

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 removing Amendment 39–13329 (68 FR 58581, October 10, 2003), and by adding a new airworthiness directive (AD), Amendment 39–13839, to read as follows:

#### 2004–22–11 Eurocopter Deutschland

**GmbH:** Amendment 39–13839. Docket No. 2003–SW–39–AD. Supersedes AD 2003–20–11, Amendment 39–13329, Docket No. 2003–SW–08–AD.

**Applicability:** Model EC135 P1, P2, T1, and T2 helicopters, with main rotor drive aluminum torque strut assembly (strut), part number (P/N) L633M1001 103 or L633M1001 105, installed, certificated in any category.

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

To prevent failure of the strut and subsequent loss of control of the helicopter, do the following:

(a) Before further flight, insert a copy of this AD or insert a statement into the Emergency Procedures Section of the Rotorcraft Flight Manual (RFM) to inform the pilot to reduce power and land as soon as practicable if a thump-like sound followed by an unusual vibration occurs during flight.

(b) Before the first flight of each day, using a light and mirror, inspect each aluminum strut for a crack or a break by following the Accomplishment Instructions, paragraph 3.B. of Eurocopter Alert Service Bulletin EC135–63A–002, Revision 4, dated July 7, 2003 (ASB). Replace any cracked or broken strut with a new titanium strut, P/N L633M1001 104, before further flight.

(c) Within the next 100 hours time-in-service (TIS), for each aluminum strut with 400 or more hours TIS, replace each aluminum strut with a titanium strut, P/N L633M1001 104.

(d) This AD revises the Airworthiness Limitations section of the maintenance manual by reducing the retirement life of each aluminum strut, P/N L633M1001 103 and L633M1001 105, to 500 total hours TIS or retiring them no later than December 31, 2004, whichever comes first.

(e) The aluminum struts must be replaced with titanium struts in pairs and at the same time. Installing one aluminum strut and one titanium strut is not authorized. After installing titanium struts, recalculate the weight and balance using 0.356kg as the weight and 1498.76kgmm as the moment for both titanium struts.

**Note 1:** The once-only transferring and remarking of certain aluminum struts provided in the superseded AD are no longer authorized.

(f) Replacing aluminum struts, P/N L633M1001 103 and L633M1001 105, with titanium struts, P/N L633M1001 104, constitutes terminating action for the requirements of this AD. Titanium struts have no life limit.

(g) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group for information about previously approved alternative methods of compliance.

(h) The inspections shall be done in accordance with Eurocopter Alert Service Bulletin EC135–63A–002, Revision 4, dated July 7, 2003. The Director of the Federal Register approved the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(i) This amendment becomes effective on December 7, 2004.

**Note 2:** The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 2001–107/3, dated August 21, 2003.

Issued in Fort Worth, Texas, on October 22, 2004.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 04–24226 Filed 11–1–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2004–18728; Directorate Identifier 2003–NM–176–AD; Amendment 39–13838; AD 2004–22–10]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Model 747–400 and –400F Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 747–400 and –400F series airplanes. This AD requires a detailed inspection(s) for cracks and fractures of the side guide support fittings in the lower lobe cargo compartments; and applicable investigative/corrective actions and operational limitations, if necessary. This AD also requires a terminating action for the repetitive inspections. This AD is prompted by reports of cracked/fractured side guide support fittings in the aft, lower lobe cargo compartment. We are issuing this AD to prevent cracked/fractured side guide support fittings in the lower lobe cargo compartments, which could result in unrestrained cargo shifting in flight and damaging the airplane structure or systems, and consequent reduced controllability of the airplane.

**DATES:** This AD becomes effective December 7, 2004.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of December 7, 2004.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

*Technical information:* Ivan Li,

Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6437; fax (425) 917-6590.

Plain language information: Marcia Walters, *marcia.walters@faa.gov*.

**Examining the Docket**

The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on

the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 747-400 and "400F series airplanes. That action, published in the **Federal Register** on August 6, 2004 (69 FR 47811), proposed to require a detailed inspection(s) for cracks and fractures of the side guide support fittings in the lower lobe cargo compartments; and applicable investigative/corrective actions and operational limitations, if necessary. That action also proposed to require a terminating action for the repetitive inspections.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

**Conclusion**

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Costs of Compliance**

There are about 22 airplanes of the affected design worldwide. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle. Assembly replacement.	5	\$65	None .....	\$325, per inspection cycle.	3	\$975, per inspection cycle.
	25	\$65	\$3,402 .....	\$5,027 .....	3	\$15,081.

**Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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 this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this 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, Incorporation by reference, Safety.

**Adoption of the Amendment**

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

**2004-22-10 Boeing:** Amendment 39-13838. Docket No. FAA-2004-18728; Directorate Identifier 2003-NM-176-AD.

**Effective Date**

(a) This AD becomes effective December 7, 2004.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 747-400 and "400F series airplanes, certificated in any category; as listed in Boeing Alert Service Bulletin 747-25A3335, dated July 3, 2003.

