

(g) 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.

(h) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

Note 3: Alternative methods of compliance approved in accordance with AD 84-08-06 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(i) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(j) This amendment supersedes AD 84-08-06, Amendment 39-4851.

Issued in Kansas City, Missouri, on January 10, 1996.

Michael Gallagher,  
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-485 Filed 1-18-96; 8:45 am]

BILLING CODE 4910-13-U

## 14 CFR Part 39

[Docket No. 95-NM-233-AD]

### Airworthiness Directives; Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to revise an existing airworthiness directive (AD), applicable to all transport category airplanes, that currently requires installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. That AD also

provides for an alternative action regarding the requirement to install specific placards at certain locations. That AD was prompted by fires occurring in lavatories, which were caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. The actions specified by that AD are intended to prevent such fires. This action would allow dispatch relief in the event a lavatory door ashtray is missing.

**DATES:** Comments must be received by March 12, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-233-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2113; fax (206) 227-1149.

#### 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 notice may be changed in light of the comments received.

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 notice must submit a self-addressed, stamped

postcard on which the following statement is made: "Comments to Docket Number 95-NM-233-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-103, Attention: Rules Docket No. 95-NM-233-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

On April 26, 1995, the FAA issued AD 74-08-09 R1, amendment 39-9214 (60 FR 21429, May 2, 1995), which is applicable to all transport category airplanes. That AD revised AD 74-08-09, which required installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. The revised AD continues to require those actions. Additionally, the revised AD provides for an alternative action regarding the requirement to install specific placards at certain locations. The original AD was prompted by fires occurring in lavatories, which were caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. The requirements of that AD are intended to prevent such fires.

Since the issuance of that AD, the Air Transport Association (ATA) of America, on behalf of its members, filed a petition for exemption from certain requirements of AD 74-08-09 R1. In its petition for exemption, the ATA requested that the FAA allow the external cabin lavatory door ashtrays to be removed or missing on air carrier airplanes on which smoking is prohibited or on flights during which smoking is prohibited. The FAA denied that petition on the basis of reports indicating that smoking still occurs on these flights. As an example, 66 violations of the smoking ban were recorded on air carriers operating under part 121 of the Federal Aviation Regulations (14 CFR part 121) between January 1, 1995, and August 17, 1995. Consequently, on October 19, 1995, the ATA filed a petition for reconsideration of the denial of its petition for exemption.

In support of its petition for reconsideration, the ATA states that

violations of the smoking ban should be put into perspective. The ATA points out that U.S. airlines carried over 300 million passengers and performed approximately 4.5 million departures during that period. Further, while the data presented by the FAA indicate that illegal infrequent smoking does occur, no supporting documentation was provided to explain the specific circumstances regarding these instances [for example, where the violations occurred (i.e., inside the cabin lavatory, in the passenger seat, or in the aisle), and what corrective action was taken by the flight attendants to remedy the situation]. The ATA contends that, without such information, these violations cannot be put into proper context or serve as the basis for denial of its petition for exemption.

The ATA adds that, although the FAA contends in its denial that the external cabin lavatory door ashtrays serve a safety function, the ATA believes the presence of those ashtrays serves as an open invitation for passengers to smoke in certain areas of the airplane. The ATA states that continuing to require the presence of a lavatory door ashtray is inexplicable in view of the FAA's approval of the removal of passenger seat ashtrays. The ATA considers that the required installation of smoke detectors and trash receptacle fire extinguishers provide effective safety measures with regard to the lavatory.

The ATA contends that the introduction of the domestic smoking ban and widespread compliance with that ban have made the requirement for a lavatory door ashtray unnecessary. The ATA indicates that this requirement has imposed unjustifiable flight delays and cancellations upon the travelling and shipping public. For example, one operator, which flies short segments, has experienced numerous delays and cancellations due to the requirement; yet, the operator has reported no passenger violations since the smoking ban was imposed. The ATA adds that the domestic smoking ban is well known among the travelling public. Further, pre-departure briefings given by flight attendants, seat back safety cards, continuously lit "No Smoking" placards, and the introduction of the smoking ban on international flights by some carriers all reinforce the smoking prohibition.

As an alternative to eliminating the requirement for an external lavatory door ashtray, the ATA suggests that the FAA develop policy to allow dispatch relief for operators in the event an ashtray is missing. The ATA believes that not allowing relief for AD-mandated systems is warranted in the

majority of cases, but that it is apparent that application of that guideline is not justified in this case. The ATA states that the FAA defines passenger convenience items as "those items related to passenger convenience, comfort or entertainment such as, but not limited to, galley equipment, movie equipment, ashtrays, stereo equipment, and overhead reading lamps, etc." (The ATA provides no citation for this definition.) The ATA adds that certain FAA orders specify that passenger convenience items do not have fixed repair intervals. The ATA concludes that the FAA has categorized the passenger seat ashtray as a passenger convenience item and the cabin lavatory door ashtray as a safety requirement (per AD 74-08-09 R1).

