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 runaway of the autothrottle during flight or ground operations, which could distract the crew from normal operation of the airplane or lead to an unintended speed or altitude change, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace the thrust management computer with a new thrust management computer in the E1–3 shelf in the main equipment center, in accordance with the Boeing Alert Service Bulletin 757–22A0052, dated May 30, 1996 (for Model 757 series airplanes), or Boeing Alert Service Bulletin 767–22A0097, dated May 30, 1996 (for Model 767 series airplanes), as applicable.

(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, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(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.

Issued in Renton, Washington, on August 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22013 Filed 8–28–96; 8:45 am]

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14 CFR Part 39

[Docket No. 96–NM–135–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, and –40 Series Airplanes, and KC–10 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –30 and –40 series airplanes, and KC–10 (military) series airplanes. This proposal would require repetitive high frequency eddy current (HFEC) inspections to detect cracks in the number 4 banjo fitting on the rear spar of the vertical stabilizer, and repair and modification of the vertical stabilizer, if necessary. It also would require the installation of a modification as terminating action for the repetitive inspections. This proposal is prompted by reports of failed attach bolts and cracking found in the area of the number 4 banjo fitting, which were caused by higher than normal operating stresses. The actions specified by the proposed AD are intended to prevent reduction in the structural integrity of this fitting due to failed bolts and cracking. This condition, if not corrected, could ultimately lead to reduced controllability of the airplane during flight and ground operations.

DATES: Comments must be received by October 7, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–135–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.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5224; fax (310) 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 notice may be changed in light of the comments received.

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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–135–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–103, Attention: Rules Docket No. 96–NM–135–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of failure of the bolts that connect the lower web of the pylon of the number 2 tail engine to the number 4 banjo fitting on the rear spar of the vertical stabilizer on McDonnell Douglas Model DC–10 series airplanes. Such failures occurred on airplanes that had been operated for 10,300 to 16,000 total flight hours, and had made 4,400 to 7,000 landings. In addition, an operator found a crack in the aft flange of the number 4 banjo fitting; this airplane had been operated for 48,500 total flight hours and had made 10,418 landings. These discrepancies have been attributed to higher than normal stresses on the airplane in this area of the number 4 banjo fitting, resulting from excessive maneuvers, excessive turbulence, and hard landings. Such discrepancies, if not corrected, could result in a reduction in the structural integrity of the number 4 banjo fitting and, ultimately, could lead to reduced controllability of the airplane during flight and ground operations.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996, which describes procedures for conducting repetitive high frequency eddy current (HFEC) inspections of the upper and lower surface of the aft flange of the number 4 banjo fitting on the rear spar of the vertical stabilizer; procedures for repairs; if necessary; and procedures for modification of the vertical stabilizer in the vicinity of such fitting. The repairs and modification entail trimming of parts; replacing angles, shields, and spacers; and modifying the fireseal. These actions will reduce the loads being transmitted from the pylon of the number 2 tail engine to the rear spar of the vertical stabilizer; such reduction of loads will minimize the possibility of bolt failure and cracking of the flange of the number 4 banjo fitting. Accomplishment of the repairs and modification eliminates the need for repetitive HFEC inspections of this area.

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 require repetitive HFEC inspections of the upper and lower surfaces of the aft flange of the number 4 banjo fitting on the rear spar of the vertical stabilizer. If cracks are detected, repairs and modification of the vertical stabilizer in the vicinity of the number 4 banjo fitting would be required; accomplishment of these actions would terminate the requirement for repetitive HFEC inspections. This AD also would require that the modification be installed eventually on all airplanes as terminating action for the repetitive HFEC inspections. These actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 376 Model DC–10–10, –30 and –40 series airplanes and KC–10 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 230 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish each proposed inspection; the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection requirement on U.S. operators of airplanes is estimated to be $27,600, or $120 per airplane, per inspection.

It would take approximately 34 hours to accomplish the proposed modification that would terminate the requirement for repetitive HFEC inspections. Required parts to accomplish such modification would cost approximately $3,875 per airplane for ''Group 1'' airplanes, as listed in the service bulletin; and approximately $3,427 per airplane for ''Group 2'' airplanes, as listed in the service bulletin. Based on these figures, the cost impact of the proposed modification requirement on U.S. operators is estimated to be $5,915 per Group 1 airplane and $5,467 per Group 2 airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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 adding the following new airworthiness directive:

McDonnell Douglas: Docket 96–NM–135–AD.

Applicability: Model DC–10–10, –30, and –40 series airplanes, and KC–10 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996; 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 reduction in the structural integrity of the number 4 banjo fitting on the rear spar of the vertical stabilizer, which could ultimately result in a reduction in the ability to control the airplane during flight and ground operations, accomplish the following:

(a) Prior to the accumulation of 5,000 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection to detect cracks in the upper and lower surface of the aft flange of the number 4 banjo fitting on the rear spar of the vertical stabilizer, in accordance with McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996.

