

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.

#### Special Flight Permits

(e) 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 April 12, 2001.

**Donald L. Riggins,**

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

[FR Doc. 01-9668 Filed 4-18-01; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NM-337-AD]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes

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

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

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD-11 series airplanes, that currently requires a revision of the Airplane Flight Manual to alert the flightcrew that both flight management computers (FMC) must be installed and operational. This action would require an inspection to verify if a certain modification is on the front and rear identification plates of the FMC's; and applicable follow-on and corrective actions. This proposal is prompted by the FAA's determination that further rulemaking action is necessary to ensure that all affected airplanes are inspected for suspected defective multiplexers. The actions specified by the proposed AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses.

**DATES:** Comments must be received by June 4, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2000-NM-337-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. 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. Comments sent via fax or the Internet must contain "Docket No. 2000-NM-337-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 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5350; fax (562) 627-5210.

#### 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 2000-NM-337-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. 2000-NM-337-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

On July 10, 1998, the FAA issued AD 98-15-14, amendment 39-10665 (63 FR 38464, July 17, 1998), applicable to certain McDonnell Douglas Model MD-11 series airplanes, to require a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC) must be installed and operational. That action was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. The requirements of that AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses.

#### Actions Since Issuance of Previous Rule

In the preamble of AD 98-15-14, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

## Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11-34-085, Revision 01, dated September 20, 1999, which describes procedures for an inspection to verify if modification "AS" is on the front and rear identification plates of FMC-1 and FMC-2, and applicable follow-on and corrective actions. The follow-on actions include test(s) of the FMC in the flight compartment to ensure that a certain modification is operational, and applicable corrective actions, if necessary. The corrective actions include installation of new software; reidentification of FMC-1 and FMC-2 as 4059050-912; and installation of modification "AS." Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

## Explanation of Requirements of Proposed Rule

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 supersede AD 98-15-14 to continue to require a revision of the AFM to alert the flightcrew that both FMC's must be installed and operational. The proposed AD also would require accomplishment of the actions specified in the service bulletin described previously, which would allow the AFM revision to be removed from the AFM.

## Cost Impact

There are approximately 174 Model MD-11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 98-15-14, and retained in this proposed AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be \$3,540, or \$60 per airplane.

The new actions that are proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be \$3,540, or \$60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of

the current or 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.

## 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 removing amendment 39-10665 (63 FR 38464, July 17, 1998), and by adding a new airworthiness directive (AD), to read as follows:

**McDonnell Douglas:** Docket 2000-NM-337-AD. Supersedes AD 98-15-14, Amendment 39-10665.

**Applicability:** Model MD-11 series airplanes, manufacturer's fuselage numbers 0447 through 0552 inclusive, and 0554 through 0621 inclusive; certificated in any category.

**Note 1:** This AD applies to each airplane 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 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 (e) 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 loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality, and consequent failure of the data busses, accomplish the following:

## Restatement of Requirements of AD 98-15-14

### Airplane Flight Manual (AFM) Revision

(a) Within 5 days after May 20, 1998 (the effective date of AD 98-10-01, amendment 39-10512), revise Section 1, page 5-1, of the Limitations Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

"Prior to dispatch of the airplane, both Flight Management Computer 1 (FMC-1) and FMC-2 must be installed and operational."

## New Actions Required by This AD

### Inspection

(b) Within 90 days after the effective date of this AD, do an inspection to verify that modification "AS" is on the front and rear identification plates of flight management computer 1 (FMC-1) and FMC-2, per McDonnell Douglas Service Bulletin MD11-34-085, Revision 01, dated September 20, 1999. After the inspection has been done, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

## Condition 1 (Modification "AS" Is Installed)

(c) If modification "AS" is found installed during the inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD, per McDonnell Douglas Service Bulletin MD11-34-085, Revision 01, dated September 20, 1999.

(1) Do a test of the FMC's in the flight compartment to ensure that modification "AS" is operational, and do applicable corrective actions, if necessary. Both FMC's must have modification "AS" installed and

pass the test before loading new software per paragraph (c)(2) of this AD.

(2) Install new software and reidentify FMC-1 and FMC-2 as 4059050-912.

**Note 2:** McDonnell Douglas Service Bulletin MD11-34-085, Revision 01, dated September 20, 1999, references Honeywell Service Bulletin 4059050-34-6020, Revision 1, dated April 30, 1999, as an additional source of service information for the installation and reidentification requirements of paragraphs (c)(2) and (d)(2) of this AD.