The FAA does not concur with the ATA's request to allow the external cabin lavatory door ashtrays to be removed or missing on air carrier airplanes on which smoking is prohibited or on flights during which smoking is prohibited. Although the FAA only cited 66 reports of smoking on air carriers on which smoking is banned or on flights during which smoking is prohibited, it is evident from these reports that smoking still occurs where prohibited. Such smoking could pose a fire hazard to the airplane. The FAA finds that installing smoke detectors and trash receptacle fire extinguishers, as discussed by the commenter, would only provide a means of detecting and extinguishing a fire. However, the intent of this proposed AD is to prevent a fire hazard from occurring. The FAA finds that the requirement for an ashtray on or near the lavatory door provides a disposal location for cigarettes (or other smoking materials), and thereby ensures there is a place to dispose of smoking material in the event the smoking ban is not adhered to. Additionally, the installation of a lavatory door ashtray ensures that uninformed persons who find themselves with lighted smoking materials on the airplane will have an obvious location to dispose of smoking material before entering the lavatory.

While the smoking ban is undoubtedly a positive feature that may contribute to safety, the FAA has determined that it does not present an acceptable level of safety equivalent to that addressed by the requirement for installation of an external lavatory door ashtray. Therefore, the FAA considers that requirement necessary to ensure adequate fire protection aboard transport category airplanes.

The FAA acknowledges that the Master Minimum Equipment List (MMEL) contains a definition of

passenger convenience items that includes ashtrays among those items. However, the commenter's assertion that the FAA categorizes ashtrays as passenger convenience items is incorrect. The FAA intends to address this issue in an action apart from this proposed AD. Ashtrays, including passenger seat ashtrays, are required equipment on most airplanes. The FAA has made a finding that if certain additional conditions are met, the ashtrays may be removed from the seats; however, part of that finding is based on the requirement that external lavatory door ashtrays be installed.

However, in light of the economic burden the requirement for installation of a lavatory door ashtray may place on certain operators, the FAA finds that dispatch relief may be permitted for a period of 10 days, provided that no more than one lavatory door ashtray is missing from the airplane. For airplanes on which only one lavatory door ashtray is installed, dispatch relief may be permitted for a period of 3 days if the lavatory door ashtray is missing. Paragraph (d) has been included in this proposed rule to allow such dispatch relief.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would revise AD 74-08-09 R1 to continue to require installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. This AD also would continue to provide for an alternative action regarding the requirement to install specific placards at certain locations. In addition, this AD would allow dispatch relief in the event a lavatory door ashtray is missing.

Since this action only provides for an alternative method of complying with an existing rule, it does not add any new additional economic burden on affected operators. The current costs associated with this proposed AD are reiterated below for the convenience of affected operators.

The costs associated with the currently required placard installations entail approximately 1 work hour per airplane, at an average labor rate of \$60 per work hour. The cost of required parts is negligible. Based on these figures, the total cost impact of the installation requirements of the

proposed AD on U.S. operators is estimated to be \$60 per airplane.

The costs associated with the currently required inspections entail approximately 1.5 work hours per airplane per inspection, at an average labor rate of \$60 per work hour. Based on these figures, the total cost impact of the inspection requirements of this proposed AD on U.S. operators is estimated to be \$90 per airplane per inspection.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 USC 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39-9214 (60 FR 21429, May 2, 1995), and by adding a

new airworthiness directive (AD), to read as follows:

Transport Category Aircraft: Docket 95-NM-233-AD. Revises AD 74-08-09 R1, Amendment 39-9214.

*Applicability:* All transport category airplanes, certificated in any category, that have one or more lavatories equipped with paper or linen waste receptacles.

