

used if approved by the Manager, FAA, Rotorcraft Directorate, Rotorcraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

(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 helicopter to a location where the requirements of this AD can be accomplished.

(g) The identification and determination of the barrel dimensions shall be done in accordance with Bell Helicopter Textron, Inc. ASB No. 214-97-59 or Bell Helicopter Textron, Inc. ASB No. 214ST-97-78, both dated July 17, 1997. 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 Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280-3391, fax (817) 280-6466. 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 Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 30, 1998.

Issued in Fort Worth, Texas on November 4, 1998.

**Mark R. Schilling,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 98-30165 Filed 11-12-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98-NM-304-AD; Amendment 39-10889; AD 98-24-02]

RIN 2120-AA64

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

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD-11 series airplanes. This action requires a one-time inspection to identify the part numbers of two dimmer controls for the overhead

instrument panel light and circuit breaker lightplate located in the flight compartment. For airplanes on which a dimmer control having an incorrect part number is installed, this action also requires replacing the dimmer control with a new part; modifying and reinstalling the existing dimmer control; or reinstalling a dimmer control following modification of the part by the part manufacturer. This amendment is prompted by reports of smoke emitting from the overhead panels in the cockpit area. The actions specified in this AD are intended to prevent an electrical failure in the overhead dimmer control due to overheating of a printed circuit board capacitor in the dimmer control, which could result in rupture of the capacitor and smoke in the flight compartment.

**DATES:** Effective November 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 30, 1998.

Comments for inclusion in the Rules Docket must be received on or before January 12, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-304-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1-L51 (2-60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, 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:** Brett Portwood, Technical Specialist, Systems Safety and Integration, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5350; fax (562) 627-5210.

**SUPPLEMENTARY INFORMATION:** As part of its practice of re-examining all aspects of the service experience of a particular

aircraft whenever an accident occurs, the FAA has become aware of several incidents of dimmer switches overheating and emitting smoke. These incidents occurred on McDonnell Douglas Model MD-11 series airplanes.

Investigation has revealed that, when a need for higher lighting in the cockpit occurs (such as during a thunderstorm) and increased voltage is required, a strong burning odor could occur due to overheating of a capacitor within the dimmer unit. The dimmer unit is located in the overhead switch panel to the rear of the firewall shut off handles. This component is well protected by a unit housing and additional cover that separates the unit from other components in the cockpit overhead compartment.

There is no evidence from any of the in-service events that any overheated capacitor has led to further aircraft damage beyond the capacitor. These incidents are not considered to be related to a recent accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD-11 series airplane. The cause of that accident is still under investigation.

Overheating of a capacitor inside the dimmer controls of the overhead instrument panel light and circuit breaker lightplate in the cockpit could cause an electrical failure in the overhead dimmer control, and consequent rupture of the PCB capacitor and smoke in the flight compartment.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11-33-045, dated June 14, 1995, which describes the following procedures:

- Replacing any dimmer control, part number (P/N) 263-1, of the overhead instrument panel light and circuit breaker lightplate in the flight compartment with a new dimmer control, P/N 263-2.

- Modifying any dimmer control, P/N 263-1, of the overhead instrument panel light and circuit breaker lightplate to improve reliability and to extend the service life of dimmer controls by replacing one capacitor (C2) of the PCB assembly with a new, higher voltage capacitor that is more thermal resistant, reidentifying the existing dimmer control, and installing a new unit nameplate; and reinstalling the modified part.

- Returning the incorrect dimmer control, P/N 263-1, to the manufacturer of the part for modification and reidentification, and reinstalling the modified part.

Accomplishment of either the replacement or modification specified in the service bulletin is intended to adequately address the identified unsafe condition.

#### Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent an electrical failure in the overhead dimmer control due to overheating of a PCB capacitor in the dimmer control, which could result in rupture of the capacitor and smoke in the flight compartment. This AD requires a one-time visual inspection to identify the part numbers of two dimmer controls for the overhead instrument panel light and circuit breaker lightplate located in the flight compartment. For airplanes on which a dimmer control having a certain part number installed, this action also requires replacing the dimmer control with a new part; or replacing the existing dimmer control with a modified dimmer control.

The FAA has been notified by the manufacturer that a 30-day lead time for obtaining the required parts will be required, following the 30 days specified for inspection of the dimmer controls. The FAA considers that the 30-day lead time will accommodate the time necessary for affected operators to order and obtain the necessary parts required for the replacement of the dimmer controls, without adversely affecting safety.

#### Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be

amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-304-AD." The postcard will be date stamped and returned to the commenter.

#### Regulatory Impact

The regulations adopted herein will 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

**98-24-02 McDonnell Douglas:** Amendment 39-10889. Docket 98-NM-304-AD.

**Applicability:** Model MD-11 series airplanes, serial numbers 447 through 597 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 (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 an electrical failure in the dimmer control for the overhead instrument panel light and circuit breaker lightplate due to overheating of a printed circuit board (PCB) capacitor in the dimmer control, which could result in rupture of the capacitor and smoke in the flight compartment, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time visual inspection of the two dimmer controls for the overhead instrument panel light and circuit breaker lightplate located in the flight compartment to identify the part numbers of the dimmer controls.

(1) If all dimmer controls are identified as part number (P/N) 263-2, no further action is required by this AD.

