

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-1043

September Term, 2001

Filed On: September 12, 2001

[623748]

Commander Aircraft Company,  
Petitioner

v.

Federal Aviation Administration,  
Respondent

## PETITION FOR REVIEW OF AN ORDER OF THE FEDERAL AVIATION ADMINISTRATION

**BEFORE:** Williams, Sentelle, and Tatel, Circuit Judges

### J U D G M E N T

This petition for review of an order of the Federal Aviation Administration was considered on the briefs and appendix filed by the parties. The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

**ORDERED AND ADJUDGED** that the petition for review be denied. The FAA's decision was not arbitrary, capricious, an abuse of discretion, or otherwise contrary to law. See Chritton v. NTSB, 888 F.2d 854, 856 (D.C. Cir. 1989). There is substantial evidence in the record to support FAA's conclusion that the exhaust clamp on Commander 114TC aircraft constituted an "unsafe condition" and that the condition existed or could develop on other Commander Model 114TC airplanes. See Throckmorton v. NTSB, 963 F.2d 441, 444 (D.C. Cir. 1992). Petitioner has not shown that FAA failed to consider evidence in the record that indicated the presence of the same failures on other aircraft. Finally, FAA did not abuse its discretion in determining that because the clamp detachment presented an unsafe condition, good cause existed for issuing the Airworthiness Directive without prior notice and public comment. See 5 U.S.C. § 553(b). Even assuming FAA failed to show good cause for dispensing with notice and opportunity for prior comment, petitioner has not shown prejudice from the alleged error. See 5 U.S.C. § 706.

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The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**