

Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 10, 1997.

Issued in Renton, Washington, on April 28, 1997.

**Neil D. Schalekamp,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-67-AD; Amendment 39-10014; AD 97-10-02]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 777 Series Airplanes**

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 777 series airplanes. This action requires repetitive corrosion/resistance inspections to measure the resistance of each wire bundle of the flight control system; and repair of the receptacle bond, repair of the bundle connector backshells, or replacement of the wire bundles with new components, if necessary. This amendment is prompted by reports of corroded connectors and numerous other discrepancies of the wire bundles, such as loose backshells and loose shield retention bands, due to the presence of moisture inside the wire bundles. The actions specified in this AD are intended to detect and correct such corrosion, which could reduce system protection against lightning strikes or high intensity radiated field (HIRF) events, and consequently could adversely affect wire bundles used for the flight control system. This situation could result in loss of function of certain flight control surface actuators in the event of a lightning strike.

**DATES:** Effective May 21, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 21, 1997.

Comments for inclusion in the Rules Docket must be received on or before July 7, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-67-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2864; fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:** The FAA has received reports of corrosion between the backshell and bundle shield, loose shield retention bands, and loose backshells of the wire bundles of the flight control system on Boeing Model 777 series airplanes.

Investigation revealed wire bundles with higher than specified resistance (which is an indicator of corrosion) between the receptacles and mounting brackets and between the brackets and structure. The cause of such corrosion has been attributed to the existing design of the wire bundles, which allows moisture to collect inside the wire bundle connectors. Corrosion in the subject area, if not detected and corrected in a timely manner, could reduce system protection against lightning strikes or high intensity radiated field (HIRF) events, which could adversely affect wire bundles used for the flight control system, and consequently result in loss of function of certain flight control surface actuators in the event of a lightning strike.

#### **Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 777-27A0019, dated April 3, 1997, which describes procedures for repetitive corrosion/resistance inspections to measure the resistance of each wire bundle of the flight control system; and, if any discrepancy is found, repair of the receptacle bond, repair of the bundle connector backshells, or replacement of the wire bundles with new components, if necessary. Accomplishment of the inspection will ensure that the wiring

maintains shield continuity, which reduces system sensitivity to an lightning strike or a HIRF event.

#### **Explanation of the Requirements of the Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 777 series airplanes of the same type design, this AD is being issued to detect and correct corrosion in the wire bundles of the flight control system, which could reduce the system protection against lightning strikes or HIRF events, which could adversely affect wire bundles used for the flight control system, and consequently result in loss of function of certain flight control surface actuators in the event of a lightning strike. This AD requires repetitive corrosion/resistance inspections to measure the resistance of each wire bundle of the flight control system; and, if any discrepancy is found, repair of the receptacle bond, repair of the bundle connector backshells, or replacement of wire bundles with new components, if necessary. These actions are required to be accomplished in accordance with the alert service bulletin described previously.

In addition, this AD provides for an optional terminating action that involves replacing existing wire bundle connectors with new overmolded connectors. The FAA has determined that this action will preclude the collection of moisture inside the wire bundles and consequent corrosion of the components. This option is to be accomplished in accordance with a method approved by the FAA, and constitutes terminating action for the repetitive inspection requirements of this AD.

The compliance times for accomplishing the inspections are dependent upon the time elapsed since the first production test flight of the airplane. Airplanes that have reached or exceeded 12 months from the time of the first production test flight of the airplane are to be inspected within 60 days after the effective date of the AD. For airplanes that have not yet reached or exceeded 12 months since the time of the first production test flight, the initial inspection is not required until the airplane reaches that threshold. The FAA notes that the required compliance time of within 12 months after the first production flight test is usually sufficient to allow for a brief comment period before adoption of a final rule. However, in this AD, the compliance time of 12 months was selected based on the following factors. The FAA considered not only the degree of

urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time; the fact that the unsafe condition involves corrosion, which is associated with passage of time; and the fact that the times the first production flight test occurs will significantly vary the date the compliance time must be met for these airplanes. The FAA considers that, by allowing airplanes to reach or exceed 12 months before performing the initial inspection, no undue burden is created for the operators; rather, this compliance time will enable operators to continue to operate for a time that does not adversely affect the operational safety of these airplanes.

#### Interim Action

This AD is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

#### Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that

summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-67-AD." The postcard will be date stamped and returned to the commenter.

#### Regulatory Impact

The regulations adopted herein 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 Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

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

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 adding the following new airworthiness directive:

**97-10-02 Boeing:** Amendment 39-10014. Docket 97-NM-67-AD.

*Applicability:* All Model 777 series airplanes, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 detect and correct corrosion, which could reduce system protection against lightning strikes or high intensity radiated field (HIRF) events, adversely affect wire bundles used for the flight control system, and result in loss of function of certain flight control surface actuators, accomplish the following:

(a) Within 12 months after first production test flight of the airplane, or within 60 days, whichever comes later, perform an inspection to determine the part number (P/N) of each wire bundle connector at the wheel well disconnects, as listed in the table in paragraph D. of the Accomplishment Instructions of Boeing Alert Service Bulletin 777-27A0019, dated April 3, 1997; and to determine if the wire bundle has a molded backshell; in accordance with paragraph C. of the Accomplishment Instructions in the previously referenced alert service bulletin.

(1) If any wire bundle has P/N S280W655- ( ) and has a molded backshell, no further action is required by paragraph (a) of this AD.

