§ 114.107 What if my claim exceeds $25,000 or has other special features?

(a) The U.S. Attorney General or designee must approve in writing any award, compromise, or settlement of a claim in excess of $25,000. For this purpose, a principal claim and any derivative or subrogated claim are considered a single claim.

(b) SBA must consult with the Department of Justice before adjusting, determining, compromising, or settling a claim whenever the General Counsel or designee determines:

(1) The claim involves a new precedent or a new point of law; or

(2) The claim involves or may involve a question of policy; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and SBA is unable to adjust the third party claim; or

(4) Approval of a claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) SBA must consult with the Department of Justice before adjusting, determining, compromising, or settling a claim whenever SBA learns that the United States, or any of its employees, agents, or cost-plus contractors, is involved in litigation based on a claim arising out of the same incident or transaction.

(d) SBA, acting through its General Counsel or designee, must make any referrals to the Department of Justice for approval or consultation by transmitting them in writing to the Assistant Attorney General, Civil Division.

(1) The referral must contain a short and concise statement of the facts and the reason for the request or referral, copies of the relevant portions of the claim file, and SBA's views and recommendations.

(2) SBA may make this referral at any time after a claim is presented.

§ 114.108 What if my claim is approved?

SBA will notify you in writing if it approves your claim. The District Counsel will forward to you or your agent or legal representative the forms necessary to indicate satisfaction of your claim and your acceptance of the payment. Acceptance by you, your agent or your legal representative, of any award, compromise or settlement of your claim is final and conclusive under the Federal Tort Claims Act. It binds you, your agent or your legal representative, and any other person on whose behalf or for whose benefit the claim was presented. It also constitutes a complete release of your claim against the United States and its employees. If you are represented by counsel, SBA will designate you and your counsel as joint payees and will deliver the check to your counsel. Payment is contingent upon the waiver of your claim and is subject to the availability of appropriated funds.

§ 114.109 What if my claim is denied?

SBA will notify you or your agent or legal representative in writing by certified or registered mail if it denies your claim. You have a right to file suit in an appropriate U.S. District Court not later than six months after the date the notification was mailed.

Subpart B—Representation and Indemnification of SBA Employees

§ 114.110 What is SBA's policy with respect to indemnifying and providing legal representation to SBA employees?

(a) If an SBA employee engages in conduct, within the scope of his or her employment, which gives rise to a claim, and the SBA Administrator or designee determines that any of the following actions relating to the claim are in SBA's interest, SBA may:

(1) Indemnify the employee after a verdict, judgment, or other monetary award is rendered personally against the employee in any civil suit in state or federal court or any arbitration proceeding;

(2) Settle or compromise the claim; and/or

(3) Pay for, or request that the Department of Justice provide, legal representation to the employee once personally named in such a suit.

(b) If you are an SBA employee, you may ask SBA to settle or compromise your claim, provide you with legal representation, or provide you with indemnification for a verdict, judgment or award entered against you in a suit. To do so, you must submit a timely, written request to the General Counsel, with appropriate documentation, including copies of any pleadings, verdict, judgment, award, or settlement proposal. The General Counsel will decide all requests for representation or settlement, and will forward to the Administrator, with the accompanying documentation and a recommendation, any requests for indemnification.

(c) Any payments by SBA under this section will be contingent upon the availability of appropriated funds.

§ 114.111 Does the attorney-client privilege apply when SBA employees are represented by the Government?

When attorneys employed by SBA participate in any process in which SBA seeks to determine whether SBA should request the Department of Justice to provide representation to an SBA employee sued, subpoenaed, or charged in his or her individual capacity, or whether attorneys employed by SBA should provide representational assistance for such an employee, those attorneys undertake a full and traditional attorney-client relationship with the employee with respect to the attorney-client privilege. If representation is authorized, SBA attorneys who assist in the representation of an SBA employee also undertake a full and traditional attorney-client relationship with the employee with respect to the attorney-client privilege. Unless authorized by the employee, the attorney must not disclose to anyone other than attorneys also responsible for the employee's representation information communicated to the attorney by the client-employee during the course of the attorney-client relationship. The attorney-client privilege will continue with respect to that information whether or not representation is provided, and even if the employee's representation is denied or discontinued.

