

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2007-28462; Directorate Identifier 2007-CE-056-AD; Amendment 39-15115; AD 2007-13-11]**

**RIN 2120-AA64**

### **Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes**

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

**ACTION:** Final rule; correction.

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**SUMMARY:** This document makes a correction to Airworthiness Directive (AD) 2007-13-11, which was published in the Federal Register on June 22, 2007 (72 FR 34363), and applies to Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. AD 2007-13-11 requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots. The published AD references an incorrect docket of Docket No. FAA-2007-28432 instead of Docket No. FAA-2007-28462. This document corrects the docket number reference.

**DATES:** The effective date of this AD (2007-13-11) remains June 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Al Wilson, Flight Test Pilot, 2601 Meacham Blvd, Fort Worth, Texas 76137-4298; telephone: (817) 222-5146; fax: (817) 222-5960.

### **SUPPLEMENTARY INFORMATION:**

#### **Discussion**

On June 14, 2007, the FAA issued AD 2007-13-11, Amendment 39-15115 (72 FR 34363, June 22, 2007), which applies to Eclipse EA500 airplanes. AD 2007-13-11 requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots.

The published AD references an incorrect docket of Docket No. FAA-2007-28432 instead of Docket No. FAA-2007-28462.

## **Need for the Correction**

This correction is needed to incorporate all docket information for this project into its own area in the Docket Management System (DMS).

## **Correction of Publication**

Accordingly, the publication of June 22, 2007 (72 FR 34363), of Amendment 39-15115; AD 2007-13-11, which was the subject of FR Doc. E7-11933, is corrected as follows:

On page 34363, in the third column, in the fourth line, change "Docket No. FAA-2007-28432" to "Docket No. FAA-2007-28462."

On page 34364, in the first column, on line 25 under ADDRESSES, change "Docket No. FAA-2007-28432" to "Docket No. FAA-2007-28462."

On page 34365, in the third column, in the ninth and tenth lines under Comments Invited, change "Docket No. FAA-2007-28432" to "Docket No. FAA-2007-28462."

## **§ 39.13 [Corrected]**

On page 34365, in the first column, in the fifth and sixth lines of § 39.13, change "Docket No. FAA-2007-28432" to "Docket No. FAA-2007-28462."

Action is taken herein to correct the docket number references and to add this AD correction to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The effective date remains June 22, 2007.

Issued in Kansas City, Missouri, on September 24, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-19193 Filed 9-28-07; 8:45 am]

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2007-28462; Directorate Identifier 2007-CE-056-AD; Amendment 39-15115; AD 2007-13-11]

**RIN 2120-AA64**

#### **Airworthiness Directives; Eclipse Aviation Corporation Model EA500 Airplanes**

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

**ACTION:** Final rule; request for comments.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Eclipse Aviation Corporation (Eclipse) Model EA500 airplanes. This AD requires you to incorporate information into the Limitations section of the airplane flight manual (AFM) that will require operation only in day visual flight rules (VFR), allow only a VFR flight plan, and maintain operation with two pilots. This AD is being issued because of three instances of loss of primary airspeed indication due to freezing condensation within the pitot system. The loss of air pressure in the pitot system could cause the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function. The concern is heightened by the aerodynamic characteristics of the Eclipse Model EA500 airplane, which relies on the stall warning and the stick pusher to alert the pilot prior to the loss of aircraft control. The standby airspeed is reliable and not affected by this failure mode. A temporary AFM revision prohibits operation in instrument meteorological conditions (IMC), requires two pilots, and limits the airspeed and altitude envelope if the event occurs in flight. The AFM limitations and FAA operational rules allow Model EA500 flight crews to file an instrument flight rule (IFR) flight plan even though the airplane is not approved for flight in IMC. This potentially causes an undue workload burden and confusion when the pilot has to refuse any instructions that take them into IMC. We are issuing this AD to prevent an unsafe condition when Air Traffic Control's (ATC's) ability to maintain traffic separation is compromised because an airplane on an IFR flight plan cannot accept a flight plan into IMC.

**DATES:** This AD becomes effective on June 27, 2007.

We must receive any comments on this AD by August 21, 2007.

**ADDRESSES:** Use one of the following addresses to comment on this AD.

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

- 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.
- 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.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

To view the comments to this AD, go to <http://dms.dot.gov>. The docket number is FAA-2007-28462; Directorate Identifier 2007-CE-056-AD.

**FOR FURTHER INFORMATION CONTACT:** Al Wilson, Flight Test Pilot, 2601 Meacham Blvd., Fort Worth, Texas 76137-4298; telephone: (817) 222-5146; fax: (817) 222-5960.

## **SUPPLEMENTARY INFORMATION:**

### **Discussion**

The Eclipse Model EA500 has experienced three instances of loss of primary airspeed indication due to freezing condensation within the pitot system. The loss of air pressure in the pitot system could cause the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function. The concern is heightened by the aerodynamic characteristics of the Eclipse Model EA500 airplane, which relies on the stall warning and the stick pusher to alert the pilot prior to the loss of aircraft control. The standby airspeed is reliable and not affected by this failure mode. A temporary AFM revision prohibits operation in instrument meteorological conditions (IMC), requires two pilots, and limits the airspeed and altitude envelope if the event occurs in flight. The AFM limitations and FAA operational rules allow Model EA500 flight crews to file an instrument flight rule (IFR) flight plan even though the airplane is not approved for flight in IMC.

