

on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the 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. 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 proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

**Boeing:** Docket No. FAA-2004-19998; Directorate Identifier 2004-NM-224-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by February 22, 2005.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to Boeing Model 777-200 series airplanes, certificated in any category; as listed in Boeing Special Attention Service Bulletin 777-28-0036, dated September 2, 2004.

#### Unsafe Condition

(d) This AD was prompted by reports that the "FUEL LOW CENTER" message does not activate when the fuel level in the center tank is low. We are issuing this AD to prevent the fuel pumps in the center fuel tank from running dry and becoming a potential ignition source, which could result in a fuel tank explosion.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified, unless the actions have already been done.

#### Replacement

(f) Within 24 months after the effective date of this AD, replace the pressure switches on the override/jettison fuel pumps with new pressure switches, and replace the ship side electrical connectors for the pressure switches on the override/jettison fuel pumps with new connectors, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-28-0036, dated September 2, 2004.

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on December 27, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 05-170 Filed 1-4-05; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-89-AD]

**RIN 2120-AA64**

#### Airworthiness Directives; Boeing Model 777-200 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 Boeing Model 777-200 and -300 series airplanes. That proposed AD would have required a one-time inspection of the clevis end of the vertical tie rods that support the center stowage bins to measure the exposed thread, installation of placards that advise of weight limits for certain electrical racks, a one-time inspection and records check to determine the amount of weight currently installed in those electrical racks, corrective actions, and replacement of the vertical tie rods for the center stowage bins or electrical racks with new improved tie rods, as applicable. This new action revises the proposed rule by revising the applicability to include additional

airplanes. The actions specified by this new proposed AD are intended to prevent failure of the vertical tie rods supporting certain electrical racks and the center stowage bins, which could cause the center stowage bins or electrical racks to fall onto passenger seats below during an emergency landing, impeding an emergency evacuation or injuring passengers. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by January 31, 2005.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-89-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 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](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2001-NM-89-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 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, 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.

#### FOR FURTHER INFORMATION CONTACT:

Robert Kaufman, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6433; fax (425) 917-6590.

#### 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 2001-NM-89-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. 2001-NM-89-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 Boeing Model 777-200 and -300 series airplanes, was published as a first supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on June 23, 2004 (69 FR 34966). That action proposed to require a one-time inspection of the clevis end of the vertical tie rods that support the center stowage bins to measure the exposed thread, installation of placards that advise of weight limits for certain electrical racks, a one-time inspection and records check to determine the amount of weight currently installed in those electrical racks, corrective actions, and replacement of the vertical tie rods for the center stowage bins or electrical racks with new improved tie rods, as applicable. The original NPRM and first supplemental NPRM were prompted by

a report indicating that, under certain conditions on Boeing Model 777-200 and -300 series airplanes, the vertical tie rods that attach the center stowage bins and electrical racks to the airplane structure can break. That condition, if not corrected, could result in the racks or stowage bins falling onto passenger seats below during an emergency landing, impeding an emergency evacuation or injuring passengers.

#### Comments

We have duly considered the comments received in response to the first supplemental NPRM.

#### Request To Add Additional Airplanes

One commenter notes that an airplane in its fleet that should be subject to the proposed AD is missing from the applicability of the first supplemental NPRM. The commenter states that it intends to accomplish the requirements on all of its airplanes.

We agree that several line numbers were inadvertently omitted from the applicability of the first supplemental NPRM. Therefore, we are issuing this second supplemental NPRM and have revised the applicability statement to state that this supplemental NPRM applies to airplanes having line numbers 002 through 283 inclusive. We find that the estimated number of affected airplanes in the Cost Impact section of the first supplemental NPRM is correct; thus, we have not changed this section of this second supplemental NPRM.

#### Request To Revise Compliance Time for Determining Installed Weight

One commenter requests that we revise paragraph (a)(2) of the first supplemental NPRM to delete the words "before further flight." The commenter states that any airplane on which placards have been installed according to paragraph (a)(1) of the proposed AD before the effective date of the AD will be grounded upon the effective date of the AD until the inspection and records check to determine the weight installed in placarded electrical racks is done.

We agree and have revised paragraph (a)(2) of this second supplemental NPRM to specify a separate compliance time of 12 months after the effective date of the AD for airplanes on which the actions in paragraph (a)(1) were done before the effective date of the AD. For airplanes on which the actions in paragraph (a)(1) are done after the effective date of this AD, the actions in paragraph (a)(2) would continue to be required before further flight after the installation of the placards required by paragraph (a)(1).

#### Request To Give Credit for Actions Accomplished Previously

One commenter requests that we revise paragraph (a)(1) of the first supplemental NPRM to include the words "except as provided by paragraph (e) of this AD." The commenter states that adding this phrase will allow credit to operators who have already accomplished some of the AD requirements by doing Revision 1 of the service bulletin.

We do not agree that any change is necessary in this regard. Paragraph (e) of the first supplemental NPRM, as well as this second supplemental NPRM, states that actions done before the effective date of the AD according to Boeing Special Attention Service Bulletin 777-25-0144, dated January 25, 2001; or Revision 1, dated January 10, 2002; are acceptable for compliance with the corresponding actions required by this AD, which includes the actions in paragraph (a)(1).

