DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–172–AD; Amendment 39–13033; AD 2003–03–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes. This AD requires a one-time inspection of the single-phase remote control circuit breaker(s) (RCCBs) in a certain area of the electrical/electronic (E/E) compartment to determine the part number and serial number of the RCCB(s), and replacement of certain RCCBs with new or serviceable RCCBs, if necessary. This action is necessary to prevent failure of an RCCB to trip during an overload condition due to a defective braze joint in the RCCB latch assembly, which could result in overheating of the RCCB load wire, and consequent smoke and possible fire in the E/E compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 7, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 2003.

ADDRESSES: The service information referenced in this AD 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on October 1, 2002 (67 FR 61569). That action proposed to require a one-time inspection of the single-phase remote control circuit breaker(s) (RCCBs) in a certain area of the electrical/electronic (E/E) compartment to determine the part number and serial number of the RCCB(s), and replacement of certain RCCBs with new or serviceable RCCBs, if necessary.

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.

Cost Impact

There are approximately 86 Model MD–90–30 airplanes of the affected design in the worldwide fleet. We estimate that 21 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $1,260, or $60 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. 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 adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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:

2003–03–09 McDonnell Douglas: Amendment 39–13033. Docket 2001–NM–172–AD.

Applicability: Model MD–90–30 airplanes as listed in McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, dated February 23, 2001; 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 (b) 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 failure of a remote control circuit breaker (RCCB) to trip during an overload condition due to a defective braze joint in the RCCB latch assembly, which could result in overheating of the RCCB load wire, and consequent smoke and possible fire in the electrical/electronic (E/E) compartment of the airplane, accomplish the following:

Inspection and Replacement, If Necessary

(a) Within 6 months after the effective date of this AD, perform a one-time inspection of the single-phase RCCB or RCCBs, as applicable, at station Y=120.050 in the E/E compartment of the airplane to determine the part number and serial number of the RCCB(s), per the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, excluding Evaluation Form, dated February 23, 2001.

(1) If an RCCB has a part number that is not listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable: No further action is required by this AD for that RCCB. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

(2) If an RCCB has a part number that is listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable, and the corresponding serial number is not identified in that table: No further action is required by this AD for that RCCB. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

(3) If an RCCB has a part number that is listed in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable; and the corresponding serial number is identified in that table: Before further flight, replace the RCCB with a new or serviceable RCCB per the Accomplishment Instructions of the service bulletin. The replacement RCCB must have the same part number as the part being replaced, and a serial number that is not identified in Table 1, Figure 1, or Table 2, Figure 2, of the service bulletin, as applicable. It is not necessary to report findings to Boeing by completing the form in the Appendix of the service bulletin.

Alternative Methods of Compliance

(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 (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 2: 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

(c) 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.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A053, Revision 01, excluding Evaluation Form, dated February 23, 2001. 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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on March 7, 2003.

Issued in Renton, Washington, on January 22, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–1953 Filed 1–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 92N–0297]

RIN 0905–AC81

Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is further delaying, until April 1, 2004, the effective date of certain requirements of a final rule published in the **Federal Register** of December 3, 1999 (64 FR 67720). In the **Federal Register** of May 3, 2000 (65 FR 25639), the agency delayed until October 1, 2001, the effective date of certain requirements in the final rule relating to wholesale distribution of prescription drugs by distributors that are not authorized distributors of record, and distribution of blood derivatives by entities that meet the definition of a ''health care entity'' in the final rule. The agency further delayed the effective date of these requirements in two subsequent **Federal Register** documents. Most recently, in the **Federal Register** of February 13, 2002 (67 FR 6645), FDA delayed the effective date until April 1, 2003. This action further delays the effective date of these requirements until April 1, 2004. The final rule implements the Prescription Drug Marketing Act of 1987 (PDMA), as modified by the Prescription Drug Amendments of 1992 (PDA), and the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The agency is taking this action to address concerns about the requirements raised by affected parties.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(3)(A). Alternatively, the agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(3)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. As explained in the **SUPPLEMENTARY INFORMATION** section, FDA has prepared a report for Congress and concluded that although FDA can address some of industry's concerns with the PDMA regulation through regulatory changes, other concerns would have to be addressed by Congress through legislative action. The further delay is necessary to give Congress additional time to consider the information and conclusions contained in the agency's report, and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

DATES: The effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities, added at 64 FR 67720, December 3, 1999, is delayed until April 1, 2004. Submit written or electronic comments by April 1, 2003.