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.

There are approximately 126 Model DC–10–10 airplanes of the affected design in the worldwide fleet. The FAA estimates that 77 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $64,680, or $840 per airplane, per inspection cycle.

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:

95–13–11 McDonnell Douglas: Amendment 39–9291. Docket 94–NM–178–AD.

Applicability: Model DC–10–10 airplanes, as listed in McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 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 (e) of this AD 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 unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing front spar and damage to adjacent structures due to fatigue cracking in the upper cap of the front spar of the wing, accomplish the following:

(a) Prior to the accumulation of 10,000 total landings, or within 1,800 landings after the effective date of this AD, whichever occurs later, perform an initial eddy current test high frequency (ETHF) surface inspection to detect cracks in the upper cap of the front spar of the left and right wing between stations Xos 667.678 and Xos 789.645, inclusive, in accordance with McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 1994. Repeat this inspection thereafter at the intervals specified in paragraph (b) or (c) of this AD, as applicable.

(b) For airplanes on which no crack is found: Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 10,000 landings, or accomplish the crack preventative modification in accordance with McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 1994. Accomplishment of that preventative modification constitutes terminating action for the requirements of this paragraph.

(c) For airplanes on which any crack is found that is identified as ''Condition II'' in McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 1994: Accomplish paragraphs (c)(1) and (c)(2) of this AD in accordance with that service bulletin.

(1) Prior to further flight, perform the permanent repair for cracks in accordance with the service bulletin; and

(2) Within 12,500 landings after the installation of the permanent repair specified in paragraph (c)(1) of this AD, perform an ETHF surface inspection for cracks, in accordance with the service bulletin. Repeat this inspection thereafter at intervals not to exceed 7,000 landings.

(d) For airplanes on which any crack is found that is identified as ''Condition III'' in McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 1994: Prior to further flight, repair the cracking in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(e) 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 ACO. 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.

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

(g) The inspections, modification, and permanent repair shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 57–129, dated August 12, 1994. 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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department 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