#### Comment on Cost Impact Estimate

One commenter estimates that approximately 205 work hours, including the time needed for rework, will be necessary to accomplish the requirements of the first supplemental NPRM on its fleet of 19 airplanes. The commenter estimates that it will incur a total cost of \$59,500, including parts and labor.

Because the commenter states that it has no objection to the proposed requirements, we infer that the commenter is providing these data for our information. We find that the costs estimated by the commenter are consistent with the cost stated in the Cost Impact section of this second supplemental NPRM. No change is necessary in this regard.

#### Conclusion

Since a certain change explained above expands the scope of the first supplemental NPRM, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

#### Cost Impact

There are approximately 282 airplanes of the affected design in the worldwide fleet. The FAA estimates that 84 airplanes of U.S. registry would be affected by this proposed AD.

For all airplanes: The records check and inspection to determine the weight currently installed in electrical rack E7 would take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact

of this proposed records check and inspection on U.S. operators is estimated to be \$5,460, or \$65 per airplane.

For all airplanes: It would take approximately 1 work hour to accomplish the proposed installation of a placard specifying weight limits for electrical rack E7, at an average labor rate of \$65 per work hour. Required parts would cost approximately \$29. Based on these figures, the cost impact of this proposed placard installation on U.S. operators is estimated to be \$7,896, or \$94 per electrical rack.

For airplanes subject to the records check and inspection to determine the weight currently installed in electrical rack E9, E11, E13, or E15: It would take approximately 1 work hour per electrical rack (up to 4 racks per airplane) to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of this proposed records check and inspection is estimated to be as much as \$260 per airplane.

For airplanes subject to the installation of a placard specifying weight limits for electrical rack E9, E11, E13, or E15: It would take approximately 1 work hour per electrical rack to accomplish, at an average labor rate of \$65 per work hour. Required parts would cost approximately \$29 per electrical rack. Based on these figures, the cost impact of this proposed installation is estimated to be as much as \$376 per airplane.

For airplanes subject to the inspection of the clevis end of the vertical support tie rod for the center stowage bin to measure the exposed thread: It would take as much as 3 work hours per airplane (0.25 work hour per tie rod, with up to 12 subject tie rods per airplane) at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of this proposed inspection is estimated to be as much as \$195 per airplane.

For airplanes subject to the replacement of the vertical tie rods that support the center stowage bins: It would take as much as 6 work hours per airplane (0.5 work hour per tie rod, with up to 12 subject tie rods per airplane) at an average labor rate of \$65 per work hour. Required parts would cost as much as \$3,020 per airplane. Based on these figures, this proposed replacement is estimated to be as much as \$3,410 per airplane.

For airplanes subject to the replacement of the vertical tie rods that support the electrical racks: It would take as much as 2 work hours per airplane (0.5 work hour per tie rod with

up to 4 subject tie rods per airplane) at an average labor rate of \$65 per work hour. Required parts would cost as much as \$3,012 per airplane. Based on these figures, this proposed replacement is estimated to be as much as \$3,142 per airplane.

The cost impact figures discussed above are 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 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.

#### 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 Impact

The regulations proposed herein would 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 proposal would 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.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

**Boeing:** Docket 2001–NM–89–AD.

**Applicability:** Model 777–200 and –300 series airplanes; certificated in any category; line numbers 002 through 283 inclusive.

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

To prevent failure of the vertical tie rods supporting certain electrical racks and the center stowage bins, which could cause the center stowage bins or electrical racks to fall onto passenger seats below during an emergency landing, impeding an emergency evacuation or injuring passengers, accomplish the following:

#### Inspection To Determine Weight and Placard Installation

(a) For airplanes in the groups listed in the table under paragraph 3.B.1.b.(3) of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–25–0144, Revision 2, dated January 15, 2004: Within 5 years after the effective date of this AD, do the applicable actions in paragraphs (a)(1) and (a)(2) of this AD.

(1) Install placards that show weight limits for electrical racks E7, E11, and E15; as applicable; per the Accomplishment Instructions of the service bulletin.

(2) For each electrical rack on which a placard was installed per paragraph (a)(1) of this AD: At the applicable compliance time specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD, perform a one-time inspection and records check to determine the weight of equipment installed in that electrical rack. This records review and inspection must include determining what extra equipment, if any, has been installed in the subject rack of the airplane, performing a detailed

inspection to determine whether this equipment is installed on the airplane, calculating the total weight of the installed equipment, and comparing that total to the weight limit specified on the placard installed per paragraph (a)(1) of this AD. If the weight is outside the limits specified in the placard to be installed per the service bulletin, before further flight, remove equipment from the rack to meet the weight limit specified in the placard.

(i) For airplanes on which the actions required by paragraph (a)(1) of this AD were done before the effective date of this AD: Within 12 months after the effective date of this AD.

