

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-NM-119-AD]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A, KDC-10), DC-10-40, DC-10-40F, MD-10-10F, and MD-10-30F Airplanes; and Model MD-11, and MD-11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain McDonnell Douglas airplane models. That action would have superseded an existing AD to require that the repetitive inspections of the numbers 1 and 2 electric motors of the auxiliary hydraulic pump for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and corrective actions, if necessary; be performed at reduced intervals. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has determined that the proposed inspection requirements are identical to the inspection requirements of another existing AD. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Ken Sujishi, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5353; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD),

applicable to certain McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A, KDC-10), DC-10-40, and DC-10-40F airplanes; and Model MD-10-10F and MD-10-30F airplanes, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 22, 2004 (69 FR 3036). The proposed rule would have superseded AD 2001-14-08, amendment 39-12319 (66 FR 36441, July 12, 2001), to require that the repetitive inspections of the numbers 1 and 2 electric motors of the auxiliary hydraulic pump for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and corrective actions, if necessary; be performed at reduced intervals (*i.e.*, from 6,000 flight hours to 2,500 flight hours). That action was prompted by a report from Boeing that the original compliance time was not adequate, because another incident of failure of an electric motor of the auxiliary hydraulic pump had occurred during the interval between repetitive inspections. The proposed actions were intended to prevent various failures of electric motors of the auxiliary hydraulic pump and associated wiring, which could result in fire at the auxiliary hydraulic pump and consequent damage to the adjacent electrical equipment and/or structure.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, we issued AD 2004-05-20, amendment 39-13515 (69 FR 11504, March 11, 2004), applicable to certain McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, and DC-10-40F airplanes; Model MD-10-10F and MD-10-30F airplanes; and Model MD-11 and MD-11F airplanes. That AD requires modification of the installation wiring for the electric motor operated auxiliary hydraulic pumps in the right wheel well area of the main landing gear, and repetitive inspections (at intervals not to exceed 2,500 flight hours) of the numbers 1 and 2 electric motors of the auxiliary hydraulic pumps for electrical resistance, continuity, mechanical rotation, and associated airplane wiring resistance/voltage; and corrective actions if necessary. That action was prompted by several reports of failure of the auxiliary hydraulic

pump systems. The requirements of that AD are intended to prevent failure of the electric motors of the hydraulic pump and associated wiring, which could result in fire at the auxiliary hydraulic pump and consequent damage to the adjacent electrical equipment and/or structure.

The repetitive inspections required by AD 2004-05-20 are identical to those proposed in the NPRM. Accomplishment of the modification and repetitive inspections requirements of AD 2004-05-20 adequately addresses the identified unsafe condition.

FAA's Conclusions

Upon further consideration, we have determined that the proposed inspection requirements of the NPRM are identical to the inspection requirements of AD 2004-05-20. Accordingly, the NPRM is hereby withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the agency to any course of action in the future.

Other Relevant Rulemaking

For the reasons discussed previously, we are also planning on rescinding AD 2001-14-08 in a separate rulemaking action.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 2003-NM-119-AD, published in the **Federal Register** on January 22, 2004 (69 FR 3036), is withdrawn.

Issued in Renton, Washington, on August 20, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-19925 Filed 8-31-04; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 37 and 38

RIN 3038-AC14

Application Procedures for Registration as a Derivatives Transaction Execution Facility or Designation as a Contract Market

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to revise the application and review procedures for registration as a Derivatives Transaction Execution Facility (DTEF) or designation as a Contract Market (DCM). Specifically, the Commission is proposing to eliminate the presumption of automatic fast-track review of applications and replace it with the presumption that all applications will be reviewed pursuant to the statutory 180-day timeframe and procedures specified in Section 6(a) of the Commodity Exchange Act (CEA or Act). In lieu of the automatic fast-track review (under which applicants were deemed to be registered as DTEFs 30 days, or designated as DCMs 60 days, after receipt of an application), the Commission is proposing to permit applicants to request expedited review and to be registered as a DTEF or designated as a DCM by the Commission not later than 90 days after the date of receipt of the application. The Commission is also proposing, among other things, to more completely identify application content requirements; to provide that review under the expedited review procedures may be terminated if it appears that the application is materially incomplete, raises novel or complex issues that require additional time for review, or has undergone substantive amendment or supplementation during the review period; to reorganize the paragraphs being revised; and to eliminate duplication. The Commission is proposing these amendments based upon its experience in processing applications and in light of administrative practices that have been

implemented since the rules were first adopted.