Dated: January 19, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–1160 Filed 1–25–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–16–AD; Amendment 39–9481; AD 96–01–05]

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–9 and C–9 (military) series airplanes, that requires replacement, inspection, and modification of the attach fittings of the main landing gear (MLG). This amendment is prompted by reports of severe structural damage and rupture of the integral fuel tank due to overload of the MLG caused by adverse landing conditions. The actions specified by this AD are intended to minimize the possibility of primary structural damage and rupture of the

integral fuel tank due to overload of the MLG; these conditions could lead to fuel spillage and a resultant fire.

DATES: Effective February 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5323; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–9 and C–9 (military) series airplanes was published in the Federal Register on May 24, 1995 (60 FR 27449). That action proposed to require replacement, inspection, and modification of the attach fittings of the main landing gear (MLG).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the proposed rule.

Requests for Extension of the Compliance Time

Several commenters request that the proposed compliance time of 12 months be extended by as much as 12 additional months. Two commenters indicate that a parts availability problem was encountered when accomplishing one of the service bulletins cited in the proposed rule, McDonnell Douglas DC–9 Service Bulletin 57–148. One of these commenters indicates that the manufacturer requires a lead time in excess of 6 months to provide required parts. Another commenter states that, in light of the proposed time frame for compliance with the proposal, the number of work hours specified in the AD is too low because operators would need to schedule special maintenance visits to modify their aircraft. Similarly, other commenters request an extended compliance time that would align with regularly scheduled maintenance visits, thereby reducing lost revenue service. One commenter contends that inspection of MLG attach fittings in accordance with Revision 5 of McDonnell Douglas DC–9 Service Bulletin 57–148 will provide an adequate level of safety until modification of those fittings is accomplished.

In light of these considerations, the FAA concurs with the commenters' requests to extend the compliance time. The FAA finds that extending the compliance time by 12 additional months will not adversely affect safety significantly, and will allow operators to accomplish the requirements of this AD at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. Accordingly, paragraphs (a) and (b) of the final rule have been revised to specify a compliance time of 24 months.

Request To Clarify the Applicability of the AD

One commenter requests that the applicability of the proposal be revised to reference the specific series of Model DC–9 airplanes affected, rather than simply specifying that the proposed AD applies to ''All Model DC–9 and C–9 (military) series airplanes.'' The commenter justifies its request by stating that McDonnell Douglas considers Model MD–80 airplanes to be ''Series 80 DC–9'' airplanes. Therefore, since the service bulletins cited in the proposed AD only apply to Model DC–9 series 10 through 50 and C–9 (military) series airplanes, the commenter suggests that those airplanes specifically be identified in the applicability of the AD to avoid any confusion and misinterpretation on the part of operators. The FAA concurs with the commenter's request, and has revised the applicability of the final rule accordingly.

Request To Include Actions Already Required by Other AD's

One commenter requests that the actions currently required by three existing AD's be included in the proposed rule. Those AD's are:

- AD 80–06–04 R1, amendment 39–4909 (49 FR 35617, September 11, 1984);
- AD 84–26–01, amendment 39–4971 (50 FR 448, January 4, 1985); and
- AD 90–18–03, amendment 39–6701 (55 FR 34704, August 24, 1990).

The commenter provides the following justification for this request:

1. The three existing AD's address the same subject as that specified in the proposed AD.

2. One of the existing AD's, AD 90–18–03, specifies a compliance time for accomplishment of McDonnell Douglas DC–9 Service Bulletin 57–125 that is different from the compliance time specified in the proposal for accomplishment of the same action.

3. McDonnell Douglas DC–9 Service Bulletin 57–148, which is cited in paragraph (b) of the proposed rule, also is listed in Table 2.3 of Report No. MDC K1572, ''DC–9/MD80 Aging Aircraft Service Action Requirements Document (SARD),'' Revision B, dated January 15, 1993 (hereinafter referred to as the ''SARD''). The compliance time specified in Table 2.3 of the SARD for accomplishment of McDonnell Douglas DC–9 Service Bulletin 57–148 differs from that specified in paragraph (b) of this proposed rule for accomplishment of the same action. Therefore, if a new AD is issued to mandate accomplishment of Table 2.3 of the SARD, the compliance time specified in this proposed AD may conflict with the compliance time specified in the new AD that addresses the SARD.