Note 1: The following is a partial list of aircraft, some or all models of which are type certificated in the transport category and have lavatories equipped with paper or linen waste receptacles:

Aerospatiale Models ATR42 and ATR72 series airplanes;  
Airbus Models A300, A310, A300-600, A320, A330, and A340 series airplanes;  
Boeing Models 707, 720, 727, 737, 747, 757, and 767 series airplanes;  
Boeing Model B-377 airplanes;  
British Aircraft Models BAC 1-11 series, BAe-146 series, and ATP airplanes;  
CASA Model C-212 series airplanes;  
Convair Models CV-580, 600, 640, 880, and 990 series airplanes;  
Convair Models 240, 340, and 440 series airplanes;  
Curtiss-Wright Model CW 46;  
de Havilland Models DHC-7 and DHC-8 series airplanes;  
Fairchild Models F-27 and C-82 series airplanes;  
Fairchild-Hiller Model FH-227 series airplanes;  
Fokker Models F27 and F28 series airplanes;  
Grumman Model G-159 series airplanes;  
Gulfstream Model 1159 series airplanes;  
Hawker Siddeley Model HS-748;  
Jetstream Model 4101 airplanes;  
Lockheed Models L-1011, L-188, L-1049, and 382 series airplanes;  
Martin Model M-404 airplanes;  
McDonnell Douglas Models DC-3, -4, -6, -7, -8, -9, and -10 series airplanes; Model MD-88 airplanes; and Model MD-11 series airplanes;  
Nihon Model YS-11;  
Saab Models SF340A and SAAB 340B series airplanes;  
Short Brothers and Harlin Model SC-7 series airplanes;  
Short Brothers Models SD3-30 and SD3-60 series airplanes.

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

To prevent possible fires that could result from smoking materials being dropped into lavatory paper or linen waste receptacles, accomplish the following:

(a) Within 60 days after August 6, 1974 (the effective date of AD 74-08-09, amendment 39-1917), or before the accumulation of any time in service on a new production aircraft after delivery, whichever occurs later, except that new production aircraft may be flown in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Install a placard either on each side of each lavatory door over the door knob, or on each side of each lavatory door, or adjacent

to each side of each lavatory door. The placards must either contain the legible words, "No Smoking in Lavatory" or "No Smoking;" or contain "No Smoking" symbology in lieu of words; or contain both wording and symbology; to indicate that smoking is prohibited in the lavatory. The placards must be of sufficient size and contrast and be located so as to be conspicuous to lavatory users. And

(2) Install a placard on or near each lavatory paper or linen waste disposal receptacle door, containing the legible words or symbology indicating "No Cigarette Disposal."

(b) Within 30 days after August 6, 1974, establish a procedure that requires that no later than a time immediately after the "No Smoking" sign is extinguished following takeoff, an announcement be made by a crewmember to inform all aircraft occupants that smoking is prohibited in the aircraft lavatories; except that, if the aircraft is not equipped with a "No Smoking" sign, the required procedure must provide that the announcement be made prior to each takeoff.

(c) Except as provided by paragraph (d) of this AD: Within 180 days after August 6, 1974, or before the accumulation of any time in service on a new production aircraft, whichever occurs later, except that new production aircraft may be flown in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished, install a self-contained, removable ashtray on or near the entry side of each lavatory door. One ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served.

(d) The airplane may be operated for a period of 10 days with a lavatory door ashtray missing, provided that no more than one such ashtray is missing. For airplanes on which only one lavatory door ashtray is installed, the airplane may be operated for a period of 3 days if the lavatory door ashtray is missing. This AD permits a lavatory ashtray to be missing, although the FAA-approved Master Minimum Equipment List (MMEL) may not allow such provision. In any case, the provisions of this AD prevail.

(e) Within 30 days after August 6, 1974, and thereafter at intervals not to exceed 1,000 hours time-in-service from the last inspections, accomplished the following:

(1) Inspect all lavatory paper and linen waste receptacle enclosure access doors and disposal doors for proper operation, fit, sealing, and latching for the containment of possible trash fires.

(2) Correct all defects found during the inspections required by paragraph (e)(1) of this AD.

(f) Upon the request of an operator, the FAA Principal Maintenance Inspector may adjust the 1,000-hour repetitive inspection interval specified in paragraph (e) of this AD to permit compliance at an established inspection period of the operator if the request contains data to justify the requested change in the inspection interval.

(g) 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.

Issued in Renton, Washington, on January 10, 1996.

Darrell M. Pederson,  
Acting Manager, Transport Airplane  
Directorate, Aircraft Certification Service.  
[FR Doc. 96-493 Filed 1-18-96; 8:45 am]  
BILLING CODE 4910-13-U

## 14 CFR Chapter II

[Docket No. OST-96-993; Notice 96-1]

RIN 2105-AC36

### Ticketless Travel: Passenger Notices

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Request for Comments.

**SUMMARY:** The Department is seeking comment on passenger notice requirements as applied to ticketless air travel. This action is taken on the Department's initiative.

