certification and operating rules at different times and by different amendments to the FAR, it would make the AD unnecessarily complex to create exceptions for those airplanes and operators subject to other requirements.

As for Item 2, above, the FAA does not consider that any manufacturer would be placed in a "peculiar situation," as described by the commenter. During the certification process, the manufacturer will necessarily have to consider the requirements of this AD prior to certification of an airplane, and will eliminate the unsafe condition by complying with the AD; therefore, there will be no feature or characteristic that