

commenter points out that similar inspections already are required by AD 91-26-09 (amendment 39-8122, (57 FR 789, January 9, 1992)) and AD 92-01-03 (amendment 39-8126, (57 FR 1076, January 10, 1992)). The commenter considers that these previously required actions already assure an adequate level of safety. The FAA does not concur. The previously issued AD's cited by the commenter require inspections for cracks of the interior and exterior tailcone release handles; replacement or modification of the cable and handle assemblies to terminate the inspections; and repetitive functional tests of the tailcone release system at certain intervals. The functional testing required by those AD's is similar, but not identical, to the inspection required by this AD. Further, the FAA considers that one or more successful functional operations of the assembly does not assure that the fitting is acceptable and will not jam at the next activation. For this reason, the FAA considers that the one-time inspection required by this AD is warranted prior to the eventual replacement or modification action.

This same commenter requests that the proposed compliance time of 36 months for replacement or modification of the fitting assembly be extended if ample parts are not available to accomplish these required actions. Based on the data available to date, the FAA does not consider such an extension to be necessary. The FAA has received no indication from the manufacturer that parts availability will be a problem. An ample number of required parts is expected to be available to modify the fleet within the 36-month compliance time. However, should an operator encounter a problem with obtaining required parts in a timely manner, it may request an adjustment of the compliance time under the provisions of paragraph (c) of the final rule.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that

provides for such approvals. A note has been added to this final rule to clarify this requirement.

Additionally, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from \$55 per work hour to \$60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,986 Model DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and Model C-9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,170 airplanes of U.S. registry will be affected by this AD.

The required inspection will take approximately 2 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the total cost impact of this action on U.S. operators is estimated to be \$140,400, or \$120 per airplane.

The required replacement or modification would take approximately 5 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$2,388 per airplane. Based on these figures, the total cost impact of this proposed action on U.S. operators is estimated to be \$3,144,960, or \$2,688 per airplane.

The total 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 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.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-02-02 McDonnell Douglas: Amendment 39-9121. Docket 94-NM-100-AD.

Applicability: Model DC-9 series airplanes, Model DC-9-80 (MD-80) series airplanes, Model MD-88 airplanes, and Model C-9 (military) airplanes; as listed in McDonnell Douglas DC-9 Service Bulletin 53-269, dated August 11, 1994; 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 use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the