

# The AD:



## Who Shall Pay?

by WILLIAM GARVEY / AOPA 480899

■ ■ AD. To most people it means Anno Domini, but to aircraft owners, "Aw, damn" might just as quickly come to mind, for that is usually the expletive that follows receipt of an Airworthiness Directive (AD).

An AD means that an aircraft owner will have to do something specific, and soon, if he wants his plane to be legal for flight. The federally prescribed fix, as detailed in the notice, will at the very least cost him time; at its worst, an AD can cost thousands of dollars.

It is this matter of expense in complying with ADs that is foremost in so many aircraft owners' minds. And for good reason.

An AD, as issued by the FAA, says that a certain model of aircraft or an aircraft part must be modified or inspected in some way. It makes no mention of who must pay for this service.

The fact is that the manufacturer of that aircraft or part has no obligation to pay for any work necessary to comply with an AD, at least not as far as the government is concerned. The burden falls entirely on the aircraft owner's shoulders. And wallet.

Understandably, aircraft owners often take exception to this arrangement—sometimes strong exception.

Say your aircraft has performed well for years. You have been conscientious in its maintenance and have flown it prudently. No complaints. Then one day you receive a letter or telegram from the FAA. It says that within the next few hours of flying time, you must replace the center wing sections of your aircraft or, failing to do so, you may not fly your airplane any more. (By the way, there has been just such an AD.)

You make a phone call and learn that the manufacturer is providing the necessary kit to comply with this AD. The kit, plus labor, will cost you \$1,600.

"Aw, damn."

*continued*



Unfortunately, what the AD letter does not explain (and this will change soon) is that the wing section must be replaced because substantial evidence exists indicating that your aircraft, and others like it, will experience wing failure in flight if you don't take corrective action immediately.

By regulation an AD is issued only when "an unsafe condition exists in a product, and that condition is likely to exist or develop in other products of the same type design."

Not all ADs have to do with manufacture defects. Some result from "wear and tear" because of age.

While the manufacturer is not required to foot the bill to comply with the AD, the rule says he must come up with a remedy for the situation. In the above cited case, the remedy was the kit.

Stanley Green, vice president of the General Aviation Manufacturers Assn., said flatly, "Nobody ever made a penny out of a kit." Further, he said, "Manufacturers don't make money with an AD."

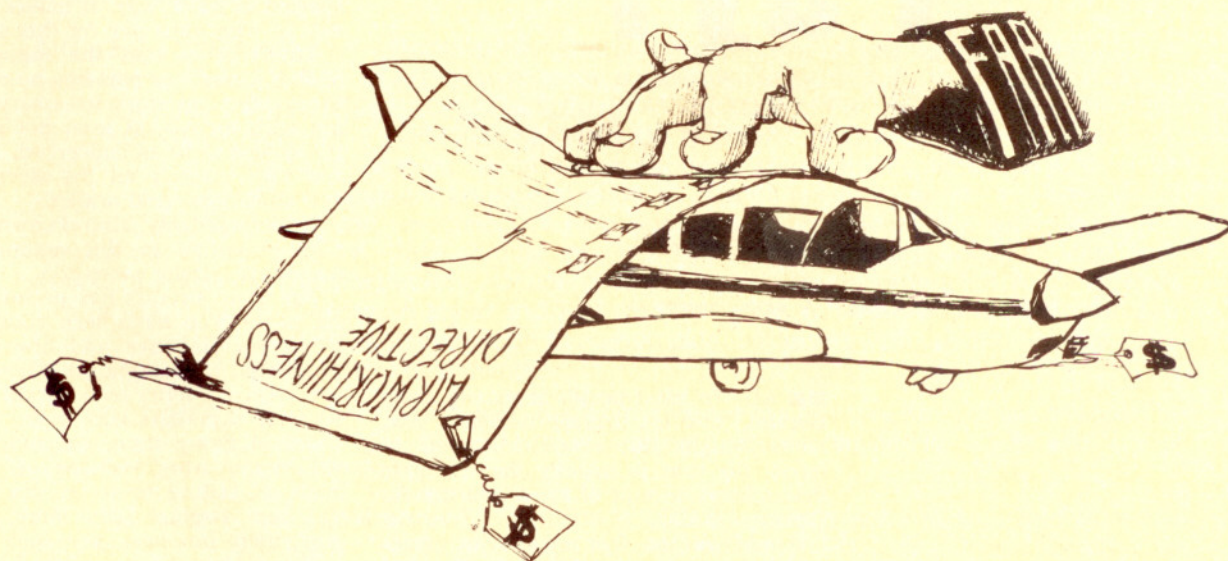
While the manufacturer's responsibility may end with providing a remedy, the fact is that most manufacturers go well beyond that. They have a com-

mendable record of accepting part or all of the costs involved in AD modifications on their products.

For example, Piper Aircraft Corp. offered to pay for all parts and labor for installation of a "speed kit" on certain Twin Comanches. First, Piper informed its customers voluntarily, through a service bulletin, that the free mod was available. When this procedure failed to entice enough Twin Comanche owners to take advantage of the free offering, Piper asked FAA to issue an AD on the subject and thus make the modification mandatory. All costs resulting from the AD were picked up by Piper.

Lycoming spent an estimated \$2-4 million over the years in voluntary repairs and modifications on its old GSO40 powerplant, the first of the modern supercharged engines. Lycoming paid because it felt that was the fair thing to do.

When King Radio discovered heading indication errors on some of its new KCS 55 slaved pictorial navigation systems, the company began recalling the units. Still, several owners failed to return the systems for a fix, so King asked FAA to issue an AD. FAA recently complied by issuing the first AD on a King product since the company's founding 16 years ago. King is paying





the \$250-per-unit repair bill. Total cost of the AD to King is \$100,000.