(2) If any dimmer control is identified as P/N 263-1, within 30 days after accomplishing the inspection specified by paragraph (a) of this AD, accomplish the actions required by paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this AD, in accordance with McDonnell Douglas Service Bulletin MD11-33-045, dated June 14, 1995.

(i) Replace any dimmer control, P/N 263-1, with a new dimmer control, P/N 263-2. Or

(ii) Modify any dimmer control, P/N 263-1, and reinstall the modified and reidentified dimmer control in the flight compartment. Or

(iii) Remove any dimmer control, P/N 263-1; return it for modification and reidentification to Olin Aerospace Company, 11441 Willows Road NE, Redmond, Washington, 98073-9745; and reinstall the modified and reidentified dimmer control in the flight compartment.

(b) As of the effective date of this AD, no person shall install on any McDonnell Douglas Model MD-11 series airplane, a dimmer control, P/N 263-1, unless that dimmer control has been modified and reidentified to P/N 263-2 in accordance with McDonnell Douglas Service Bulletin MD11-33-045, dated June 14, 1995.

(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.

(e) Except as provided by paragraph (a) of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin MD11-33-045, dated June 14, 1995. 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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1-L51 (2-60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, 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.

(f) This amendment becomes effective on November 30, 1998.

Issued in Renton, Washington, on November 9, 1998.

**Vi L. Lipski,**

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

[FR Doc. 98-30531 Filed 11-12-98; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 201

[Release No. 34-40636; File No. S7-23-98]

### Rules of Practice

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules.

**SUMMARY:** The Securities and Exchange Commission is adopting amendments to its Rules of Practice, Rules 210 and 221. The Commission is amending Rule 210 to permit, for representatives of any federal, state, or local criminal prosecutorial authority, limited participation for the purpose of requesting a stay in an enforcement or disciplinary proceeding, in order to support efforts to bring criminal prosecutions arising out of securities violations. The Commission is amending Rule 221 to require only one prehearing conference, instead of two, as previously required, in order to streamline the administrative process and conserve the parties' and the Commission's resources.

**EFFECTIVE DATE:** December 14, 1998.

**FOR FURTHER INFORMATION CONTACT:** Joan L. Loizeaux, Principal Assistant General Counsel, or Kathleen O'Mara, Senior Counsel, Office of General Counsel, (202) 942-0950, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6-6, Washington, D.C. 20549.

### SUPPLEMENTARY INFORMATION:

#### I. Discussion

The Commission adopted, after notice and comment, comprehensive revisions to its Rules of Practice that became effective on July 24, 1995.<sup>1</sup> These revisions were the result of an approximately two-and-a-half year study by the Commission's Task Force on Administrative Proceedings that culminated in a comprehensive report.<sup>2</sup> The Task Force found that the fundamental structure of the Commission's administrative process was sound and successfully protected the essential interests of respondents, investors, and the public, but that some changes were necessary. The Task Force recommended changes to the Rules of Practice in an effort to set forth applicable procedural requirements

more completely, in a format easier to use, and to streamline procedures that had become burdensome.

In November 1997, the Commission's Inspector General issued a report evaluating the Commission's Administrative Proceedings Process in an attempt to assess the impact of the new Rules of Practice. The Inspector General recommended, among other things, that the Commission review Rules 210 and 221. The Commission reviewed these rules and proposed that the rules be changed as discussed below (and reflected in the text of the rules). The proposed rules were published for notice and comment on September 2, 1998 in the **Federal Register**.<sup>3</sup> No comments were received. The Commission is adopting these rules as proposed.

Rule 210 previously prohibited intervention or limited participation in Commission enforcement proceedings and in disciplinary proceedings to review self-regulatory organization determinations.<sup>4</sup> Prohibiting intervention or participation in these cases served the purpose of preventing extraneous issues from diverting administrative proceedings before the Commission and promoted timely and efficient resolution of all matters before the Commission.

In recent years, however, the Commission has received requests from representatives of various federal and local criminal prosecutors to participate in enforcement proceedings in order to request a stay of the Commission's proceedings during the pendency of a criminal investigation or prosecution based on the same or related underlying conduct. These authorities typically assert that substantial prejudice could result to a criminal prosecution if an administrative proceeding is not postponed.

The Commission supports efforts to bring criminal prosecutions arising out of securities violations. Accordingly, the Commission is adopting amendments to Rule 210 to allow authorized representatives of the United States Department of Justice, including any United States Attorney's Office, and of state and local prosecutors to seek leave to participate in a Commission enforcement or disciplinary proceeding for the limited purpose of requesting a

<sup>3</sup> Rules of Practice—Rules 210 and 221, Exchange Act Release No. 40364 (August 26, 1998), 63 FR 46716.

<sup>4</sup> Rule 210(f), however, allowed the Commission or a hearing officer to modify the provisions of Rule 210 to impose such terms and conditions on participation of any person in any proceeding as it may deem necessary or appropriate in the public interest.

<sup>1</sup> Final Rules of Practice, Exchange Act Release No. 35833, 60 FR 32738 (June 23, 1995).

<sup>2</sup> Task Force on Administrative Proceedings, Securities and Exchange Commission, Fair and Efficient Administrative Proceedings: Report of the Task Force (February 1993).