#### Condition 2 (Modification "AS" Is Not Installed)

(d) If modification "AS" is NOT found installed during the inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD per McDonnell Douglas Service Bulletin MD11-34-085, Revision 01, dated September 20, 1999.

(1) Remove FMC-1 and FMC-2.

(2) Install modification "AS" and new software, and reidentify FMC-1 and FMC-2 as 4059050-912.

(3) Install modified and reidentified FMC-1 and FMC-2.

#### Alternative Methods of Compliance

(e) 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 (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

#### Special Flight Permits

(f) 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 April 12, 2001.

**Donald L. Riggins,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 01-9667 Filed 4-18-01; 8:45 am]

**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 41 and 140

**RIN 3038-AB81**

#### Exemption for Certain Brokers or Dealers from Provisions of the Commodity Exchange Act and CFTC Regulations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rules and request for comment.

**SUMMARY:** In accordance with certain provisions of the Commodity Futures Modernization Act of 2000 ("CFMA"), the Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to adopt a new rule establishing procedures for granting orders exempting certain brokers or dealers ("BDs") registered with the Securities and Exchange Commission ("SEC") from provisions of the Commodity Exchange Act (the "Act") and/or the Commission's regulations where the Commission determines that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. The Commission is also requesting comments regarding particular provisions of the Act and Commission rules from which BDs should be exempted by rule (in addition to the specific exemptive provisions of the CFMA).

**DATES:** Comments must be received by May 21, 2001.

**ADDRESSES:** Comments on the proposed rules may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Exemption for Certain Brokers or Dealers from Provisions of the Commodity Exchange Act and CFTC Regulations."

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Associate Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581, telephone number: (202) 418-5450, facsimile number: (202) 418-5536, electronic mail: [lpatent@cftc.gov](mailto:lpatent@cftc.gov), or [ccummings@cftc.gov](mailto:ccummings@cftc.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

The CFMA, signed into law on December 21, 2000, effected, among other things, removal of the restriction in the Commodity Exchange Act (the "Act")<sup>1</sup> on the trading of futures contracts on individual equity securities and narrow-based indices of equity securities.<sup>2</sup> Under the revised law, security futures products<sup>3</sup> may be traded on a designated contract market or on a registered derivatives transaction execution facility ("DTF").<sup>4</sup>

Section 4d of the Act provides that any person who engages in soliciting or accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any designated contract market or DTF—e.g., for a security futures product—must be registered with the Commission as: (1) a futures commission merchant ("FCM"), if it also accepts any money, securities, or property, or extends credit in lieu thereof, to margin, guarantee, or secure futures contracts; or (2) an introducing broker ("IB") if it does not accept money or other property to margin, guarantee or secure futures contracts.<sup>5</sup> Section 4f(a)(1) of the Act provides that application for registration as an FCM or IB "shall be made in such form and manner as prescribed by the Commission."<sup>6</sup> Pursuant to this

<sup>1</sup> 7 U.S.C. 1 et seq., as amended by Pub. L. No. 106-554, 114 Stat. 2763 (2000). The text of the CFMA may be accessed on the Internet at <http://agriculture.house.gov/txt5660.pdf>.

<sup>2</sup> See Section 251(a) of the CFMA. This trading previously had been prohibited by Section 2(a)(1)(B)(v) of the CEA.

<sup>3</sup> The term "security futures product" is defined in Section 1a(32) of the CEA to mean "a security future or any put, call, straddle, option, or privilege on any security future." The term "security future" is defined in Section 1a(31) of the CEA. Because the CFMA also provides that options on security futures cannot be traded until December 21, 2003 at the earliest, security futures are the only security futures product that may be available for trading during the next 32 months.

<sup>4</sup> The CFMA also specifically prescribes certain dates on which security futures trading can commence. Specifically, principal-to-principal transactions between institutions cannot commence until August 21, 2001, and retail transactions cannot commence until December 21, 2001. Both starting dates are conditioned upon the registration of a futures association (i.e., National Futures Association ("NFA")) as a limited purpose national securities association under the Securities Exchange Act of 1934 ("34 Act"). Section 202(a) of the CFMA; Section 6(g)(5) of the '34 Act.

<sup>5</sup> See Sections 1a(20) and (23) of the CEA, which define the terms "futures commission merchant" and "introducing broker," respectively.

<sup>6</sup> Prior to the enactment of the CFMA, this provision was found in Section 4f(a) of the CEA. The CFMA (at Section 252(b)) amended Section 4(f) by redesignating paragraph (a) as paragraph (a)(1) and by adding new paragraphs (a)(2) and (a)(3) (Section 252(b)(2) of the CFMA) and (a)(4) (Section 252(c) of the CFMA).