

# Proposed Rules

Federal Register

Vol. 69, No. 150

Thursday, August 5, 2004

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. FAA-2004-18774; Directorate Identifier 2003-NM-212-AD]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 Series Airplanes; and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 series airplanes; and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes. This proposed AD would require repetitive detailed inspections of the upper and lower caps of the rear spar of the left and right wings, and corrective action if necessary. This proposed AD also provides an optional modification that would end the repetitive inspections. This proposed AD is prompted by reports of fatigue cracks in the upper and lower caps of the wing spar. We are proposing this AD to detect and correct fatigue cracking in the upper and lower caps of the rear spar of the left and right wings, which could result in structural failure of the wings.

**DATES:** We must receive comments on this proposed AD by September 20, 2004.

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

- DOT Docket web site: Go to <http://dms.dot.gov> and follow the 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.
- By 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.

For the service information identified in this proposed AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024).

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.

#### 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:

##### Docket Management System (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.

##### Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2004-18774; Directorate Identifier 2003-NM-212-AD" in the subject line of your comments. We specifically invite

comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed 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 proposed AD. Using the search function of that website, 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 may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may 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 that affect you. You can get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

##### Examining the Docket

You can examine the AD docket 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.

##### Discussion

We have received a report of cracks found in the lower cap of the rear spars of the left and right wing near station Xrs=267.000 during fatigue testing of fuselage number 3 on a McDonnell Douglas DC-9-14 airplane. Fuselage number 3 had accumulated 42,900 total flight hours and 66,504 total flight cycles before being removed from service for fatigue testing. An operator of McDonnell Douglas DC-9-30 series

airplanes also reported cracks found in the upper cap of the rear spar. In addition, several operators of McDonnell Douglas Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes reported cracks found in the upper and lower cap of the rear spar. Also, according to the manufacturer's analysis, for McDonnell Douglas Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes, fatigue cracking in the upper and lower caps of the rear spar of the wings at station Xrs=267.000 may initiate at about 15,000 total landing cycles as a result of loads introduced by the flap hinge fitting. Fatigue cracking in the upper and lower caps of the rear spar of the left and right wings, if not detected and corrected, could result in structural failure of the wings.

The subject area on certain Model DC-9-20, -40, and -50 series airplanes is almost identical to that on the affected Model DC-9-10 and -30 series airplanes and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes. Therefore, those Model DC-9-20, -40, and -50 series airplanes may be subject to the unsafe condition revealed on the DC-9-10 and -30 series airplanes and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes.

#### Relevant Service Information

We have reviewed McDonnell Douglas DC-9 Service Bulletin 57-179, Revision 1, dated December 21, 1994. The service bulletin describes procedures for initial and repetitive detailed inspections of the upper and lower caps of the rear spar of the left and right wings at station Xrs=267.000 for cracks, and corrective action if necessary. The corrective action includes doing the permanent repair modification or the temporary repair modification of the upper and lower caps of the rear spar. The permanent repair modification extends the compliance time for the next repetitive detailed inspection. The temporary repair modification includes doing repetitive detailed, eddy current, and ultrasonic inspections for any crack progression or any new crack, and doing the permanent repair modification if any crack progression or any new crack is found.

The service bulletin also specifies that doing the crack preventative modification described in other service bulletins eliminates the need for the repetitive inspections.

McDonnell Douglas DC-9 Service Bulletin 57-160, dated December 7, 1987; MD-80 Service Bulletin 57-177, Revision 1, dated June 12, 1989; and MD-80 Service Bulletin 57-178, Revision 1, dated June 12, 1990;

describe procedures for the crack preventative modification at station Xrs=267.000. The procedures include replacing/modifying the flap hinge fitting, brace fitting, and rear spar area, as applicable.

We have determined that doing the actions specified in McDonnell Douglas DC-9 Service Bulletin 57-179, Revision 1, dated December 21, 1994, will adequately address the unsafe condition.

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require repetitive detailed inspections of the upper and lower caps of the rear spar of the left and right wings, and corrective action if necessary. The proposed AD would require you to use McDonnell Douglas DC-9 Service Bulletin 57-179, Revision 1, dated December 21, 1994, described previously to do these actions, except as discussed under "Differences Between the Proposed AD and the Service Bulletin."