(2) If any wire bundle does not have a molded backshell, prior to further flight, perform a corrosion/resistance inspection to measure the resistance of each bundle in accordance with paragraph D. of the Accomplishment Instructions in the alert service bulletin.

(b) If, during any corrosion/resistance inspection required by this AD, the resistance of any wire bundle is found to be 150 milliohms or less, repeat the corrosion/resistance inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 7 months.

(c) If, during any corrosion/resistance inspection required by this AD, the resistance of any wire bundle is found to be greater than 150 milliohms, prior to further flight, repair the receptacle bond, repair the bundle connector backshells, or replace the wire bundles, in accordance with paragraph H. of the Accomplishment Instructions in Boeing Alert Service Bulletin 777-27A0019, dated April 3, 1997. Repeat the corrosion/resistance

inspection required by paragraph (a) of this AD at the time specified in paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For airplanes on which any wire bundle has been replaced: Within 12 months after installation of the new wire bundle, accomplish the corrosion/resistance inspection required by paragraph (a) of this AD; and thereafter, repeat that inspection at intervals not to exceed 7 months.

(2) For airplanes on which any receptacle bond or bundle connector backshells have been repaired: Repeat the corrosion/resistance inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 7 months.

(d) Replacement of existing wire bundle connectors with new overmolded connectors, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, constitutes a terminating action for the repetitive inspection requirements of this AD.

(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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 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.

(g) Certain action(s) shall be done in accordance with Boeing Alert Service Bulletin 777-27A0019, dated April 3, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 21, 1997.

Issued in Renton, Washington, on April 28, 1997.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 230

[Release No. 33-7418; File Number S7-6-97]

RIN 3235-AH14

### Definition of "Prepared By or On Behalf of the Issuer" for Purposes of Determining if an Offering Document is Subject to State Regulation

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The National Securities Markets Improvements Act of 1996 mandates that the Securities and Exchange Commission ("Commission") adopt a definition of the phrase "prepared by or on behalf of the issuer" found in Section 18 of the Securities Act of 1933. The Commission today adopts this definition, thereby providing guidance as to when an offering document is subject to state regulation.

**EFFECTIVE DATE:** Rule 146 will be effective on May 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** James R. Budge, Division of Corporation Finance, at (202) 942-2950, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission today adds Rule 146<sup>1</sup> Under the Securities Act of 1933 ("Securities Act" or "the Act").<sup>2</sup> The Rule defines the term "prepared by or on behalf of the issuer," for purposes of recently revised Section 18 of the Act.<sup>3</sup>

### I. Background

Congress enacted the National Securities Markets Improvement Act of 1996, which became effective on October 11, 1996.<sup>4</sup> The statute reallocates regulatory responsibility relating to securities offerings between the federal and state governments based on the nature of the security or offering. Among other things, it preempts state laws requiring or with respect to registration or qualification of covered securities as defined in the Act.<sup>5</sup> It also prohibits states from directly or indirectly prohibiting, limiting or imposing any conditions on the use of any offering document for a covered security if the offering document is

"prepared by or on behalf of the issuer."<sup>6</sup>

### II. Rule 146

The statute requires the Commission to define by rule the phrase "prepared by or on behalf of the issuer," as used in connection with the prohibition on state regulation of offering documents for covered securities.<sup>7</sup> The Commission proposed a definition in February 1997<sup>8</sup> and received three comment letters. Today it adopts the definition, slightly modified from the proposed version.

The Commission continues to believe, as it stated in the proposing release, that the phrase is intended to cover offering documents prepared with the issuer's knowledge and consent. Thus, the definition encompasses offering documents authorized and approved by the issuer. Conversely, documents that are prepared and circulated without issuer involvement are not covered, and are subject to state regulation.

Like the proposal, the final rule requires a two-step approach to this process. First, the issuer must authorize the production of the document. This provision does not require a board of directors to act with respect to each document connected to a securities offering. A company may authorize agents or representatives to act in its stead. The final rule clarifies the proposed language by specifically acknowledging authorization by an agent or representative chosen by the issuer for that purpose.

The second step requires the issuer, or its agent or representative, to approve an authorized offering document before its use. The proposal reflected this concept in its requirement that an authorized document be prepared by "a director, officer, general partner, employee, affiliate, underwriter, attorney, accountant or agent of the issuer." In light of the public comment, and upon further consideration, the Commission has recrafted this provision to clarify its intentions and make the rule simpler. In the final rule, an issuer-authorized offering document (including one

<sup>6</sup>The term "offering document" is defined in new section 18(d)(1) [15 U.S.C. 77r(d)(1)], as follows:

(1) Offering Document.—The term "offering document"—

(A) has the meaning given the term "prospectus" in section 2(10), but without regard to the provisions of subparagraphs (A) and (B) of that section; and

(B) includes a communication that is not deemed to offer a security pursuant to a rule of the Commission.

<sup>7</sup>Section 18(d)(2) requires the Commission to adopt this definition not later than six months after the section's enactment.

<sup>8</sup>Release No. 33-7388 (February 11, 1997) [62 FR 7186] ("Proposing Release").

<sup>1</sup> The rule is codified at 17 CFR 230.146.

<sup>2</sup> 15 U.S.C. 77a *et seq.*

<sup>3</sup> 15 U.S.C. 77r.

<sup>4</sup> Pub.L. 104-290, 110 Stat. 3416 (1996).

<sup>5</sup> The term "covered security" is defined in new section 18(b) [15 U.S.C. 77r(b)].