

since the discrepant spar caps were installed on these airplanes.

Cracking of the spar angles, if not detected and corrected in a timely manner, could result in damage to the immediately adjacent structure, which would reduce structural integrity of the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11-54A049, Revision 1, dated February 7, 1995. Revision 1 differs from the original issue of the service bulletin, which was referenced in the existing AD as the appropriate source of service information. Revision 1 describes procedures for initial and repetitive visual inspections to detect cracking of the outboard and inboard surfaces of the upper spar angles on the number 1 and number 3 wing pylons, including the critical areas of the spar angle. Revision 1 also revises the effectivity to exclude one airplane and to add three additional airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 94-26-11 to require initial and repetitive visual inspections to detect cracking of the outboard and inboard surfaces of the upper spar angles on the number 1 and number 3 wing pylons, in accordance with the alert service bulletin described previously. Cracked upper spar angles are required to be repaired in accordance with a method approved by the FAA.

This AD also requires that operators report the results of the initial and repetitive visual inspections to the FAA. In concert with the manufacturer's ongoing investigation, the FAA intends to use these reports to develop, review, and approve corrective action that would terminate the need for the repetitive inspections required by this AD. Therefore, depending upon the results of these reports, further corrective action may be warranted.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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 included in this rule to clarify this long-standing requirement.

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 95-NM-21-AD." The postcard will be date stamped and returned to the commenter.

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. 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 removing amendment 39-9106 (59 FR 66669, December 28, 1994), and by adding a new airworthiness directive (AD), amendment 39-9167, to read as follows:

**95-04-15 McDonnell Douglas:** Amendment 39-9167. Docket 95-NM-21-AD. Supersedes AD 94-26-11, Amendment 39-9106.

**Applicability:** Model MD-11 series airplanes having manufacturer's fuselage number 447 through 573 inclusive, and 575 through 578 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