The FAA acknowledges that certain actions specified in earlier versions of the service bulletins addressed in this AD (McDonnell Douglas DC–9 Service Bulletins 57–125 and 57–148) are mandated currently in the three existing AD's cited by the commenter and that the compliance times between certain documents vary. However, the FAA does not concur with the commenter's request to include the requirements of those AD's in this final rule for several reasons:

On November 4, 1994, the FAA issued a notice of proposed rulemaking (NPRM), Docket 94–NM–92–AD (59 FR 56011, November 11, 1994), which proposes to supersede AD 90–18–03. That NPRM proposes to require, in part, the accomplishment of certain inspections and structural modifications specified in Table 2.3 of the SARD. The FAA acknowledges that the SARD references the two service bulletins cited in this final rule (McDonnell Douglas DC–9 Service Bulletins 57–125 and 57–148). However, in the final rule for Docket 94–NM–92–AD, the FAA intends to exclude the actions specified

in the two service bulletins from the requirements of that AD. Therefore, the actions described in those service bulletins would be required by this AD only at the times specified herein.

Further, the FAA finds that the accomplishment of the requirements of this final rule will terminate the requirements of AD 80–06–04 R1 and AD 84–26–01. The FAA has added a new paragraph (c) in the final rule to specify this information.

Requests To Limit the Applicability of the AD

One commenter requests that only airplanes equipped with certain gear fitting installations be applicable to the proposed AD. The commenter indicates that replacement of the attach fittings, as described in McDonnell Douglas DC–9 Service Bulletin 57–125, is addressed in AD 90–18–03, and that there are various configurations of fitting installations for which installation of smaller (⅞-inch diameter) lower tension bolts is not required. The commenter also indicates that, since the intent of the proposed AD is to improve the breakaway feature of the MLG (which is affected by the diameter of the lower tension bolts), only airplanes equipped with certain gear fittings would be affected by the proposed AD.

The same commenter states that airplanes equipped with fittings having large counterbore radii (7075–T73 fittings) that were installed with clearance fit NAS bolts should be excluded from the applicability of the proposal. The commenter indicates that it operates such airplanes and, at one time, this type of installation was permissible. The commenter explains that, although the complete intent of McDonnell Douglas DC–9 Service Bulletin 57–148 has not been accomplished, the portion of the service bulletin that has not been accomplished does not affect the breakaway function of the fitting.

Additionally, one commenter states that the proposed AD should require only the installation of a reduced diameter lower tension bolt (7/8-inch) and bushing portion of McDonnell Douglas DC–9 Service Bulletin 57–148 at an accelerated rate. The commenter adds that operators of large fleets should be allowed to accomplish the remainder of the actions specified in the service bulletin (including the enlargement of the counterbore, the replacement of the lower flange attachments with interference fit fasteners, and glass bead shotpeening of the fitting) on schedule in accordance with the SARD, which is being addressed in the final rule for Docket 94–NM–92–AD. The commenter contends that the actions required by the proposed AD would impose a severe hardship on operators. The commenter adds that only the reduction in size of the lower tension bolt improves the breakaway function of the gear fitting, which is the immediate concern addressed in the proposed AD.

The FAA does not concur with these commenters' requests. The FAA acknowledges that the key to breakaway capability of the MLG is the installation of smaller (7/8-inch) diameter tension bolts that attach the MLG fittings to the airframe. However, the FAA finds that accomplishment of the corrective actions necessary to address stress corrosion cracking of these fittings is equally as critical as incorporation of the breakaway feature. Therefore, the FAA has determined that the two objectives must be accomplished concurrently to address these safety issues in a timely manner. The FAA finds that accomplishment of the actions specified in both service bulletins cited in this AD (McDonnell Douglas DC–9 Service Bulletins 57–125 and 57–148) within 24 months after the effective date of this AD will adequately address these safety concerns.

Request To Clarify Shotpeening Requirements

One commenter questions the effectiveness of on-wing, glass bead shotpeening of the MLG fittings, as described in McDonnell Douglas DC–9 Service Bulletins 57–125 and 57–148. The commenter states that, in order to be effective, shotpeening must be controlled precisely to attain the required Almen Intensity. The commenter remarks that on-wing shotpeening of the gear fittings cannot be controlled to obtain the required Almen Intensity and fatigue life improvement. The commenter specifies that the use of glass particles in the landing gear area, which includes many moveable components, raises a serious issue of system contamination and premature failure of components (i.e., bearings, due to glass particle contamination). The commenter makes no specific request for a change to the final rule, and provides no engineering data to substantiate that the fatigue life improvement is reduced or that premature failure of components occurs due to system contamination from glass particles.