ATC has expressed that filing IFR flight plans and being unable to operate in IMC creates an undue workload burden on the controller workforce when the pilots have to refuse any instructions that take them into IMC. This burden (combined with the potential for the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function) compromises the continued operational safety of the Eclipse Model EA500 airplanes.

There is precedent where the FAA used AD action to correct unsafe conditions within the National Airspace System (NAS). An example of this occurred in 1998 when workload and communication problems with ATC were addressed as an unsafe condition through AD action on ATC transponders and the Traffic Alert and Collision Avoidance System (TCAS). For example, the FAA issued AD 98-14-03, Amendment 39-10637, when misleading or inaccurate encoding altimeter information caused ATC transponders to interact negatively with ground-based ATC radar sites and nearby TCAS-equipped aircraft. The inability of the ground-based ATC radar sites to coordinate this information and communicate with nearby TCAS-equipped aircraft jeopardized the NAS and created an unsafe condition.

### **FAA's Determination and Requirements of This AD**

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of:

- ATC's ability to maintain traffic separation and maintain a safe NAS is compromised due to the undue workload burden on the controller workforce when the pilots have to refuse any instructions that take them into IMC; and

- The potential for the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function due to loss of air pressure in the pitot system compromises the continued operational safety of the Eclipse Model EA500 airplanes.

Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

This AD requires you to incorporate information into the Limitations section of the AFM that will require operation only in day VFR, allow only a VFR flight plan, and maintain operation with two pilots. The day VFR limitation will prohibit flight at night because it is more difficult to avoid inadvertent flight into IMC at night.

This is considered interim action. Eclipse is working on a modification to the pitot system. We will consider taking additional rulemaking action to supersede this AD and terminate the above limitations when Eclipse completes the design modification to the pitot system and the FAA approves it as addressing the unsafe condition.

### **Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the ADDRESSES section. Include the docket number "FAA-2007-28462; Directorate Identifier 2007-CE-056-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 we receive concerning this 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 determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under 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 AD and placed it in the AD docket.

### **Examining the AD Docket**

You may examine the AD docket that contains the AD, the regulatory evaluation, any comments received, and other information on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5227) is located at the street address stated in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

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

Air transportation, Aircraft, Aviation safety, Safety.

### **Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):



**2007-13-11 Eclipse Aviation Corporation:** Amendment 39-15115; Docket No. FAA-2007-28462; Directorate Identifier 2007-CE-056-AD.

### **Effective Date**

- (a) This AD becomes effective on June 27, 2007.

### **Affected ADs**

- (b) None.

### **Applicability**

- (c) This AD applies to Model EA500 airplanes, serial numbers 000001 and up, that are certificated in any category.

### **Unsafe Condition**

(d) This AD is being issued because of three instances of loss of primary airspeed indication due to freezing condensation within the pitot system. The loss of air pressure in the pitot system could cause the stall warning to become unreliable and the stick pusher, overspeed warning, and autopilot to not function. The concern is heightened by the aerodynamic characteristics of the Eclipse Model EA500 airplane, which relies on the stall warning and the stick pusher to alert the pilot prior to the loss of aircraft control. The standby airspeed is reliable and not affected by this failure mode. A temporary AFM revision prohibits operation in instrument meteorological conditions (IMC), requires two pilots, and limits the airspeed and altitude envelope if the event occurs in flight. The AFM limitations and FAA operational rules allow Model EA500 flight crews to file an instrument flight rule (IFR) flight plan even though the airplane is not approved for flight in IMC. This potentially causes an undue workload burden and confusion on the controller workforce when the pilot has to refuse any instructions that take them into IMC. We are issuing this AD to prevent an unsafe condition when Air Traffic Control's (ATC's) ability to maintain traffic separation is compromised because an airplane on an IFR flight plan cannot accept a flight plan into IMC.

### **Compliance**

- (e) To address this problem, before further flight after June 27, 2007 (the effective date of this AD), incorporate the following into the Limitations section of the AFM, unless already done:

- "—Operate Only in Day Visual Flight Rules (VFR);
- File Only a VFR Flight Plan; and
- Operate with Two Pilots at All Times."

(1) The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the AFM as specified in paragraph (e) of this AD.

(2) You may insert a copy of this AD into the Limitations section of the AFM to comply with this action.

(3) Make an entry into the aircraft records showing compliance with portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

### **Alternative Methods of Compliance (AMOCs)**

(f) The Manager, Fort Worth Airplane Certification 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: Al Wilson, Flight Test Pilot, 2601 Meacham Blvd., Fort Worth, Texas 76137-4298; telephone: (817) 222-5146; fax: (817) 222-5960. 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 Kansas City, Missouri, on June 14, 2007.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-11933 Filed 6-21-07; 8:45 am]