

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

### Executive order 13132

This rule will not have substantial direct effects 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### Executive order 12988 Civil Justice Reform

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

### List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Passports and Visas.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

### PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.1 is amended by:

a. Revising the reference to "238(d)" to read: "233(c)" in the first sentence in paragraph (f)(1); and by

b. Revising paragraph (f)(2), to read as follows:

#### § 212.1 Documentary requirements for nonimmigrants.

\* \* \* \* \*

(f) \* \* \*

(2) *Unavailability to transit.* (i) Notwithstanding the provisions of paragraph (f)(1) of this section, the waiver of the passport and visa requirement is not available to an alien who is a citizen or national of a country designated by the Service and the Department of State to be ineligible. The Service and Department of State may designate such countries based on a variety of considerations including, but not limited to, the following:

(A) Whether citizens or nationals of the country have abused the transit without visa privilege in the past;

(B) Whether citizens or nationals of the country have a high nonimmigrant visa refusal rate;

(C) Whether there is an insurrection or instability in the country, such that citizens or nationals of the country should apply for nonimmigrant visas to ensure that they are not intending immigrants;

(D) Whether a significant number of citizens or nationals of the country are linked to terrorist activity, narcotics trafficking, or international criminal activity;

(E) Whether the President has issued a proclamation under section 212(f) of the Act suspending or restricting the entry of citizens or nationals of the country; or,

(F) Whether the country poses significant security concerns.

(ii) By notice in the **Federal Register**, the Service, acting jointly with the Department of State, shall review periodically and publish an updated list of countries ineligible for transit without visa privileges.

(iii) A list of countries whose citizens or nationals are ineligible for TWOV privileges will be maintained by the Service's Headquarters Office of Inspections and is available upon written request.

Dated: December 21, 2000.

**Mary Ann Wyrsh,**

*Acting Commissioner, Immigration and Naturalization Service.*

[FR Doc. 01-355 Filed 1-4-01; 8:45 am]

**BILLING CODE 4410-10-M**

### DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

[Docket No. 2000-NM-284-AD]

RIN 2120-AA64

### Airworthiness Directives; Various Transport Category Airplanes Equipped With Certain Air Traffic Control (ATC) Transponders Manufactured by Rockwell Collins

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to various transport category airplanes equipped with certain Mode C air traffic control (ATC) transponders manufactured by Rockwell Collins, Inc. This proposal would require testing each transponder; replacing certain parts in any transponder which fails the initial test and performing additional test(s); and making repairs, as necessary so that the transponder passes the test. This proposal is prompted by reports that indicate that the equipment used to conduct earlier tests of certain transponders did not detect certain malfunctions. An airplane equipped with such malfunctioning transponders could transmit inaccurate data concerning its altitude to a nearby airplane equipped with the traffic alert and collision avoidance system (TCAS II), causing the TCAS II to issue an erroneous resolution advisory to the pilot. The actions specified by the proposed AD are intended to prevent transmission of inaccurate data concerning altitude from one airplane to another, which could cause the pilot receiving the data to change course, either ascending or descending, and possibly lead to a mid-air collision or near mid-air collision.

**DATES:** Comments must be received by February 20, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-284-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the

Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-284-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Rockwell Collins, Inc., 400 Collins Road NE, Cedar Rapids, Iowa 52498. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

#### FOR FURTHER INFORMATION CONTACT:

Peter Skaves, Aerospace Engineer, ANM-111, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2795; fax (425) 227-1320.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed,

stamped postcard on which the following statement is made: "Comments to Docket Number 2000-NM-284-AD." The postcard will be date stamped and returned to the commenter.

##### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-284-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### Related Rulemaking

##### AD 99-23-22

On November 4, 1999, the FAA issued AD 99-23-22, amendment 39-11418 (64 FR 61493, November 12, 1999), applicable to various transport category airplanes equipped with Mode C air traffic control (ATC) transponders with single Gillham code altitude input. That action was prompted by reports of eleven incidents, each of which involved an airplane equipped with Mode C transponders and a second nearby airplane equipped with the traffic alert and collision avoidance system (TCAS II). In these incidents, the airplane equipped with the Mode C transponders transmitted inaccurate data regarding its altitude to the other airplane. AD 99-23-22 required repetitive tests to detect discrepancies of the transponders and other equipment associated with transmission of an airplane's altitude—including the air data computer and certain wiring connections. The AD also required repairs, if necessary, and reports of the findings (both positive and negative) of the initial and the repetitive tests to the FAA. The actions required by that AD were intended to prevent an airplane equipped with one or two malfunctioning Mode C ATC transponders from transmitting such inaccurate altitude data to a nearby airplane equipped with TCAS II, causing the TCAS II to issue an erroneous resolution advisory to the pilot to ascend or descend to avoid the other airplane. Such an incident could result in a decrease of separation between the two airplanes, possibly leading to a mid-air collision or a near mid-air collision.

##### AD 99-23-22 R1

On December 10, 1999, the FAA issued AD 99-23-22 R1, amendment 39-11473 (64 FR 70181, December 16, 1999), to extend certain compliance times and limit the applicability of AD 99-23-22.

##### AD 99-23-22 R2

On April 7, 2000, the FAA issued AD 99-23-22 R2, amendment 39-11686 (65 FR 21133, April 20, 2000), to rescind AD 99-23-22 R1, because test data collected since issuance of AD 99-23-22 R1 demonstrated that repetitive tests of the transponders, air data computer, and certain wiring connections were no longer necessary. Approximately 8 percent of the tests indicated that the Mode C transponders were transmitting erroneous altitude data. Of the tests that indicated a malfunction, over 50 percent were caused by failure of the transponders rather than failure of the air data computer or the wiring connections. Many of the transponders that failed were of a particular type manufactured by Rockwell Collins, Inc. The FAA concluded, on the basis of those results, that continued repetitive tests on the subject airplane models were unnecessary, since the corrective actions had been accomplished on all transport category airplanes identified in AD 99-23-22 and AD 99-23-22 R1. In addition, the FAA determined that the repetitive tests required by AD 99-23-22 R1 could result in increased or accelerated component wear, which could contribute to malfunctioning of the Mode C ATC transponders, resulting in transmission of additional inaccurate data concerning the altitude of an airplane.

##### Since Issuance of AD 99-23-22 R2

In the preamble to AD 99-23-22 R2, the FAA indicated that the agency was conducting further reviews to determine whether there was a systemic failure of the transponders. The FAA added that it might consider further rulemaking to address problems with the Mode C ATC transponder. Since the issuance of AD 99-23-22 R2, Rockwell Collins, Inc., the manufacturer of the transponders, has advised that use of more sensitive testing equipment is detecting a higher malfunction rate in Mode C transponders than had been detected earlier. This finding suggests the need for further testing of certain Rockwell Collins Mode C ATC transponders, including those which had been tested previously and had apparently been functioning properly.

On May 25, 2000, Rockwell Collins, Inc. issued Service Information Letter (SIL) 00-1, which pertained to the 621A-3 transponder (with part number 522-2703-XXX). The document, subtitled "621A-3 Transponder Overhaul Manual Test Equipment Modification Recommendation," indicates that some operators using ATC ramp tester model number 601 (ATC-

601) to verify performance of Mode C transponders with single Gillham encoded altitude input were experiencing a high reject rate of the 621A-3 transponders manufactured by Rockwell Collins, Inc. The service letter states that the ATC-601 ramp tester is capable of detecting out-of-tolerance errors in the framing pulse width, whereas the ATC-600 ramp tester previously used to test the transponders did not detect these pulse width errors.

#### Explanation of Relevant Service Information

Rockwell Collins, Inc. has issued temporary revisions to the 621A-3 ATC Transponder Overhaul Manual with Illustrated Parts List to provide a more rigorous performance test of the Mode C ATC transponders. The revisions are Temporary Revision No. 34-44-00-38, dated April 20, 2000, and Temporary Revision No. 34-44-00-39, dated May 23, 2000.

