

However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

### Cost Impact

There are approximately 46 Boeing Model 777-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 209 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$200,640, or \$12,540 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

### 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.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

**97-23-16 Boeing:** Amendment 39-10205. Docket 97-NM-55-AD.

**Applicability:** Model 777-200 series airplanes, as listed in Boeing Alert Service Bulletin 777-23A0027, dated February 13, 1997; 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 (c) 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 prevent overheating of the transformers of the overhead electronics units (OEU), which potentially could cause a fire in the transformer assembly and/or other electronic components of the OEU and could cause smoke to enter the passenger cabin, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace OEU's having part numbers (P/N) 285W0029-3, 285W0029-3 MOD A, and 285W0029-3 MOD B, of the passenger address and entertainment communication systems with modified OEU's having P/N's 285W0029-5, 285W0029-5 MOD A, and 285W0029-5 MOD B, in accordance with Boeing Alert Service Bulletin 777-23A0027, dated February 13, 1997.

**Note 2:** Boeing Component Service Bulletin 285W0029-23-01, dated February 13, 1997, describes procedures for reworking OEU's having P/N's 285W0029-3, 285W0029-3 MOD A, and 285W0028-3 MOD B, to a

configuration having a dash number -5, and a MOD level marking (if applicable).

(b) As of the effective date of this AD, no person shall install an OEU having P/N 285W0029-3, 285W0029-3 MOD A, or 285W0028-3 MOD B, on any airplane.

(c) 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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. 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 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) 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.

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 777-23A0027, dated February 13, 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.

(f) This amendment becomes effective on December 22, 1997.

Issued in Renton, Washington, on November 6, 1997.

**Darrell M. Pederson,**

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

[FR Doc. 97-29823 Filed 11-14-97; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-SW-17-AD; Amendment 39-10206; AD 97-12-02]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Helicopter Systems MD900 Helicopters

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

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

**SUMMARY:** This amendment supersedes an existing priority letter airworthiness

directive (AD), applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD900 helicopters, which prohibits flight or ground operations of helicopters with a certain adjustable collective drive link assembly (link assembly) installed. This amendment requires installation of a redesigned airworthy link assembly after which further operations are permitted. This amendment is prompted by recent incidents in which the link assembly failed during flight. The actions specified by this AD are intended to prevent failure of the link assembly, which could result in loss of control of the helicopter.

**DATES:** Effective December 2, 1997.

Comments for inclusion in the Rules Docket must be received on or before January 16, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97-SW-17-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg DiLibero, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627-5231, fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** On May 29, 1997, the FAA issued priority letter AD 97-12-02, applicable to MDHS Model MD900 helicopters with collective drive link assembly (link assembly) part number (P/N) 900C2010233-103 and P/N 900C2010233-105, installed, which prohibits flight or ground operations of the helicopters. That action was prompted by recent incidents in which the link assembly failed during flight. The link assembly is part of the primary collective flight control system. Based on these incidents and further testing by the manufacturer, the FAA determined that further operations with either affected link assembly installed constituted an unsafe condition. That condition, if not corrected, could result in failure of the link assembly and subsequent loss of control of the helicopter.

Since the issuance of that AD, MDHS has issued MDHS Service Bulletin (SB) No. SB900-055R1, dated June 5, 1997, for the installation of a redesigned link assembly. The FAA has determined that installation of redesigned link assembly, P/N 900C2010233-107, will correct the unsafe condition. Additionally, in AD 97-12-02, the FAA has noted that the applicability section incorrectly stated that the AD applied to Model MD900

helicopters with P/N 900C2010233-103 and P/N 900C2010233-105 installed. The AD should have stated that it applied to Model MD900 helicopters with P/N 900C2010233-103 or P/N 900C2010233-105 installed. This imprecision in word choice is corrected in this AD.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model MD900 helicopters of the same type design, this AD supersedes AD 97-12-02 to require installation of a redesigned link assembly. This AD also clarifies the applicability statement that could be incorrectly interpreted to mean that two link assemblies must be installed in order for the AD to be applicable.

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 should 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 No. 97-SW-17-AD." The postcard will be date stamped and returned to the commenter.

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, 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 a new airworthiness directive to read as follows:

**97-12-02 McDonnell Douglas Helicopter Systems:** Amendment 39-10206. Docket No. 97-SW-17-AD. Supersedes priority letter AD 97-12-02.

**Applicability:** Model MD900 helicopters, with adjustable collective drive link assembly (link assembly), part number (P/N) 900C2010233-103 or -105, installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

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

To prevent failure of the link assembly, which could result in loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove the link assembly, P/N 900C2010233-103 or -105, and replace with link assembly, P/N 900C2010233-107.

