

packages shipped by container or container equivalents for each grower.

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Dated: August 30, 2004.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 04-20107 Filed 9-2-04; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19017; Directorate Identifier 2004-NM-144-AD; Amendment 39-13782; AD 2004-18-04]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Model MD-10-10F, MD-10-30F, MD-11, MD-11F, and 717-200 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all McDonnell Douglas MD-10-10F, MD-10-30F, MD-11, MD-11F, and 717-200 airplanes. This AD requires a revision to the Limitations section of the Airplane Flight Manual (AFM) to prohibit use of the flight management system (FMS) profile (PROF) mode for descent and/or approach operations unless certain conditions are met. This AD is promoted by a report of two violations of the selected flight control panel (FCP) altitude during FMS PROF descents. We are issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

**DATES:** Effective September 20, 2004.

We must receive comments on this AD by November 2, 2004.

**ADDRESSES:** Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

- You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, on the plaza level of the Nassif Building, Washington, DC.

#### **Docket Management Systems (DMS)**

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA-2004-99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004-NM-999-AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

#### **Examining the Dockets**

You can examine the AD docket on the Internet at <http://www.dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

#### **FOR FURTHER INFORMATION CONTACT:**

*Technical information:* Jim Webre, Flight Test Pilot, Flight Test Branch, ANM-160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5364; fax (562) 627-5210.

*Plain language information:* Marcia Walters, [marcia.walters@faa.gov](mailto:marcia.walters@faa.gov).

**SUPPLEMENTARY INFORMATION:** We have received a report of two violations of the selected flight control panel (FCP) altitude during flight management system (FMS) profile (PROF) descents on McDonnell Douglas Model MD-11 airplanes. Investigation by the airplane and avionics manufacturers revealed that under certain conditions during an FMS PROF descent, the FMS will allow an airplane to descend below the selected FCP altitude or FMS-constrained altitude or both. In addition, the FMS will not command the autopilot or flight director to level off at the next altitude constraint, if a specific series of events occur and the airspeed of the airplane is within the overspeed detection window during an FMS descent. Under certain conditions during the FMS PROF descent, the uncommanded descent of the airplane below the selected level-off altitude, if not corrected, could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

The FMS software on Model MD-10-10F, MD-10-30F, MD-11F, and 717-200 airplanes is identical to that on the affected Model MD-11 airplanes. Therefore, all of these models may be subject to the same unsafe condition.

#### **FAA's Determination and Requirements of This AD**

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design, which use the same FMS software. Therefore, we are issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in reducing the separation between the airplane and nearby air traffic or terrain. This AD requires a revision to the Limitations section of the Airplane Flight Manual (AFM) to prohibit use of the FMS PROF mode for descent and/or approach operations unless certain conditions are met.

#### **Interim Action**

This is considered to be interim action. The manufacturer has advised that it currently is developing a software modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

#### **FAA's Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this

AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2004-19017; Directorate Identifier 2004-NM-144-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You can get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

#### Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect 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.

For the reasons discussed above, I certify that the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2004-18-04 McDonnell Douglas:**  
Amendment 39-13782. Docket No. FAA-2004-19017; Directorate Identifier 2004-NM-144-AD.

#### Effective Date

(a) This AD becomes effective September 20, 2004.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to all McDonnell Douglas Model MD-10-10F, MD-10-30F, MD-11F, and 717-200 airplanes; certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by a report of two violations of the selected flight control panel (FCP) altitude during flight management system (FMS) profile (PROF) descents. The FAA is issuing this AD to prevent, under certain conditions during the FMS PROF descent, the uncommanded descent of an airplane below the selected level-off altitude, which could result in an unacceptable reduction in the separation between the airplane and nearby air traffic or terrain.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### AFM Revision

(f) Within 90 days after the effective date of this AD, revise the Limitations section of the Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"Use of PROF mode for descent and/or approach operations is prohibited unless

1. The airplane is on path and the FMA indicates THRUST | xxx | PROF, or

2. The indicated airspeed is below Vmax for the airplane configuration by at least:

a. 10 knots at indicated altitudes below 10,000 feet, or

b. 15 knots at indicated altitudes of 10,000 feet or above, or

3. Basic autoflight modes (e.g., LVL CHG V/S, or FPA) are used to recapture the path when the PROF mode is engaged and the airplane is:

a. Above or below the path and the FMA indicates PITCH | xxx | IDLE, or

b. Below the path and the FMA indicates THRUST | xxx | V/S."

**Note 1:** When a statement identical to that in paragraph (f) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Material Incorporated by Reference

(h) None.

Issued in Renton, Washington, on August 25, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 04-20015 Filed 9-2-04; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 73

[Docket No. FAA-2001-17180; Airspace Docket No. 03-AWP-03]

RIN 2120-AA66

#### Amendment of Restricted Area 2306C, Yuma West, AZ

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the designated altitudes and times of use for Restricted Area R-2306C (R-2306C), Yuma West, AZ. This action would raise the upper altitude of R-2306C from 17,000 feet mean sea level (MSL) to