The FAA finds that some clarification is necessary. Although the shotpeening process described in the service bulletins has been used in service for a substantial period of time, neither the FAA nor the airplane manufacturer have received any reports concerning system contamination or premature failure of components. Therefore, the FAA finds that no change to the final rule is necessary in this regard. However, the FAA would consider a request for approval of an alternative method of compliance, in accordance with the provisions of paragraph (d) of this AD, provided that adequate justification is presented to support such a request.

Request To Clarify Number of Necessary Work Hours

One commenter states that the actual work hours and elapsed times required to accomplish the actions specified in McDonnell Douglas DC–9 Service Bulletin 57–148 differ substantially from the figures reflected in the service bulletin. The commenter remarks that the actual work hours are approximately 400 more than the number specified in the service bulletin, and that the actual elapsed time is 100 hours more.

The FAA infers from these remarks that the commenter requests that the FAA revise the economic impact information, below, to increase the number of work hours required for accomplishment of the actions specified in this AD. The FAA concurs with the commenter's request. The FAA has revised the number of work hours estimated for accomplishment of the inspection and modification specified as Phase 2 in McDonnell Douglas DC–9 Service Bulletin 57–148 from 36 to 436 work hours. Estimated hours for elapsed time are not reflected specifically in AD actions.

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 significantly increase the economic burden on any operator nor increase the scope of the AD.

Economic Impact

There are approximately 906 Model DC–9 and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 549 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that the replacement specified as Option 1 in McDonnell Douglas DC–9 Service Bulletin 57–125 has been accomplished on all 549 airplanes of U.S. registry that will be affected by this AD. (As discussed previously, accomplishment of Option 1 was required by AD 90–18–03.) Accordingly, the FAA finds that the replacement required by this AD will

impose no additional economic burden on any U.S. operator.

However, should an affected airplane be imported and placed on the U.S. Register in the future, it will require approximately 425 work hours to accomplish Option 1, at an average labor rate of $60 per work hour. The cost of required parts will be $58,853 per airplane. Based on these figures, the cost impact for accomplishing Option 1 will be $84,353 per airplane.

The FAA estimates that all 549 airplanes of U.S. registry will be required to accomplish the inspection and modification specified as Phase 2 in McDonnell Douglas DC–9 Service Bulletin 57–148. It will take approximately 436 work hours per airplane to accomplish Phase 2, at an average labor rate of $60 per work hour. Required parts will cost approximately $4,338 per airplane. Based on these figures, the cost impact on U.S. operators for accomplishing Phase 2 is estimated to be $16,743,402, or $30,498 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished the requirement (Phase 2) of this AD action, and that no operator would accomplish that action in the future if this AD were not adopted.

Regulatory Impact

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 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

96–01–05 McDonnell Douglas: Amendment 39–9481. Docket 95–NM–16–AD.

Applicability: All Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (d) 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 minimize the possibility of primary structural damage and rupture of the integral fuel tank due to overload of the main landing gear (MLG) caused by adverse landing conditions, and subsequent fuel spillage and a resultant fire, accomplish the following:

(a) For airplanes on which Option 1 (or production equivalent) has not been accomplished as specified in McDonnell Douglas DC–9 Service Bulletin 57–125 (original issue through Revision 5): Within 24 months after the effective date of this AD, replace the attach fittings of both the right and left MLG's in accordance with Option 1 of the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 57–125, Revision 5, dated November 5, 1990.

Note 2: Airplanes on which Option 1 has been accomplished as specified in any of the following revisions of McDonnell Douglas DC–9 Service Bulletin 57–125, are considered to be in compliance with this AD and no further action is required by this AD:

Service bulletin No.	Revision level	Date
57–125	Revision 3	October 28, 1982; or
	Revision 4	June 21, 1983; or
	Revision 5	November 5, 1990.

(b) For airplanes on which Option 1 has been accomplished as specified in McDonnell Douglas DC–9 Service Bulletin 57–125 (original version through Revision 2); but on which Phase 2 has not been accomplished as specified in McDonnell Douglas DC–9 Service Bulletin 57–148 (original version through Revision 5): Within 24 months after the effective date of this AD, inspect and modify the attach fittings of both the right and left MLG's in accordance with Phase 2 of McDonnell Douglas DC–9 Service Bulletin 57–148, Revision 5, dated November 23, 1992.