(b) 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, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits will not be issued.

(d) This amendment becomes effective on December 2, 1997.

Issued in Fort Worth, Texas, on November 6, 1997.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate,  
Aircraft Certification Service.*

[FR Doc. 97-30058 Filed 11-14-97; 8:45 am]

BILLING CODE 4910-13-U

Use of "Leakproof," "Guaranteed Leakproof," Etc., as Descriptive of Dry Cell Batteries ("the Dry Cell Battery Rule" or "the Rule"), 16 CFR Part 403. The rulemaking record, changes in industry practice, and general voluntary compliance by the industry with the requirements of an American National Standards Institute standard for dry cell batteries, which has provisions similar to the Rule's, indicate that the Dry Cell Battery Rule is no longer necessary or in the public interest and should be repealed. This document contains a Statement of Basis and Purpose for repeal of the rule.

**EFFECTIVE DATE:** November 17, 1997.

**ADDRESSES:** Requests for copies of the Statement of Basis and Purpose should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Ave., N.W., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Neil Blickman, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth Street and Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326-3038.

#### **SUPPLEMENTARY INFORMATION:**

#### **Statement of Basis and Purpose**

##### *I. Background*

On May 20, 1964, the Commission promulgated a trade regulation rule that states that in connection with the sale of dry cell batteries in commerce, the use of the word "leakproof," the term "guaranteed leakproof," or any other word or term of similar import, or any abbreviation thereof, in advertising, labeling, marking or otherwise, as descriptive of dry cell batteries, constitutes an unfair method of competition and an unfair or deceptive act or practice in violation of section 5 of the FTC Act (16 CFR 403.4). This rule was based on the Commission's finding that, despite efforts by dry cell battery manufacturers to eliminate electrolyte leakage, battery leakage and damage therefrom occurs from the use to which consumers ordinarily subject dry cell batteries.

The rule provides that manufacturers or marketers are not prohibited from offering or furnishing guarantees that provide for restitution in the event of damage from battery leakage, provided no representation is made, directly or indirectly, that dry cell batteries will not leak (16 CFR 403.5). The Rule further provides that in the event any person develops a new dry cell battery that he believes is in fact leakproof, he may apply to the Commission for an

amendment to the rule, or other appropriate relief (16 CFR 403.6).

The Commission conducted an informal review of industry practices by examining the advertising, labeling and marketing of dry cell batteries available for retail sale. This review revealed no representations that the batteries were leakproof. The Commission's review, therefore, indicated general compliance with the Rule's provisions. Moreover, the Commission has no record of receiving any complaints regarding non-compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule.

Additionally, the Commission's review indicated general voluntary compliance by the industry with the requirements of American National Standards Institute ("ANSI") Standard C18.1M-1992 Dry Cells and Batteries—Specifications. The ANSI standard contains specifications for dry cell batteries, and requirements for labeling the products and their packages. The ANSI standard requires the following information to be printed on the outside of each battery (when necessary, the standard permits some of this information to be applied to the unit package): (1) The name or trade name of the manufacturer; (2) the ANSI/National Electronic Distributors Association number, or some other identifying designation; (3) year and month, week or day of manufacture, which may be a code, or the expiration of a guarantee period, in a clear readable form; (4) the nominal voltage; (5) terminal polarity; and (6) warnings or cautionary notes where applicable. See section 8.1 of ANSI Standard C18.1M-1992.

The ANSI standard recommends that dry cell battery manufacturers and sellers include on their products and packages several battery user guidelines and warnings that are relevant to this proceeding. They are: (1) Although batteries basically are trouble-free products, conditions of abuse or misuse can cause leakage; (2) failure to replace all batteries in a unit at the same time may result in battery leakage; (3) mixing batteries of various chemical systems, ages, applications, types or manufacturers may result in poor device performance and battery leakage; (4) attempting to recharge a non-rechargeable battery is unsafe because it could cause leakage; (5) reverse insertion of batteries may cause charging, which may result in leakage; (6) devices that operate on either household current or battery power may subject batteries to a charging current, which may cause leakage; (7) do not store batteries or battery-powered equipment in high-temperature areas;

## **FEDERAL TRADE COMMISSION**

### **16 CFR Part 403**

#### **Deceptive Use of "Leakproof," "Guaranteed Leakproof," Etc., As Descriptive of Dry Cell Batteries**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule; removal.

**SUMMARY:** The Federal Trade Commission (the "FTC" or "Commission") announces the repeal of the Trade Regulation Rule on Deceptive