Rockwell Collins, Inc. SIL 00-1 refers to Rockwell Collins Service Bulletin 621A-3-34-21, Revision 1, dated November 14, 1975, which provides information on modification of the transponder by replacing the transmitter tube and resistor.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of the same type design, the proposed AD would require testing each transponder; replacing the transmitter tube and the resistor in any transponder which fails the initial test and performing additional test(s); and making repairs, as necessary, so that the transponder passes the test. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

#### Cost Impact

There are approximately 800 airplanes with transponders with the affected part in the worldwide fleet. The FAA estimates that approximately 400 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed test, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$96,000, or \$240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would

accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### Regulatory Impact

The regulations adopted herein will 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. Section 39.13 is amended by the following new airworthiness directive (AD):

**Transport Category Airplanes:** Docket 2000-NM-284-AD.

**Applicability:** Transport category airplanes, certificated in any category, equipped with

Rockwell Collins Mode C 621A-3 Air Traffic Control (ATC) transponder(s), part number (P/N) 522-2703-XXX (where XXX is any series number).

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent transmission of inaccurate data concerning altitude from one airplane to another, which could cause the pilot receiving the data to change course, either ascending or descending, and possibly lead to a mid-air collision or near mid-air collision, accomplish the following:

#### Testing

(a) Within 6 months after the effective date of this AD: Perform a pulse width test to detect malfunctions of any Mode C 621A-3 ATC transponder(s) equipped with P/N 522-2703-XXX, where XXX is any part number, in accordance with Rockwell Collins Air Transport Systems Overhaul Manual with Illustrated Parts List, Temporary Revision No. 34-44-00-38, dated April 20, 2000.

#### Replacement

(b) If the pulse width test required by paragraph (a) of this AD detects malfunction of a transponder: Prior to further flight, replace the transmitter tube and resistor, in accordance with Rockwell Collins Service Bulletin 621A-3-34-21, Revision 1, dated November 14, 1975, and repeat the pulse width test specified in paragraph (a) of this AD.

#### Repair

(c) If the follow-up pulse width test required by paragraph (b) of this AD detects malfunction of a transponder: Prior to further flight, repair the transponder, air data computer, or wiring connections between them, in accordance with the applicable Mode C transponder component maintenance manual and airplane maintenance manual. If the repair information is not available in the applicable manual, prior to further flight, repair the transponder in accordance with a method approved by the Manager, Airplane and Flight Crew Interface Branch, ANM-111, FAA, Transport Airplane Directorate.

**Note 2:** The airplane may be operated in accordance with the provisions and limitations specified in the FAA-approved Master Minimum Equipment List (MMEL), provided that only one Mode C transponder on the airplane is inoperative.

**Reporting Requirements**

(d) Submit a report of the results (both positive and negative) of the tests required by paragraph (a) and (b) of this AD to: Peter Skaves, Aerospace Engineer, ANM-111, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; fax (425) 227-1320. The report must be submitted within 60 days from the time of the transponder test. It must include the part number of the Mode "C" transponder(s) and whether corrective action was required. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

**Alternative Methods of Compliance**

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Airplanes and Flight Crew Interface Branch, ANM-111. Operators shall submit their requests through an appropriate FAA Principal Maintenance or Avionics Inspector, who may add comments and then send it to the Manager, Airplane and Flight Crew Interface Branch, ANM-111.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Airplane and Flight Crew Interface Branch, ANM-111.

**Special Flight Permits**

(f) Special flight permits may be issued in accordance with §§ 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 requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 29, 2000.

**Donald L. Riffin,**

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

[FR Doc. 01-341 Filed 1-4-01; 8:45 am]

**BILLING CODE 4910-13-U**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 99-NM-371-AD]

RIN 2120-AA64

**Airworthiness Directives; Bombardier Model DHC-8-100, -200, and -300 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Bombardier Model DHC-8-100, -200, and -300 series airplanes, that continues to require a one-time detailed visual inspection to detect damage of the ladder plates and access cover areas of the upper surface of the wings, repair, if necessary, and installation of new O-ring seals. That proposal was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This new action revises the inspection requirements of the proposed rule by correcting a reference to a repair manual. The actions specified by this new proposed AD are intended to prevent damage of the upper wing ladder plates, which could result in displacement of the adjacent channel seals and consequent reduced lightning strike protection of the fuel tanks.

**DATES:** Comments must be received by January 30, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-371-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 99-NM-371-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garrett Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James E. Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 10 Fifth Street,

Third Floor, Valley Stream, New York 11581; telephone (516) 256-7521; fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-371-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-371-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Bombardier Model DHC-8-100, -200, and -300 series airplanes, was