**Unsafe Condition**

(d) This AD was prompted by reports of cracked/fractured side guide support fittings in the aft, lower lobe cargo compartment. We are issuing this AD to prevent cracked/fractured side guide support fittings in the lower lobe cargo compartments, which could result in unrestrained cargo shifting in flight and damaging the airplane structure or systems, and consequent reduced controllability of the airplane.

**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.

**Inspection, Investigative/Corrective Actions, and Operational Limitations**

(f) At the applicable time(s) specified in Table 1 of this AD, do a detailed inspection(s) of the side guide support fittings in the lower lobe cargo compartments for cracks and fractures, and before further flight, do all applicable investigative/corrective actions and operational limitations, if necessary, by accomplishing all the actions specified in Work Package 1 and Work Package 2 of the Work Instructions of Boeing Alert Service Bulletin 747-25A3335, dated July 3, 2003; except as required by paragraph (g) of this AD. Replacement of all outboard roller assemblies with new assemblies in accordance with Work Package 2 of the service bulletin ends the repetitive inspections required by paragraph (f)(1) of this AD (Work Package 1).

TABLE 1.—COMPLIANCE TIMES

For—	Initial compliance time—	Repetitive interval—
(1) Work Package 1 .....	Within 180 days after the effective date of this AD.	At intervals not to exceed 180 days, until all outboard roller assemblies have been replaced per Work Package 2 of the service bulletin.
(2) Work Package 2 .....	Within 18 months after the effective date of this AD.	None.

**Note 1:** For the purposes of this AD, a detailed inspection is “an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirrors magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required.”

**Note 2:** Boeing Alert Service Bulletin 747–25A3335 refers to Goodrich Alert Service Bulletin 65B60176–25-A01, dated March 3, 2003, as an additional source of service information for replacing the outboard roller assemblies.

#### Alternative Methods of Compliance (AMOCs)

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

#### Material Incorporated by Reference

(h) You must use Boeing Alert Service Bulletin 747–25A3335, dated July 3, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW, room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on October 21, 2004.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 04–24227 Filed 11–1–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Parts 10 and 178

[CBP Dec. 04–36]

RIN 1505–AB32

#### Prototypes Used Solely for Product Development, Testing, Evaluation, or Quality Control Purposes

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs and Border Protection Regulations in order to establish rules and procedures under the Product Development and Testing Act of 2000 (PDTA). The purpose of the PDTA is to promote product development and testing in the United States by allowing the duty-free entry of articles, commonly referred to as prototypes, that are to be used exclusively in product development, testing, evaluation or quality control. The final regulations set forth the procedures for both the identification of those prototypes properly entitled to duty-free entry, as well as the permissible sale of such prototypes, following use in the United States, as scrap, waste, or for recycling.

**EFFECTIVE DATE:** This final rule is effective on December 2, 2004.

**FOR FURTHER INFORMATION CONTACT:** Richard Wallio, Office of Field Operations, 202–344–2556.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Product Development and Testing Act of 2000 (PDTA) was enacted on November 9, 2000, as part of the Tariff Suspension and Trade Act of 2000 (Act) (Pub. L. 106–476). The provisions of the PDTA are found in sections 1431–1435 of the Act.

The purpose of the PDTA, as set forth in section 1432(b) of the Act, is to

promote product development and testing in the United States by allowing the importation on a duty-free basis of articles commonly referred to as “prototypes” that are to be used exclusively for product development, testing, evaluation or quality control.

Until the enactment of the PDTA, prototype articles had generally been subject to customs duty when imported, unless the articles were eligible for duty-free treatment under a special trade program, such as the North American Free Trade Agreement (NAFTA) (19 U.S.C. 3301 *et seq.*), or unless they were entered under a temporary importation bond (TIB) (subheading 9813.00.30, Harmonized Tariff Schedule of the United States (HTSUS)). Furthermore, the value of these prototypes had to be included in the dutiable value of any imported production merchandise that resulted from the same design and development efforts to which the prototype articles themselves were dedicated. In effect, duty on a prototype good was assessed twice, once when the prototype was imported and a second time as part of the dutiable value of the related imported production merchandise.

Consequently, to expedite and encourage the use of prototypes in the United States, section 1433 of the Act amended the Harmonized Tariff Schedule of the United States (HTSUS) by inserting a new subheading 9817.85.01 in subchapter XVII of chapter 98, HTSUS, to provide for the duty-free entry of prototype articles. Section 1433 of the Act also included a new U.S. Note 6 in subchapter XVII of chapter 98, HTSUS, to define the term “prototypes” as used in HTSUS subheading 9817.85.01.

#### CBP Rulemaking

By a document published in the **Federal Register** (67 FR 10636) on March 8, 2002, Customs (which has been renamed Customs and Border Protection (CBP) after being transferred to the Department of Homeland Security) proposed to amend the Customs Regulations (now the CBP Regulations) to add a new § 10.91, in accordance with the requirements of the