(1) If no crack is found, repeat the HFEC inspection thereafter at intervals not to exceed 1,500 landings.

(2) If any crack is found, prior to further flight, repair the crack and install the modification in accordance with the service bulletin.

(b) Within 5 years after the effective date of this AD, modify the vertical stabilizer in the area of the number 4 banjo fitting on the rear spar, in accordance with McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996. Accomplishment of this modification constitutes terminating action for the repetitive HFEC inspections required by paragraph (a)(1) of this AD.

(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, Los Angeles 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, 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.

(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.

Issued in Renton, Washington, on August 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–22011 Filed 8–28–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 53

[Notice No. 836]

RIN 1512–AB49

Firearms and Ammunition Excise Taxes, Parts and Accessories

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend regulations in 27 CFR Part 53, relating to the manufacturers excise tax on firearms and ammunition. Pursuant to 26 U.S.C. 4181, a tax is imposed on the sale by the manufacturer, importer or producer of pistols, revolvers, firearms (other than pistols and revolvers) shells, and cartridges. The tax is 10 percent of the sale price for pistols and revolvers, 11 percent of the sale price for firearms (other than pistols and revolvers) and 11 percent of the sale price for shells and cartridges. Current regulations provide that no tax is imposed by section 4181 of the Internal Revenue Code on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm. This notice proposes regulations to clarify which parts and accessories must be included in the sale price when calculating the tax on firearms.

DATES: Written comments must be received on or before November 27, 1996.

ADDRESSES: ATF, P.O. Box 50221, Washington, DC 20091–0221.

FOR FURTHER INFORMATION CONTACT: Tamara Light, Regulations Branch, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for collecting the firearms and ammunition excise tax imposed by section 4181. The Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. § 669 et seq., requires that an amount equal to all of the revenue collected under section 4181 be covered into the Federal aid to wildlife restoration fund. The fund is apportioned to the States for hunter safety programs, maintenance of public target ranges, and wildlife and wetlands conservation. It is important that the correct amount of Federal excise tax imposed by section 4181 be collected in order to fund these programs.

The current regulation provides that no tax is imposed by section 4181 of the Internal Revenue Code on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm. This regulation was at issue in *Auto-Ordnance Corp.* versus *United States*, 822 F.2d 1566 (Fed. Cir. 1987). In this case a manufacturer of firearms sued to recover excise taxes paid on sights and compensator units sold with rifles it manufactured. The manufacturer claimed that these parts were nontaxable accessories which should not be included in the taxable sale price of the rifles. The Internal Revenue Service (IRS), the agency responsible for administering the tax on firearms at that time, contended that the sights and compensator units were component parts of the rifles which must be included in the taxable sale price.

The court noted that the position of the IRS that all component parts of a ''commercially complete'' firearm must be included in the sale price was a concept that was not found in the regulations. Since the regulations did not specify which parts are component parts of a firearm nor define the term ''accessories,'' the court found that it was appropriate to look beyond the language of the regulation. The court discussed several dictionary definitions of the term ''accessories'' as well as tariff and customs classification cases. The court then held that the sights and compensator units were nontaxable accessories, since they were readily removable and of secondary or subordinate importance to the function of the firearm.

After taking over the administration of the firearms and ammunition excise tax from the IRS in 1991, ATF has issued numerous rulings on parts and accessories. ATF has found it increasingly difficult to apply the regulation on parts and accessories as interpreted by the court in *Auto-Ordnance*. For example, the ''secondary or subordinate importance'' test is difficult to apply to parts which are essential for the safe operation of the firearm. Arguably, such parts are essential to the function of the firearm and should be included in the taxable sale price. However, if such parts are not needed to fire the firearm, it is possible that a Federal court, applying the rationale of *Auto-Ordnance*, would hold that such parts are nontaxable accessories.

ATF proposes to amend the regulations relating to parts and accessories to provide definitions for ''component parts'' which must be included in the taxable sale price and ''nontaxable parts'' and ''nontaxable accessories'' which are excluded from the taxable sale price. The purpose of these definitions is to reinstate the long-standing ''commercial completeness'' test of the IRS in a manner which will withstand judicial scrutiny. The effect of the proposals will be to replace the readily removable/essential to the function test of the *Auto-Ordnance* case with a more objective, predictable standard to use in determining whether items sold with a firearm are includible in the tax basis.

It is possible that the proposed regulations will result in increased tax liability for some taxpayers. However, the more precise definitions should help taxpayers accurately calculate the taxable sale price of their firearms and avoid underpayments, penalties, and interest.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking, because the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities, or impose or otherwise cause, an increase in the reporting, recordkeeping or other compliance burdens on a