#### Differences Between the Proposed AD and the Service Bulletins

Operators should note that McDonnell Douglas DC-9 Service Bulletin 57-179, Revision 1, dated December 21, 1994, specifies that, if any crack progression or any new crack is found after the temporary repair, the permanent repair modification must be done within 3,000 landings. However, this proposed AD would require that if any crack progression or new crack is detected, repair must be done before further flight per a method approved by the FAA. This difference has been coordinated with the manufacturer.

In addition, McDonnell Douglas DC-9 Service Bulletin 57-160, dated December 7, 1987; MD-80 Service Bulletin 57-177, Revision 1, dated June 12, 1989; and MD-80 Service Bulletin 57-178, Revision 1, dated June 12, 1990; specify that operators may contact the manufacturer for specific modification information. However, this proposed AD would require operators to repair those conditions per a method approved by the FAA.

#### Costs of Compliance

This proposed AD would affect about 583 airplanes of U.S. registry and 1,163 airplanes worldwide. The proposed inspection would take about 4 work hours per airplane, at an average labor rate of \$65 per work hour. Based on

these figures, the estimated cost of the proposed AD for U.S. operators is \$151,580 or \$260 per airplane, per inspection cycle.

#### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 proposed 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 proposed 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.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

**McDonnell Douglas:** Docket No. FAA-2004-18774; Directorate Identifier 2003-NM-212-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by September 20, 2004.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to the models listed in Table 1 of this AD, certificated in any category; as listed in McDonnell Douglas DC-

9 Service Bulletin 57-179, Revision 1, dated December 21, 1994.

Model DC-9-11, DC-9-12, DC-9-13, DC-9-14, DC-9-15, and DC-9-15F airplanes.  
 Model DC-9-21 airplanes.  
 Model DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-33F, DC-9-34, DC-9-34F, and DC-9-32F (C-9A, C-9B) airplanes.  
 Model DC-9-41 airplanes.  
 Model DC-9-51 airplanes.  
 Model DC-9-81 (MD-81), and DC-9-82 (MD-82) airplanes.

**Unsafe Condition**

(d) This AD was prompted by reports of fatigue cracks in the upper and lower caps of the wing spar. We are issuing this AD to detect and correct fatigue cracking in the upper and lower caps of the rear spar of the left and right wings, which could result in structural failure of the wings.

**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.

**Service Bulletin Reference**

(f) Unless otherwise stated, the term "service bulletin," as used in this AD, means McDonnell Douglas DC-9 Service Bulletin 57-179, Revision 1, dated December 21, 1994.

**Inspection of the Upper and Lower Caps of the Rear Spar**

(g) At the time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable, do a detailed inspection of the upper and lower caps of the rear spar of the left and right wings at station Xrs=267.000 for cracks, in accordance with the Accomplishment Instructions of the service bulletin.

(1) For Group 1 airplanes identified in paragraph 1.A.(1) of the service bulletin: Inspect prior to the accumulation of 50,000 total landings or within 3,000 landings after the effective date of this AD, whichever occurs later.

(2) For Group 2 airplanes identified in paragraph 1.A.(1) of the service bulletin: Inspect prior to the accumulation of 20,000 total landings or within 3,000 landings after the effective date of this AD, whichever occurs later.

**Note 1:** For the purposes of this AD, a detailed inspection is "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

**No Crack Detected: Repetitive Inspections**

(h) If no crack is detected during any detailed inspection required by paragraph (g) of this AD, repeat the inspection thereafter at intervals not to exceed 3,000 landings until the crack preventative modification specified in paragraph (m) of this AD is done.

**Any Crack Detected: Corrective Actions**

(i) If any crack is detected during any detailed inspection required by paragraph (g) of this AD, before further flight, do the actions in paragraph (j) of this AD, except as provided by paragraph (k) of this AD.

**Permanent Repair Modification**

(j) If required by paragraph (i) of this AD, do the permanent repair modification of the upper and lower caps of the rear spar; and at the times specified in paragraph (j)(1) or (j)(2) of this AD, as applicable, do the detailed inspection specified in paragraph (g) of this AD. Do the actions in accordance with the Accomplishment Instructions of the service bulletin.

(1) For Group 1 airplanes identified in paragraph 1.A.(1) of the service bulletin: Within 53,000 landings after accomplishing the permanent repair modification, do the detailed inspection. Repeat the detailed inspection thereafter at intervals not to exceed 3,000 landings until the crack preventative modification specified in paragraph (m) of this AD is done.

(2) For Group 2 airplanes identified in paragraph 1.A.(1) of the service bulletin: Within 33,000 landings after accomplishing the permanent repair modification, do the detailed inspection. Repeat the detailed inspection thereafter at intervals not to exceed 3,000 landings until the crack preventative modification specified in paragraph (m) of this AD is done.

**Optional Temporary Repair Modification for Certain Cracking**

(k) In lieu of the actions specified in paragraph (j) of this AD, for any crack that

does not exceed the limits specified in the Accomplishment Instructions of the service bulletin: Before further flight, do the temporary repair modification of the upper and lower caps of the rear spar; and at the times specified in paragraphs (k)(1) and (k)(2) of this AD, do the detailed inspections specified in paragraphs (k)(1) and (k)(2) of this AD. Do the actions in accordance with the Accomplishment Instructions of the service bulletin.

(1) Within 1,500 landings after accomplishing the temporary repair modification, do a detailed inspection of the temporary repair for any new crack or crack progression and repeat the inspection thereafter at intervals not to exceed 1,500 landings until the permanent repair modification specified in paragraph (j) of this AD is done.

(2) Within 3,000 landings after accomplishing the temporary repair modification, do detailed, eddy current, and ultrasonic inspections of the temporary repair for any new crack or crack progression and repeat the inspections thereafter at intervals not to exceed 3,000 landings until the permanent repair modification specified in paragraph (j) of this AD is done.

(l) If any crack progression or new crack is detected during any inspection required by paragraph (k)(1) or (k)(2) of this AD, before further flight, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

**Optional Terminating Crack Preventative Modification**

(m) Except as provided by paragraph (n) of this AD, accomplishment of the crack preventative modification in accordance with the applicable service bulletin listed in Table 2 of this AD ends the repetitive inspections required by this AD. If the applicable service bulletin specifies to contact the manufacturer for specific modification information: Repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

TABLE 2.—SERVICE BULLETINS FOR CRACK PREVENTATIVE MODIFICATION

For Airplane Model—	Use McDonnell Douglas Service Bulletin—
Model DC-9-10, -20, -30, -40, and -50 series airplanes; and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) airplanes.	DC-9 Service Bulletin 57-160, dated December 7, 1987.
Model DC-9-81 (MD-81), DC-9-82 (MD-82), and DC-9-83 (MD-83) airplanes.	MD-80 Service Bulletin 57-177, Revision 1, dated June 12, 1989.
Model DC-9-82 (MD-82), airplanes .....	MD-80, Service Bulletin 57-178, Revision 1, dated June 12, 1990.

(n) For airplanes on which the temporary repair modification specified in paragraph (k) of this AD has been done: Before or

concurrently with the crack preventative modification specified in paragraph (m) of this AD, do the permanent repair

modification specified in paragraph (j) of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

Issued in Renton, Washington, on July 29, 2004.

**Ali Bahrami,**

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

[FR Doc. 04-17859 Filed 8-4-04; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2004-18773; Directorate Identifier 2002-NM-312-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Model A320 Series Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) for certain Airbus Model A320 series airplanes. That AD currently requires repetitive inspections to detect fatigue cracking in certain areas of the fuselage, and corrective action if necessary. That AD also provides for an optional terminating action for the repetitive inspections. This proposed AD would reduce the compliance threshold and repetitive intervals for the inspections required by the existing AD, and would reduce the allowable time for the optional terminating action. This proposed AD is prompted by a full-scale fatigue survey on the Model A320 fleet. We are proposing this AD to detect and correct fatigue cracking of the fuselage, which could result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by September 7, 2004.

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

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the 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 get the service information identified in this proposed AD from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

You may 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.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Docket Management System (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.

**Comments Invited**

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2004-18773; Directorate Identifier 2002-NM-312-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed 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 proposed AD.

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**Discussion**

On December 30, 1998, we issued AD 99-01-19, amendment 39-10987 (64 FR 1114, January 11, 1999), for certain Airbus Model A320 series airplanes. That AD requires repetitive inspections to detect fatigue cracking in certain areas of the fuselage, and corrective action if necessary. That AD also provides for an optional terminating action for the repetitive inspections. That AD was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. We issued that AD to detect and correct fatigue cracking of the fuselage, which could result in reduced structural integrity of the airplane.

**Actions Since Existing AD Was Issued**

Since we issued AD 99-01-19, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, advises that a full-scale fatigue survey on the Model A320 fleet revealed that the weight of fuel at landing and the average flight duration are higher than those defined for the analysis of fatigue-related tasks. This has led to an adjustment of the fatigue mission for the A320 fleet, in that the