Note 3: Airplanes on which both Option 1 (or a production equivalent) has been accomplished as specified in any of the following revisions of McDonnell Douglas DC–9 Service Bulletin 57–125; and Phase 2 (or a production equivalent) has been accomplished as specified in any of the following revisions of McDonnell Douglas DC–9 Service Bulletin 57–148; are considered to be in compliance with this AD and no further action is required by this AD:

Service bulletin No.	Revision level	Date
57–125	(Original)	January 26, 1979; or
	Revision 1	February 16, 1979; or
	Revision 2	August 24, 1979; and
57–148	(Original)	October 1, 1982; or
	Revision 1	June 8, 1983; or
	Revision 2	August 9, 1989; or
	Revision 3	September 11, 1990; or
	Revision 4	February 25, 1991; or
	Revision 5	November 23, 1992.

(c) Accomplishment of the actions required by this AD constitutes terminating action for the requirements of AD 80–06–04 R1, amendment 39–4909, and AD 84–26–01, amendment 39–4971.

(d) 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 Aircraft Certification Office (ACO),

FAA, Transport Airplane Directorate. 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) 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.

(f) The actions shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 57–125, Revision 5, dated November 5, 1990; and McDonnell Douglas DC–9 Service Bulletin 57–148, Revision 5, dated November 23, 1992. 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, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on February 26, 1996.

Issued in Renton, Washington, on January 2, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–187 Filed 1–25–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–91–AD; Amendment 39–9485; AD 96–01–09]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that requires installation of hydraulic line restrictors in the main landing gear (MLG), and modification of the hydraulic damper assembly of the MLG. This amendment is prompted by reports of vibration occurring in the MLG during landing; in some cases, such vibration has led to the collapse of the MLG. The actions specified by this AD are intended to prevent incidents of vibration in the MLG, which can adversely affect the integrity of the MLG.

DATES: Effective February 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5336; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes was published in the Federal Register on September 26, 1995 (60 FR 49523). That action proposed to require installation of hydraulic line restrictors in the main landing gear (MLG), and modification of the hydraulic damper assembly of the MLG.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Four commenters support the proposal.

One commenter requests that the FAA revise the proposal to include references to later revisions of the pertinent service bulletins, which were recently released. The FAA concurs. Subsequent to the issuance of the proposal, the FAA reviewed and approved Revision 1 of McDonnell Douglas MD–80 Service Bulletin MD80–32–276, dated October 17, 1995; and Revision 1 of McDonnell Douglas MD–80 Service Bulletin MD80–32–278, dated September 6, 1995. These revisions are essentially identical to the original issues of the service bulletins (which were referenced in the proposal), but contain additional clarifying information. Additionally, the FAA has reviewed and approved McDonnell Douglas MD–80 Alert Service Bulletin MD80–A32–286, dated September 11, 1995, which contains, among other things, instructions for installing filtered restrictors in the MLG hydraulic brake system. The FAA has revised the final rule to include these newly released service bulletins as additional sources of appropriate service instructions.

One commenter requests that paragraph (a) of the proposal be revised to extend the compliance time for installation of the brake line restrictors. This commenter is concerned that an ample number of required parts will not be available to modify its large fleet within the proposed compliance time of 9 months. The FAA does not concur that an extension of the compliance time is necessary. In McDonnell Douglas MD–80 Service Bulletin MD80–32–276, the manufacturer recommended that the installation of the restrictors be accomplished on the affected fleet within 12 months. Since the latest revision of that service bulletin was issued on October 17, 1995, the FAA considers it to be substantiation that the manufacturer can support parts production and delivery for the affected fleet through October 17, 1996. Since compliance with this AD is required by approximately that same date, the FAA does not foresee that the availability of required parts will be a problem for operators. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

One commenter requests that the FAA defer action on the proposed requirements of paragraph (b), which would require operators to modify the hydraulic damper assembly. This commenter contends that further research and testing of the structural integrity of the reservoir should be accomplished first to substantiate that the installation of the hydraulic brake line restrictors [that would be required by paragraph (a) of the proposal] will successfully curb the vibration problems. This commenter claims that, if the most vulnerable part of the damper design is the reservoir, then no amount of ''efficiency improvements'' to the basic damper assembly will help.