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**Kalene C. Yanamura,**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2003–NM–60–AD; Amendment 39–13558; AD 2004–07–14]**

**RIN 2120–AA64**

## Airworthiness Directives; McDonnell Douglas Model DC–9–15, DC–9–31, and DC–9–32 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–9–15, DC–9–31, and DC–9–32 airplanes, that requires repetitive visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. For certain airplanes, this AD also requires modification of the ventral aft pressure bulkhead. This action is necessary to detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective May 11, 2004.

The incorporation by reference of a certain publication, as listed in the regulations, is approved by the Director of the Federal Register as of May 11, 2004.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 14, 2002 (67 FR 16987, April 9, 2002).

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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, 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:** Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 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–9–15, DC–9–31, and DC–9–32 airplanes was published in the **Federal Register** on December 3, 2003 (68 FR 67618). That action proposed to require repetitive visual and x-ray inspections to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead; corrective actions, if necessary; and follow-on actions. For certain airplanes, that action proposed to require modification of the ventral aft pressure bulkhead.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

### Cost Impact

There are approximately 13 airplanes of the affected design in the worldwide fleet. The FAA estimates that 7 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required inspections, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,275, or $325 per airplane.

For certain airplanes, it will take approximately between 21 and 26 work hours per airplane depending on the airplane configuration to accomplish the modification specified in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, at an average labor rate of $65 per work hour. Required parts will cost approximately between $3,470 and $11,831 per airplane, depending on the airplane configuration. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be between $4,835, or $13,521 per airplane.

For certain airplanes, it will take approximately 9 work hours per airplane to accomplish the modification specified in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be $585 per airplane.

The cost impact figures discussed above are 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 cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations adopted herein 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

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

**2004–07–14 McDonnell Douglas:** Amendment 39–13558. Docket 2003–NM–60–AD.

*Applicability:* Model DC–9–15, DC–9–31, and DC–9–32 airplanes, manufacturer's fuselage numbers 0030, 0094, 0220, 0221, 0863, 0900, 0901, 0913, 0914, 0918, 0923, 0926, and 0930; certificated in any category; equipped with a floor level hinged (ventral) door of the aft pressure bulkhead; as listed in McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003; except for those airplanes on which the modification required by paragraph (d) or (e) of AD 96–10–11, amendment 39–9618, or paragraph K. of AD 85–01–02 R1, amendment 39–5241, has been done.

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the corners and upper center of the door cutout of the aft pressure bulkhead, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

**Visual and X–Ray Inspection**

(a) For airplanes on which the modification has not been accomplished per paragraph (i) of this AD: Except as provided by paragraph (j) of this AD, prior to the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later, do a visual inspection and an x-ray inspection to detect cracks of the upper and lower corners and upper center of the door cutout of the aft pressure bulkhead, per the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003.

**No Crack Detected: Repetitive Inspections**

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, do the action specified in either paragraph (b)(1) or (b)(2) of this AD per the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003, as applicable.

(1) If interim preventive repairs have been performed per the service bulletin; AD 85–01–02 R1, or AD 96–10–11: Do a visual inspection and an eddy current inspection at the times specified in the service bulletin. Repeat the applicable repetitive inspections thereafter at intervals not to exceed the times specified in the service bulletin, until accomplishment of the action required by paragraph (d) or (i) of this AD.

(2) If interim preventive repairs have not been performed per the service bulletin, do either paragraph (b)(2)(i) or (b)(2)(ii) of this AD:

(i) Before further flight, install an interim preventive repair identified in Conditions I through XLIII inclusive, excluding Conditions XXI, XXXVII, and XXXVIII (not used at this time), per the service bulletin. At the times specified in the service bulletin, do a visual inspection and an eddy current inspection. At intervals not to exceed the times specified in the service bulletin, repeat the visual and eddy current inspections until accomplishment of the action specified in paragraph (d) or (i) of this AD; or

(ii) At intervals not to exceed the times specified in the service bulletin, repeat the visual inspection and x-ray inspection required by paragraph (a) of this AD, until accomplishment of the action specified in paragraph (d) or (i) of this AD.

**Any Crack Detected: Corrective Actions and Repetitive Inspections**

(c) If any crack is detected during any inspection required by paragraph (a) or (b) of this AD, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD per the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003.

(1) Before further flight, do the applicable corrective actions (*i.e.*, modification of the bulkhead; trim forward facing flange; stop drill ends of cracks; install repair kit; replacement of cracked part with new parts; and install additional doublers) identified in Conditions I through XLIII inclusive, excluding Conditions XXI, XXXVII, and XXXVIII (not used at this time), of the Accomplishment Instructions of the service bulletin; and

(2) At the times specified in the Accomplishment Instructions of the service bulletin, do the applicable repetitive inspections, until accomplishment of the action specified in paragraph (d) or (i) of this AD.

**Concurrent Requirements**

(d) Except as provided by paragraph (j) of this AD, modify the ventral aft pressure bulkhead structure by accomplishing all actions specified in the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, per the service bulletin; at the applicable time specified in paragraph (d)(1), (d)(2), or (d)(3) of this AD.

(1) For airplanes on which the bulkhead modification specified in McDonnell Douglas DC–9 Service Bulletin 53–139, dated September 26, 1980; or Revision 1, dated April 30, 1981; has been done, except as provided by paragraph (d)(3) of this AD: Modify within 15,000 landings after accomplishment of the bulkhead modification, or within 4,000 landings after the effective date of this AD, whichever occurs later. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c)(2) of this AD.