Many manufacturers have instituted recall programs without any AD being issued. And one manufacturer's spokesman said ADs issued on aircraft and parts less than one year old are almost always paid for by the manufacturers.

This blanket acceptance begins fraying with age, however. An AD can be issued any time in the life of an aircraft—be it 10, 20, 30, even 40 years after the date of its manufacture. Manufacturers are reluctant to accept AD costs as their craft get older. Said one spokesman, "We can't be a guarantor forever on these birds." After all, he said, airplanes are just machines, and machines wear out at some point.

Many pilots feel the manufacturers should stand behind their products regardless of age, and that the manufacturers should foot the bill for all ADs, as long as the aircraft is properly maintained.

Often the aircraft owners cite the automobile recall program as an example of such forced responsibility.

C. E. Chapman, chief of program and planning staff within FAA's engineering division, said this likening of ADs to auto recalls "is probably the most common letter we get."

But, Chapman said, the comparison is not a valid one.

He said that under the National Traffic and Motor Vehicle Safety Act of 1966, auto manufacturers must recall and pay for repairs only on cars found not to conform with federal safety standards at the time of manufacture. Defects not covered by these standards are excluded from the law's provisions.

The real key here, however, is that no cars are "certified" by the federal government at the time of manufacture. The auto makers determine that their products meet federal standards, not the federal government.

When the federal government determines at some later date that the cars do not measure up to its standards, a recall results.

A similar situation exists with regard to boats. The Coast Guard does not "certify" boats, but federal standards do exist with which boat manufacturers must comply.

If potentially hazardous defects are discovered at some later date, the Coast Guard can order the manufacturer to remedy the situation at the manufacturer's own expense—not the boat owner's.

Unlike autos and boats, however, airplanes are certificated by the federal government before manufacture begins. This certification is the type certificate.

Moreover, each and every airplane built is federally certificated through an airworthiness certificate as well.

Thus, if something goes wrong and an AD results, it may not be because the manufacturer failed to comply with the law.

"No manufacturer deliberately goes out and designs a defective product," said Chapman. In fact, he said most ADs issued involve aging parts, unanticipated design deficiencies, or simply an advance in technology.

If a new law is necessary to force AD payment by manufacturers, it probably won't be on the books anytime soon.

Rep. Dale Milford, a Texas Democrat, has been involved with the operation of a number of airplanes and is quite familiar with the AD system. He said he knew of no movement in the Congress to alter the AD system in such a way as to make manufacturers liable for all expenses resulting from an airworthiness directive.

"You have to strike a reasonable balance here," he said. Were manufacturers forced to pay the freight in every case, "You might price the airplanes out of the market."

The company cost incurred through warranties, recalls, and ADs ("It all comes out of the same tin can," said one manufacturer) is already affecting the price of aircraft and parts. When a company pays, the customer pays through higher prices.

But the question still to be answered is, When will a company pay for an AD? Every company contacted in connection with this article had the same reply: It all depends on the merits of the particular case. None of the companies seemed to have a standard policy with regard to payment for ADs. They consider them one at a time.

"We attempt to do what we think is fair," said one Cessna spokesman. "We really don't have a direct policy . . . I think if it's a valid claim, we are required by a moral law to do it [help pay the bill]."

Piper noted that ADs on Piper aircraft usually result from the company's own service bulletins, that it makes parts available at no charge, and that in most cases it pays labor costs.

"Going back, the aircraft manufacturers were way ahead of the auto manufacturers on this," said a Piper official.

Beech says it has no "policy" on payment for ADs but considers each one on an individual basis, taking into account such factors as age of the aircraft and the type of problem. Almost without exception, says Beech, each AD on a Beech aircraft has been preceded by a

company service bulletin—and often the AD has been issued at Beech prompting, to ensure owner compliance.

Since "We don't have the perfect airplane yet," GAMA's Green noted, ADs are likely to continue. In fact, they're coming at an accelerated rate.

FAA's Chapman said the number of ADs being issued by his agency has increased "rather dramatically" in the past few years and now stands, he said, at about 225 a year.

Green said the increase has become especially pronounced (the word he used was "phenomenal") since the catastrophic crash of a DC-10 outside Paris last year. FAA was severely criticized in that case for its failure to issue a timely AD on a cargo door on the aircraft. Failure of the door was deemed a prime factor in the crash.

Chapman said his agency "tries to be reasonable, without compromising safety" when issuing an AD. "We cannot let an aircraft continue to operate unsafely," he said, but if a remedy can be found through frequent inspections or in some other inexpensive way, FAA will try it.

Yet, Chapman reiterated, "Our mission here is safety—not economics." If a wing must be pulled, so be it, and let the repair bills fall where they may.

"I feel so sorry for people who scrape around and save and finally buy an airplane and then get socked with an expensive AD," said Chapman. "Sometimes they become quite bitter about it and I understand this."

If an aircraft owner does get socked with an AD, he has three options available to him. He can bite the bullet and pay the bill; he can appeal to the manufacturer for restitution; and, lastly, he can go to court.

This last option is the great unknown. This is the age of consumerism, and product liability is an ever-expanding regime of the law.

One engine manufacturer said, "I think years ago we cared less [about the cost of AD compliance for the customer]." But, he added, "Times have changed; the courts and people have changed all that."

Of course there is one more weapon in the aircraft owner's arsenal. He can tell his friends, and thus help sour future sales. This can be a very effective weapon.

Gil Quinby, senior vice president of Narco Avionics, said if one of his company's products fails as a result of "a design deficiency, to our satisfaction—yup, damn it, we've got to fix it if we want to stay in business."

And no manufacturer is asking for help in closing his shop. □