(ii) For airplanes on which the actions required by paragraph (a)(1) of this AD are done after the effective date of this AD: Before further flight after installing the placards.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Inspection To Measure Exposed Thread and Corrective Actions

(b) For airplanes in the groups listed in the table under paragraph 3.B.1.b.(1) of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-25-0144, Revision 2, dated January 15, 2004: Within 5 years after the effective date of this AD, perform a detailed inspection of the clevis end of the vertical support tie rod for the center stowage bin to measure the exposed thread, per the Accomplishment Instructions of the service bulletin. If the measurement of the exposed thread is outside the limits specified in Figure 2 of the service bulletin, before further flight, perform all corrective actions specified in steps 2 through 14 inclusive of Figure 2 of the service bulletin (including installing a threaded sleeve, torquing the jam nuts, inserting a pin in the witness hole to ensure that the witness hole is blocked by the clevis shank, and making any applicable adjustment of the clevis). Perform the corrective actions per the Accomplishment Instructions of the service bulletin, except as provided by paragraph (e) of this AD.

#### Replacement of Tie Rods for Center Stowage Bin

(c) For airplanes in Group 21, as listed in the Airplane Group column of the table under 3.B.1.b.(2) of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-25-0144, Revision 2, dated January 15, 2004: Within 5 years after the effective date of this AD, replace the vertical support tie rods for the center stowage bin with new improved tie rods (including replacing the existing tie rod with a new improved tie rod, torquing the jam nuts, inserting a pin in the witness hole to

ensure that the witness hole is blocked by the clevis shank, and making any applicable adjustment of the clevis) by doing all actions specified in steps 1 through 8 of Figure 3 of the service bulletin. Do these actions per the Accomplishment Instructions of the service bulletin. Any required adjustment of the clevis must be done before further flight.

#### Inspection To Determine Weight, Tie Rod Replacement, and Placard Installation

(d) For airplanes in the groups listed in the table under paragraph 3.B.1.b.(4) of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-25-0144, Revision 2, dated January 15, 2004: Do the actions in paragraphs (d)(1), (d)(2), and (d)(3) of this AD.

(1) Within 5 years after the effective date of this AD, replace the vertical support tie rods for electrical racks E9, E11, and E13 (including replacing the existing tie rods with new improved tie rods, replacing an existing tie rod clamp with a new improved tie rod clamp, performing a free-play inspection of certain electrical racks, adjusting jam nuts as applicable, performing a general visual inspection through the witness hole to make sure tie rod threads are visible, and making any applicable adjustment to ensure tie rod threads are visible) by doing all actions specified in Figures 5, 6, 7, and 9 of the service bulletin; as applicable. Do these actions per the Accomplishment Instructions of the service bulletin. Any required adjustment must be done before further flight.

(2) Before further flight after accomplishing paragraph (d)(1) of this AD, install placards that show weight limits for electrical racks E9, E11, and E13; as applicable; per the Accomplishment Instructions of the service bulletin.

(3) For each electrical rack on which a placard was installed per paragraph (d)(2) of this AD: Before further flight after accomplishing paragraphs (d)(1) and (d)(2) of this AD, perform a one-time inspection and records check to determine the weight of equipment installed in that electrical rack. This records review and inspection must include determining what, if any, extra equipment has been installed in the subject racks of the airplane, performing a detailed inspection to determine that this equipment is installed on the airplane, calculating the total weight of the installed equipment, and comparing that total to the weight limit specified on the placard installed per paragraph (d)(2) of this AD. If the weight is outside the limits specified in the placard, before further flight, remove equipment from the rack to meet the weight limit specified in the placard.

#### Actions Accomplished Previously

(e) Actions accomplished before the effective date of this AD per the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-25-0144, dated January 25, 2001; or Revision 1, dated January 10, 2002; are acceptable for compliance with the corresponding actions required by this AD, provided that the additional actions specified in Part 2 or 3 of the Accomplishment Instructions of Boeing

Special Attention Service Bulletin 777-25-0144, Revision 2, dated January 15, 2004, are accomplished within the compliance time specified in this AD.

#### Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on December 27, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 05-171 Filed 1-4-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 904

[Docket No. 040902252-4252-01; I.D. 092804C]

**RIN 0648-AS54**

#### Civil Procedures

**AGENCY:** Office of General Counsel for Enforcement and Litigation, National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; amendments and technical refinements to Civil Procedures; reopening of the comment period.

**SUMMARY:** In a proposed rule published in the **Federal Register** on October 12, 2004, NOAA requested comments on proposed revisions to its Civil Procedures which govern the Agency's administrative proceedings for the assessment of civil penalties; suspension, revocation, modification, or denial of permits; issuance and use of written warnings; and release or forfeiture of seized property. The comment period for the proposed rule closed on December 13, 2004. Comments addressed various issues and included requests to extend the comment period. The intent of this document is to announce the reopening of the public comment period.

**DATES:** Written comments must be received on or before January 31, 2005.

**ADDRESSES:** Send comments to Meggan Engelke-Ros, Enforcement Attorney, Office of General Counsel for Enforcement and Litigation, NOAA. Comments may be submitted by:

- Mail to 8484 Georgia Avenue, Suite 400, Silver Spring, MD 20910;
- E-mail to

*Part904.comments@noaa.gov*; or