(2) For airplanes on which the production equivalent of the modification specified in paragraph (d)(1) of this AD has been done before delivery, except as provided by paragraph (d)(3) of this AD: Modify before the accumulation of 15,000 total landings, or within 4,000 landings after the effective date of this AD, whichever occurs later. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c)(2) of this AD.

(3) For airplanes listed in McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989, that are specified in paragraph (f) of this AD: Modify in conjunction with the requirements of paragraph (f) of this AD, or within 18 months after accomplishment of the requirements of paragraph (f) of this AD.

(e) Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–165, dated January 31, 1983; Revision 1, dated February 20, 1984; or Revision 2, dated August 29, 1986; is considered acceptable for compliance with the requirements of paragraph (d) of this AD.

**Modification: Ventral Aft Pressure Bulkhead**

(f) For Model DC–9–30 and "50 series airplanes, and C–9 airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985: Except as provided by paragraph (j) of this AD, within 18 months after the effective date of this AD, modify the ventral aft pressure bulkhead per the service bulletin.

(g) Modification before the effective date of this AD per McDonnell Douglas DC–9 Service Bulletin 53–157, dated August 11, 1981, is considered acceptable for compliance with the requirements of paragraph (f) of this AD.

**Compliance With AD 85–01–02 R1**

(h) Accomplishment of the visual and x-ray inspections required by paragraph (a) of this AD constitutes terminating action for the repetitive inspection requirements of AD 85–01–02 R1.

**Terminating Modification**

(i) Accomplishment of the modification (reference McDonnell Douglas DC–9 Service Bulletin 53–166) required by paragraph (d) or (e) of AD 96–10–11 (which references "DC–9/MD–80 Aging Aircraft Service Action Requirements Document'' (SARD), McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990; or Revision B, dated January 15, 1993; as the appropriate source of service information for accomplishing the modification) terminates the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

**Exception to Inspections and Modifications**

(j) As of the effective date of this AD, the inspections and modifications required by this AD do not need to be done during any period that the airplane is operated without cabin pressurization and a placard is

installed in the cockpit in full view of the pilot that states the following:

"OPERATION WITH CABIN PRESSURIZATION IS PROHIBITED.''

**Actions Accomplished Per Previous Issue of Service Bulletin**

(k) Inspections, corrective actions, and follow-on actions accomplished before the effective date of this AD per McDonnell Douglas Service Bulletin DC9–53–137, Revision 07, dated February 6, 2001; or McDonnell Douglas Service Bulletin DC9–53–137, Revision 08, dated November 22, 2002; are considered acceptable for compliance with the corresponding action specified in this AD.

**Credit for AD 2002–07–06, Amendment 39–12700**

(l) Accomplishment of the actions specified in AD 2002–07–06 is acceptable for compliance with the requirements of this AD.

**Submission of Information to Manufacturer Not Required**

(m) Although McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003, specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

**Alternative Methods of Compliance**

(n)(1) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

(2) AMOCs approved previously in accordance with AD 85–01–02 R1, amendment 39–4978; or AD 96–10–11, amendment 39–9618; are approved as AMOCs for paragraph (a) or (c) of this AD, as appropriate.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Engineering Representative (DER) who has been authorized by the Manager, Los Angeles ACO, to make such findings.

**Incorporation by Reference**

(o) Unless otherwise specified in this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003; McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989; and McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985; as applicable.

(1) The incorporation by reference of McDonnell Douglas Service Bulletin DC9–53–137, Revision 09, dated January 30, 2003, is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 53–165, Revision 3, dated May 3, 1989; and McDonnell Douglas DC–9 Service Bulletin 53–157, Revision 1, dated January 7, 1985; was approved previously by the Director of the Federal Register as of May 14, 2002 (67 FR 16987, April 9, 2002).

(3) Copies may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(p) This amendment becomes effective on May 11, 2004.

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

**Kalene C. Yanamura,**

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

[FR Doc. 04–7297 Filed 4–5–04; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2002–NM–287–AD; Amendment 39–13555; AD 2004–07–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767–400ER Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767–400ER series airplanes, that requires repetitive high frequency eddy current inspections of the aft lower lugs of the deflection control track of the outboard flap for cracks, and replacement of any cracked deflection control track with a new track assembly. This action is necessary to prevent fatigue cracking in the aft lower lug run-out region of the deflection control track. Fatigue cracking of the deflection control track, if not detected and corrected in a timely manner, could result in the loss of the secondary load path for the outboard flap, resulting in the loss of the outboard flap and consequent reduced controllability of the airplane in the event that the primary load path also fails. This action is intended to address the identified unsafe condition.

**DATES:** Effective May 11, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of May 11, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. 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 Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Candice Gerretsen; Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6428; fax (425) 917–6590.

**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 Boeing Model 767–400ER series airplanes was published in the **Federal Register** on October 1, 2003 (68 FR 56598). That action proposed to require repetitive high frequency eddy current inspections of the aft lower lugs of the deflection control track of the outboard flap for cracks, and replacement of any cracked deflection control track with a new track assembly.

**Comments**

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

**Request To Change Compliance Time**

One commenter requests that the proposed repairs be deferred until the next major base visit. The commenter states that the compliance time of "before the accumulation of 12,000 total flight cycles'' in the proposed AD would cause maintenance program issues. The commenter states that the inspections and repairs will create an undue burden to the airline operators due to parts availability and the costs affiliated with immediate repair of a cracked deflection control track.

The FAA does not agree with the commenter's request to change the compliance time. In developing an appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for the timely accomplishment of the inspections and repairs. We have determined, based on fatigue analysis by