DATES: Comments must be received by October 1, 2004.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile to (202) 418-5521, or by e-mail to secretary@cftc.gov. Reference should be made to "Application Procedures." Comments may also be submitted to the Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, (telephone (202) 418-5492, e-mail dandresen@cftc.gov), Division of Market Oversight, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. This document is also available at <http://www.regulations.gov>.

SUPPLEMENTARY INFORMATION: The Commission adopted the application procedures specified in Commission Regulations 37.5¹ and 38.3² for boards of trade applying to be registered as DTEFs or designated as DCMs in 2001 when it first implemented the Commodity Futures Modernization Act of 2000 (CFMA).³ These procedures presume that an application will be submitted and reviewed pursuant to a fast-track procedure under which a board of trade is deemed to be designated as a DCM 60 days after submitting its application,⁴ or registered as a DTEF 30 days after submitting its application,⁵ unless notified otherwise during the respective review period. These fast-track review periods are substantially shorter than the 180-day review period specified in Section 6(a) of the Act for reviewing DCM and DTEF applications.⁶ The rules provide procedures for terminating the fast-track review, including termination by the Commission if it appears that the application's form or substance fails to meet the requirements of the Commission's regulations.⁷

Among other things, the application procedures also generally identify information required to be included in applications for registration as a DTEF⁸

or designation as a DCM,⁹ require that the applicant support requests for confidential treatment of information included in the application with reasonable justification,¹⁰ and identify where additional guidance for applicants can be found.¹¹ The rules also provide procedures for the withdrawal of an application for registration or vacation of registration as a DTEF¹² and for the withdrawal of an application for designation or vacation of designation as a DCM,¹³ and specify the extent of the delegation of authority from the Commission to the Director of the Division of Market Oversight, with the concurrence of the General Counsel, with respect to the termination of expedited review procedures.¹⁴

The Commission is proposing to modify the application procedures in a number of respects. With respect to the timeliness of the review of applications generally, it is proposing to establish the presumption that all applications are submitted for review under the 180-day timeframe specified in Section 6(a) of the Act.¹⁵ An expedited 90-day review could be requested by the applicant, in which case the Commission would register the applicant as a DTEF or designate the applicant as a DCM during or by the end of the 90-day period unless the Commission terminated the expedited review for certain specifically identified reasons. In comparison to the current rules, the Commission is proposing to lengthen the expedited review periods for DCM applications by 30 days and for DTEF applications by 60 days. The Commission believes, based upon its extensive experience in processing DCM applications and in light of certain administrative practices that have developed since these rules were first adopted, that these potentially longer review periods are necessary to ensure a comprehensive review of applications and to meet other public policy objectives.

Specifically, the Commission has reviewed seven DCM applications under the fast-track review procedures and none of these reviews has been completed within the current fast-track 60-day review period. The applications

⁹ 17 CFR 38.3(a)(1)(iii).

¹⁰ 17 CFR 37.5(b)(1)(v); 38.3(a)(1)(v).

¹¹ 17 CFR 37.5(c); 38.3(b).

¹² 17 CFR 37.5(e).

¹³ 17 CFR 38.3(d).

¹⁴ 17 CFR 37.5(f); 38.3(e).

¹⁵ Under the current rules, DCM and DTEF applications are routinely reviewed under the fast-track procedures unless the applicant instructs the Commission in writing at the time of submission of the application or during the review period to review the application pursuant to the time provisions of and procedures under section 6 of the Act. See 17 CFR 37.5(b)(1)(vi); 38.3(a)(1)(vi).

¹ 17 CFR 37.5.

² 17 CFR 38.3.

³ See 66 FR 42256 (August 10, 2001). The CFMA, Appendix E of Pub. L. 106-554, 114 Stat. 2763, substantially revised the Commodity Exchange Act (Act or CEA), 7 U.S.C. § 1 *et. seq.*

⁴ 17 CFR 38.3(a)(1).

⁵ 17 CFR 37.5(b).

⁶ See 7 U.S.C. 8(a).

⁷ 17 CFR 37.5(d), 38.3(c).

⁸ 17 CFR 37.5(b)(1)(iii).