

Issued in Renton, Washington, on August 7, 2009.

Stephen P. Boyd,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0686; Directorate Identifier 2009-NM-044-AD]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model MD-11 and MD-11F airplanes. This proposed AD would require a one-time inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank and marking the location, if necessary; a one-time inspection of all wire bundles above the center upper auxiliary fuel tank for splices and damage; a one-time inspection for damage to the fuel vapor barrier seal and upper surface of the center upper auxiliary fuel tank; and corrective actions, if necessary. This proposed AD would also require installation of nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by October 5, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; e-mail dse.boecom@boeing.com; Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5262; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2009-0686; Directorate Identifier 2009-NM-044-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

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Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled “Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements” (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (“SFAR 88,” Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination

with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

We have received a report that wire bundles routed above the center upper auxiliary fuel tank are in close proximity to the upper surface of the tank on certain McDonnell Douglas Model MD-11 and MD-11F airplanes. In addition, some wire harness mounts may have loosened, allowing the wires to contact the tank. This condition may cause wire damage or chafing that can lead to possible arcing, sparking, and burn-through on the fuel tank upper surface, which can result in a fuel tank explosion.

Relevant Service Information

We have reviewed Boeing Service Bulletin MD11-28-126, Revision 1, dated June 18, 2009, which describes procedures for the following actions.

- A general visual inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank; and marking the location(s) where the wire bundle(s) contacts the upper surface of the center upper auxiliary fuel tank.
- A detailed inspection for splices and damage (such as chafing, arcing,

and broken insulation) of all wire bundles above the center upper auxiliary fuel tank, and corrective actions if necessary. The corrective actions include repairing or replacing damaged wires, and relocating any splice.

- A detailed inspection for damage (burn marks) on the upper surface of the center upper auxiliary fuel tank and fuel vapor barrier seal, and corrective actions if necessary. The corrective actions include repairing the vapor barrier seal and contacting Boeing for repair instructions and doing the repair.

- Installing nonmetallic barrier/shield sleeving to the wire harnesses, new clamps, new attaching hardware, and a new extruded channel, to raise the wire harnesses off the upper surface of the center upper auxiliary fuel tank.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions

specified in the service information described previously, except as discussed under "Differences Between Proposed AD and Service Information."

Differences Between Proposed AD and Service Information

Boeing Service Bulletin MD11-28-126, Revision 1, dated June 18, 2009, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by a Structures Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD would affect 111 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per product | Number of U.S.-registered airplanes | Fleet cost |
|--|------------------|-----------------------------|---------------------|----------------------|-------------------------------------|-----------------------------|
| Inspection/Installation ¹ . | 136 to 154 | \$80 | \$9,405 to \$12,201 | \$20,285 to \$24,521 | 111 | \$2,251,635 to \$2,721,831. |

¹ Depending on airplane configuration.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify 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. 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 AD:

McDonnell Douglas: Docket No. FAA-2009-0686; Directorate Identifier 2009-NM-044-AD.

Comments Due Date

(a) We must receive comments by October 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model MD-11 and MD-11F airplanes, certificated in any category, as identified in Boeing Service Bulletin MD11-28-126, Revision 1, dated June 18, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Within 60 months after the effective date of this AD: Do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), and (g)(5) of this AD, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD11-28-126, Revision 1, dated June 18, 2009, except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

(1) Do a general visual inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank, and mark the location, as applicable.

(2) Do a detailed inspection for splices and damage of all wire bundles above the center upper auxiliary fuel tank.

(3) Do a detailed inspection for damage (burn marks) on the upper surface of the center upper auxiliary fuel tank.

(4) Do a detailed inspection for damage (burn marks) on the fuel vapor barrier seal.

(5) Install nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel.

(h) If damage (burn marks) is found on the upper surface of the center upper auxiliary fuel tank during any inspection required by paragraph (g)(3) of this AD, and Boeing Service Bulletin MD11-28-126, Revision 1, dated June 18, 2009, specifies to contact Boeing for repair instructions: Before further flight, repair the auxiliary fuel tank using a method approved in accordance with the procedures specified in paragraph (j)(3) of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to Boeing Service Bulletin MD11-28-126, dated March

3, 2009, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5262; fax (562) 627-5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair of the center upper auxiliary tank required by this AD, if it is approved by a Structures Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on August 4, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF LABOR**Employment and Training Administration****20 CFR Parts 652, 661, 662, 663, 664 and 667****RIN 1205-AB46****Workforce Investment Act Amendments**

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Labor (DOL or Department) is announcing the withdrawal of the proposed rule that was published in the **Federal Register** on December 20, 2006 (71 FR 76558) relating to policy changes to the Workforce Investment Act and Wagner

Peyser Act Regulations. The Department no longer considers this proposed rule viable for final action at this time.

DATES: Effective August 19, 2009, the Department withdraws the proposed rule published on December 20, 2006, at 71 FR 76558.

FOR FURTHER INFORMATION CONTACT:

Thomas M. Dowd, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5641, Washington, DC 20210, telephone: (202) 693-3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

The Workforce Investment Act (WIA) enacted in August 1998, reformed Federal job training programs and created a new, comprehensive workforce investment system. The legislation replaced the Job Training Partnership Act and amended the Wagner-Peyser Act. WIA authorization for appropriations expired on September 30, 2003. Although WIA reauthorization bills passed the House and the Senate, the reauthorization legislation was not enacted, and Congress continued to annually authorize and fund these programs through annual appropriations.

In the absence of reauthorizing legislation, the Department published a Notice of Proposed Rulemaking (NPRM) on December 20, 2006, to implement several policy changes to the Workforce Investment Act and Wagner-Peyser Act regulations. (71 FR 76558).

Subsequently, in February 2007, Congress enacted language in the revised Continuing Resolution (Pub. L. 110-5, sec. 20601(a)(4)), prohibiting the Department from finalizing or implementing any proposed regulations under the Workforce Investment Act until legislation reauthorizing the Act is enacted. The prohibition has been reenacted annually, most recently in the Department of Labor Appropriations Act, 2009 (Pub. L. 111-8, Div. G, sec. 110).

II. Withdrawal of the Proposed Rule

The Department has decided to withdraw the proposed rule based upon the continuing Congressional prohibition against publishing a rule until the Workforce Investment Act is reauthorized. The Department notes,