**DATES:** Comments on the issues discussed in this document should be received by March 19, 1996. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Comments should be sent to Docket Clerk, Docket No. OST-96-993, Room PL-401, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590. For the convenience of persons who will be reviewing the docket, it is requested that commenters provide an original and three copies of their comments. Comments can be inspected from 9:00 a.m. to 5:00 p.m. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The docket clerk will date-stamp the postcard and mail it to the commenter. Comments should be on 8½ by 11 inch white paper using dark ink and should be without tabs and unbound.

**FOR FURTHER INFORMATION CONTACT:** Tim Kelly, Aviation Consumer Protection Division, Office of Aviation Enforcement and Proceedings, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW, Room 10405, Washington, DC 20590, telephone (202) 366-5952.

#### SUPPLEMENTARY INFORMATION:

##### Background

Various DOT regulations require U.S. and foreign air carriers to provide consumer notices on or with passenger tickets. These notices provide information about protections afforded

by federal regulations, limitations on carrier liability, and contract terms that passengers may not otherwise be aware of. These ticket notice requirements are listed below.

#### Subject/Source (14 CFR)

Oversales—§ 250.11  
Domestic baggage liability—§ 254.5  
International baggage liability—  
§ 221.176  
Domestic contract of carriage terms—  
§ 253.5  
Terms of electronic tariff  
(international)—§ 221.177(b)  
Refund penalties (domestic)—§ 253.7  
Fare increases (international)—  
§ 221.174

Death/injury liability limits  
(international)—§ 221.175

Over the past few years, a number of airlines have begun selling air service with "ticketless travel," also known as "electronic ticketing." Under this concept a passenger or travel agent calls the airline, makes a reservation and purchases the transportation during the call, typically by credit card. No "ticket," as that document has traditionally been configured, is issued. Instead, the passenger is orally given a confirmation number and/or is sent a written itinerary. Upon checking in at the airport the passenger simply provides his or her name, furnishes identification, and is given a boarding pass or other document that is used to gain access to the aircraft.

The Department of Transportation supports the development of ticketless travel. The process has the potential to reduce carrier and agent costs, and thereby costs to consumers, and to make air transportation easier to purchase. At the same time, the Department has been concerned that necessary information in the passenger notices described above be provided to all passengers in a ticketless environment at a time and in a manner that makes the information useful. A number of carriers that offer ticketless travel have approached the Department and asked what procedures we would find to be acceptable in this area. In response, we have pointed out the importance of providing the same general level and timeliness of notice that is presently required for traditionally-ticketed passengers, as indicated in the discussion that follows. As far as we are aware, virtually all carriers that offer ticketless travel are providing those notices in the manner and at the time that we have recommended.

We realize that this is a dynamic area of air transportation. We are publishing this Federal Register notice in order to seek comment on all aspects of the issue

of consumer notices in a ticketless air travel environment so that unnecessary documentation burdens can be eliminated, consistent with providing needed information to consumers in a timely fashion.

#### Discussion

At the time that the various passenger notice requirements described above were issued, all passengers received tickets. It appears that the ticket was chosen as the means for conveying required consumer information simply because tickets were a universally-available medium for documenting the carrier/passenger contract of carriage and providing notice in writing to individual passengers. We have found no evidence that the use of the word "ticket" in these notice rules contemplated that only airline passengers who receive traditional tickets are able and entitled to benefit from the information in these notices.

Indeed, there is ample evidence that these notice requirements were enacted in order to provide important information to all airline passengers. In issuing a rule requiring a ticket notice disclosing baggage liability limits, the Civil Aeronautics Board noted:

As we stated in EDR-182, inadequate knowledge by the traveling public of the limits on liability for loss of or damage to baggage has been a recurring source of consumer complaints and this continues to be the case. [T]he Board has determined that the traveling public is entitled to effective notice of both Warsaw Convention and other baggage liability limitations. [ER-691 issued August 24, 1971; 36 FR 17034.]

In 1977 the Board issued a rule requiring a ticket notice disclosing overbooking practices. The agency stated:

\* \* \* while we find nothing unlawful in a carrier's attempt to insulate itself against a common law action of fraudulent misrepresentation by filing a tariff rule, such carrier and its agents should be required to provide the passenger with actual notice of its overbooking practices. Although, as the carriers point out, a passenger may be legally presumed to have knowledge of a carrier's tariffs, it is clearly unrealistic to expect passengers to have actual knowledge of the contents of tariffs. [ER-987 issued February 28, 1977; 42 FR 12420.]

In 1982, as domestic tariffs were being phased out, the Board issued a rule permitting carriers to continue to incorporate terms by reference into contracts with passengers, as they had with tariffs, but requiring a ticket notice disclosing the existence of the incorporated terms. The rule also required specific notice of certain terms affecting the refundability of the fare. The Board stated that it wanted to: