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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. FAA-2005-22062; Directorate Identifier 2003-NM-219-AD; Amendment 39-14538; AD 2006-07-11]**

**RIN 2120-AA64**

**Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), MD-88, and MD-90-30 Airplanes**

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

**ACTION:** Final rule.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all McDonnell Douglas airplanes identified above. This AD requires a one-time inspection of the aft attach fitting assembly of the spoiler link to determine the part number, and further investigative action and replacement of the assembly with a new or serviceable assembly, if necessary. This AD results from a determination that the holes of certain aft attach fitting assemblies of the spoiler link were not cold-worked during production. We are issuing this AD to prevent fatigue cracking of the aft attach fitting of the spoiler link and consequent failure of the fitting. Failure of the fitting could result in an asymmetrical lift condition and consequent reduced controllability of the airplane.

**DATES:** This AD becomes effective May 5, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 5, 2006.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC.

Contact Aerotech Engineering, Inc., 19655 Descartes, Foothill Ranch, California 92610; for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Roger Durbin, Aerospace Engineer, Airframe Branch, ANM-120L, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5233; fax (562) 627-5210.

## **SUPPLEMENTARY INFORMATION:**

### **Examining the Docket**

You may examine the airworthiness directive (AD) docket on the Internet at <http://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 street address stated in the ADDRESSES section.

### **Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), MD-88, and MD-90-30 airplanes. That NPRM was published in the Federal Register on August 11, 2005 (70 FR 46790). That NPRM proposed to require a one-time inspection of the aft attach fitting assembly of the spoiler link to determine the part number, and further investigative action and replacement of the assembly with a new or serviceable assembly, if necessary.

### **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

### **Request To Address Illegible Part Numbers**

Midwest Airlines (MAL) is concerned about the possibility that operators may not be able to determine the part number on the subject parts. The parts manufacturer used an "Ink Stamp" method of marking the parts, and the parts are dimensionally the same as parts produced by the original equipment manufacturer. Thus, the stamped part number is the only way to identify affected parts. MAL points out that the stamped part number wears and washes off of parts, making it impossible to identify an affected part. MAL notes that a cursory look at airplanes in its fleet revealed that the part number on some of its airplanes is no longer legible. MAL believes that all unmarked parts would have to be changed to ensure that all discrepant parts are removed from service.

We agree that some clarification is necessary. While determining the stamped part number is the only immediate way to identify an affected part, a review of maintenance and purchasing records may also assist in determining whether an affected part is installed. We agree that any part on which the part number and/or lot number cannot be conclusively determined must be replaced to ensure that all discrepant parts are removed from service. Therefore, we have revised paragraph (f)(2) and (g) of this AD to clarify what actions are required if the part number and/or lot number cannot be determined. Also, we have revised paragraph (f) and (f)(2) of this AD to clarify that a review of maintenance records is an acceptable means of determining a part number.

### **Request To Allow Repetitive Inspections in Lieu of Immediate Replacement**

The Air Transport Association (ATA), on behalf of its member, Delta Airlines (Delta), requests that we revise the proposed AD to allow an affected part to be repetitively inspected in lieu of requiring replacement of any identified affected part before further flight. ATA and Delta state that this would allow the replacement to be scheduled and done during a maintenance visit. Neither ATA nor Delta state a technical justification for the request.

We do not concur. There are no data available to determine the damage tolerance characteristics of the subject parts. Thus, we cannot be sure that repetitive inspections of an affected part would ensure an adequate level of safety. We note that the compliance time of 10,000 total flight hours on the aft attach fitting assembly of the spoiler link, or 18 months after the effective date of this AD, whichever is later, should allow the majority of operators to comply with the requirements of this AD at a scheduled maintenance visit. In addition, we have determined from the parts manufacturer that an adequate supply of replacement parts exists to support replacing affected parts during a scheduled maintenance visit within the compliance time. We have not changed the AD in this regard. However, operators may request approval of an alternative method of compliance (AMOC) for the replacement in accordance with paragraph (i)(1) of this AD. The request must include data substantiating that the AMOC would provide an acceptable level of safety.

### **Request To Expand Applicability**

MAL is concerned about the possibility that the subject aft attach fitting assemblies of the spoiler link may be installed on other McDonnell Douglas Model DC-9 airplanes (e.g., Model DC-9-10, -20, -30, -40, or -50 series airplanes).

We acknowledge MAL's concern, but note that the Parts Manufacturing Authority (PMA) supplement limits the installation of the subject parts to McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), MD-88, and MD-90-30 airplanes. Thus, the subject parts are not installed on any airplane models other than these. We have not changed the AD in this regard.

### **Request To Include Replacement Cost**

MAL, ATA, and Delta request that we revise the Costs of Compliance section of the proposed AD to include the cost of labor and parts associated with replacing the aft attach fitting assembly of the spoiler link. Delta notes that the proposed AD doesn't include any analysis of the cost of replacement if a subject assembly is installed. Delta believes that this information should be provided to operators.

We do not concur. We acknowledge that replacing an affected assembly would take approximately 5 work hours, the cost of necessary parts would be \$350, and that there are approximately 134 affected parts that were produced and sold. However, the economic analysis of an AD is limited to the cost of actions that are actually required by the AD—in this case, the inspection to determine if a part is affected. The economic analysis does not consider the costs of conditional actions, such as replacing a part that is found to be affected. Such conditional actions would be required—regardless of AD direction—to correct an unsafe condition identified in an airplane and to ensure that the airplane is operated in an airworthy condition, as required by the Federal Aviation Regulations. We have not changed the AD in this regard.

### **Clarification of AMOC Paragraph**

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

### **Conclusion**

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

## **Costs of Compliance**

There are about 1,296 airplanes of the affected design in the worldwide fleet. This AD will affect about 738 airplanes of U.S. registry. The inspection to determine the part number of the aft attach fitting assembly of the spoiler link will take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of this inspection for U.S. operators is \$47,970, or \$65 per airplane.

## **Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

## **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 this AD:

- (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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket. 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, Incorporation by reference, 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

# AIRWORTHINESS DIRECTIVE



Aircraft Certification Service  
Washington, DC

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

[www.faa.gov/aircraft/safety/alerts/](http://www.faa.gov/aircraft/safety/alerts/)

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

**2006-07-11 McDonnell Douglas:** Amendment 39-14538. Docket No. FAA-2005-22062; Directorate Identifier 2003-NM-219-AD.

## Effective Date

- (a) This AD becomes effective May 5, 2006.

## Affected ADs

- (b) None.

## Applicability

- (c) This AD applies to all McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), MD-88, and MD-90-30 airplanes, certificated in any category.

## Unsafe Condition

- (d) This AD was prompted by a determination that the holes of certain aft attach fitting assemblies of the spoiler link were not cold-worked during production. We are issuing this AD to prevent fatigue cracking of the aft attach fitting of the spoiler link and consequent failure of the fitting. Failure of the fitting could result in an asymmetrical lift condition and consequent reduced controllability of the airplane.

## 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.

## Inspection

- (f) Prior to the accumulation of 10,000 total flight hours on the aft attach fitting assembly of the spoiler link, or within 18 months after the effective date of this AD, whichever is later: Inspect the aft attach fitting assembly of the spoiler link to determine the part number, in accordance with Item 1.a) of Section 1.D., "Description," of Aerotech Manufacturing Service Bulletin DC9-27-01-AMI5139, Revision "A," dated June 19, 2003. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the assembly can be conclusively determined from that review.

- (1) If the part number is not AMI3954558-1 or AMI3954558-501: No further action is required by this AD, but the provisions of paragraph (h) of this AD continue to apply.

(2) If the part number is AMI3954558-1 or AMI3954558-501, or if the part number cannot be conclusively determined: Before further flight, inspect the aft attach fitting assembly of the spoiler link to determine the lot number, then determine if the lot number is identified in the "Lot Number" column of the table in Section 1.A.1. of the service bulletin. If the lot number is not identified in the service bulletin, no further action is required by this AD, but the provisions of paragraph (h) of this AD continue to apply. A review of airplane maintenance records is acceptable in lieu of this inspection if the lot number of the assembly can be conclusively determined from that review.

## **Replacement**

(g) If the part number of the aft attach fitting assembly of the spoiler link is AMI3954558-1 or AMI3954558-501, and the lot number is identified in the "Lot Number" column of the table in Section 1.A.1. of Aerotech Manufacturing Service Bulletin DC9-27-01-AMI5139, Revision "A," dated June 19, 2003, or if the part number and/or lot number cannot be conclusively determined: Before further flight, replace the assembly with a new or serviceable assembly having a lot number that is not identified in the "Lot Number" column of the table in Section 1.A.1. of the service bulletin, in accordance with Item 1.b). of Section 1.D., "Description," of the service bulletin.

## **Parts Installation**

(h) As of the effective date of this AD, no person may install, on any airplane, an aft attach fitting assembly of the spoiler link having part number AMI3954558-1 or AMI3954558-501, and having a lot number identified in the "Lot Number" column of the table in Section 1.A.1. of Aerotech Manufacturing Service Bulletin DC9-27-01-AMI5139, Revision "A," dated June 19, 2003.

## **Alternative Methods of Compliance (AMOCs)**

(i)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

## **Material Incorporated by Reference**

(j) You must use Aerotech Manufacturing Service Bulletin DC9-27-01-AMI5139, Revision "A," dated June 19, 2003; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Aerotech Engineering, Inc., 19655 Descartes, Foothill Ranch, California 92610; for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the 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).

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06-3064 Filed 3-30-06; 8:45 am]

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