

**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 Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

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-2005-20026; Directorate Identifier 2004-NM-150-AD.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by February 28, 2005.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 767-400ER series airplanes, certificated in any category, having Variable Numbers VQ071 through VQ076 inclusive; and Model 777-200 and -300 series airplanes, certificated in any category, as listed in Boeing Service Bulletin 777-25-0217, dated July 17, 2003.

**Unsafe Condition**

(d) This AD was prompted by a report that tie-down fitting studs were found damaged. We are issuing this AD to prevent a galley, purser work station, or closet from detaching from the tie-down fitting studs during an emergency landing, which could injure passengers or crewmembers, or obstruct escape routes and impede emergency evacuation.

**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 60 months after the effective date of this AD: Replace, with new parts, the existing tie-down fitting studs that secure galleys, purser work stations, and floor-mounted closets to the seat tracks, by doing all actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767-25-0338, dated October 9, 2003 (for Boeing Model 767-400ER series airplanes); or Boeing Service Bulletin 777-25-0217, dated July 17, 2003 (for Boeing Model 777-200 and -300 series airplanes); as applicable.

**Replacements Accomplished According to Previous Issue of Service Bulletin**

(g) For Boeing Model 777-200 and -300 series airplanes: Replacements accomplished before the effective date of this AD according to Boeing Service Bulletin 777-25-0217, dated July 18, 2002, are considered acceptable for compliance with the corresponding action specified in this AD.

**Alternative Methods of Compliance (AMOCs)**

(h) The Manager, Seattle Aircraft Certification Office (ACO), 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 30, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 05-614 Filed 1-11-05; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2000-NM-168-AD]

RIN 2120-AA64

**Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes**

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 airplanes. That action would have required installing shield assemblies for power feeder cables in the forward and aft lower cargo compartments, and installing an additional shield for the power feeder cable of the auxiliary power unit in the aft lower cargo compartment. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has determined that the proposed requirements are included in the requirements of another existing AD; the NPRM does not contain any new requirements beyond those of the existing AD. Accordingly, the proposed rule is withdrawn.

**FOR FURTHER INFORMATION CONTACT:**

Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5344; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 airplanes; was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 30, 2003 (68 FR

61772). The proposed rule would have required installing shield assemblies for power feeder cables in the forward and aft lower cargo compartments, and installing an additional shield for the power feeder cable of the auxiliary power unit in the aft lower cargo compartment. That action was prompted by several incidents of migration of power feeder cable troughs on McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 airplanes. The proposed actions were intended to prevent a cable from chafing against an edge of a lightening hole, which could result in electrical arcing, and consequent smoke/fire in the lower cargo compartments.

### Response to Comments

We have considered the comments that have been submitted on the proposed AD. One commenter points out that an existing AD, AD 94-09-02, amendment 39-8890 (59 FR 18720, April 20, 1994), currently requires accomplishment of the original issue of Boeing Service Bulletin MD80-24-100. The commenter further states that all affected airplanes listed in Revision 04 of that service bulletin (referenced as the appropriate source of service information in the proposed rule) were affected by the previous revisions of that service bulletin, and that the proposed rule contains no new requirements beyond those required by the existing AD.

We agree. We have determined that the requirements of the proposed rule are included in the requirements of another existing AD. The existing AD, AD 94-09-02, is applicable to certain McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series airplanes; and Model MD-88 airplanes; as listed in McDonnell Douglas MD-80 Service Bulletin 24-94, Revision 1, dated May 28, 1987, and McDonnell Douglas Model MD-80 Service Bulletin 24-100, dated March 30, 1988. That AD requires an inspection to detect damage of the auxiliary power unit (APU) power feeder cable installation, repair of damaged cables, modification of the cable installation, and an inspection of previously modified airplanes to determine whether a spacer or "stand off" has been installed, and installation of those items, if necessary. That action was prompted by reports of generator power feeder cables electrically shorting to the airplane structure due to chafing. The requirements of that AD are intended to prevent the APU power feeder cable from chafing against adjacent structures, which could result

in electrical shorting and arcing, and a fire below the cabin floor.

Additionally, AD 94-09-02 references McDonnell Douglas MD-80 Service Bulletin 24-100, dated March 30, 1988, as the appropriate source of service information for accomplishing the modification. The proposed rule references McDonnell Douglas Alert Service Bulletin MD80-24A100, Revision 04, dated January 24, 2000, as the appropriate source of service information for accomplishing the modification (installing shield assemblies for power feeder cables). Revision 04 was issued merely to elevate the service bulletin to the "alert" status and to reference AD 94-09-02; no additional work is required. All airplanes affected by Revision 04 are also affected by the previous revisions of the service bulletin.

The proposed rule does not contain any new requirements beyond those required by AD 94-09-02. Accomplishment of the requirements of AD 94-09-02 adequately addresses the identified unsafe condition.

### FAA's Conclusions

Upon further consideration, the FAA has determined that the proposed requirements are included in the requirements of another existing AD; the proposed rule does not contain any new requirements beyond those of the existing AD. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the agency to any course of action in the future.

### Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 2000-NM-168-AD, published in the **Federal Register** on October 30, 2003 (68 FR 61772), is withdrawn.

Issued in Renton, Washington, on January 3, 2005.

**Ali Bahrami,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2005-20025; Directorate Identifier 2004-NM-208-AD]**

**RIN 2120-AA64**

### **Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A330, A340-200, and A340-300 series airplanes. This proposed AD would require repetitive inspections of a certain bracket that attaches the flight deck instrument panel to the airplane structure, replacement of the bracket with a new, improved bracket, and related investigative and corrective actions if necessary. This proposed AD is prompted by reports of cracking of a certain bracket that attaches the flight deck instrument panel to the airplane structure. We are proposing this AD to detect and correct a cracked bracket. Failure of this bracket, combined with failure of the horizontal beam, could result in collapse of the left part of the flight deck instrument panel, and consequent reduced controllability of the airplane.

**DATES:** We must receive comments on this proposed AD by February 11, 2005.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.

- By fax: (202) 493-2251.