

(1) If a savings association has received a composite rating of 3, 4 or 5, as defined at § 516.3(c) of this chapter; or

* * * * *

(c) * * *

(2) The Director may waive the independent audit requirement described at paragraph (b)(1) of this section, if the Director determines that an audit would not provide further information on safety and soundness issues relevant to the examination rating.

* * * * *

PART 563—OPERATIONS

7. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806.

8. Section 563.41 is amended by revising paragraph (e)(2)(ii)(A) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

9. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

10. Section 565.4 is amended by revising paragraphs (b)(2)(iii)(B), (b)(3)(iii)(B), and (c)(2) to read as follows:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(2) * * *

(iii) * * *

(B) A leverage ratio of 3.0 percent or greater if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter; and

* * * * *

(3) * * *

(iii)(A) * * *

(B) Has a leverage ratio that is less than 3.0 percent if the savings association is assigned a composite rating of 1, as defined in § 516.3(c) of this chapter.

* * * * *

(c) * * *

(2) *Unsafe or unsound practice.* The OTS has determined, after notice and an opportunity for hearing pursuant to § 565.8(a) of this part, that the savings association received a less-than-satisfactory rating for any rating category (other than in a rating category specifically addressing capital adequacy) under the Uniform Financial Institutions Rating System,¹ or an equivalent rating under a comparable rating system adopted by the OTS; and has not corrected the conditions that served as the basis for the less than satisfactory rating. Ratings under this paragraph (c)(2) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the savings association has been notified in writing.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

11. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

12. Section 574.9 is amended by revising paragraph (a)(5)(i)(A) to read as follows:

§ 574.9 Additions of directors and employment of senior executive officers of savings associations and savings and loan holding companies.

(a) * * *

(5) * * *

(i) * * *

(A) Has a composite rating of 4 or 5, as defined in § 516.3(c) of this chapter;

* * * * *

Dated: January 15, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97-1811 Filed 1-24-97; 8:45 am]

BILLING CODE 6720-01-P

¹ Copies are available at the address specified in § 516.1 of this chapter.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-01-AD; Amendment 39-9895; AD 97-02-10]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-9, DC-9-80, and C-9 (Military) Series Airplanes, Model MD-88 Airplanes, and Model MD-90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9, DC-9-80, and C-9 (military) series airplanes, Model MD-88 airplanes, and Model MD-90 airplanes. This action requires a visual check to determine the part and serial numbers of the upper lock link assembly of the nose landing gear (NLG); repetitive inspections of certain upper lock link assemblies to detect fatigue cracking; and modification of the NLG. This action also provides for terminating action for the repetitive inspections. This amendment is prompted by a report indicating that, due to fatigue cracking, the upper lock link assembly on an airplane fractured, and consequently prevented the NLG from extending fully. The actions specified in this AD are intended to prevent this assembly from fracturing due to fatigue cracking, and the NLG consequently failing to extend fully; this condition could result in injury to passengers and flight crew, and damage to the airplane.

DATES: Effective February 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 11, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 28, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-01-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, 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:

Brent Bandley, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5237; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report indicating that the upper lock link assembly of the nose landing gear (NLG) on a McDonnell Douglas DC-9-80 series airplane failed prior to landing. As a result of this failure, the airplane sustained moderate damage to the forward lower fuselage.

An investigation by the operator revealed that this assembly had fractured and jammed against the shock strut, which prevented the NLG from extending fully. This fracture was caused by fatigue cracking that originated at the lower end of the assembly where the flange and inner radius meet. The operator also detected similar fatigue cracking in two other upper lock link assemblies during an inspection of other airplanes in its fleet.

An upper lock link assembly can be either manufactured from aluminum plate or forged from aluminum. The three cracked assemblies that were detected were aluminum plate, a material which has a much shorter fatigue life than forged aluminum. In addition to Model DC-9-80 series airplanes, assemblies of aluminum plate may be installed on Model DC-9 and C-9 (military) series airplanes, Model MD-88 airplanes, and Model MD-90 airplanes.

Fracturing of the upper lock link assembly due to fatigue cracking, if not corrected, can result in the failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9-32A298 [for Model DC-9, DC-9-80, and C-9 (military) series airplanes, and Model MD-88 airplanes],

and McDonnell Douglas Alert Service Bulletin MD90-32A019 [for Model MD-90 airplanes], both dated December 19, 1996. Both alert service bulletins describe procedures for conducting a visual check of the part number and serial number on the upper lock link assembly of the NLG to identify whether an assembly has been forged from aluminum (an "exempt upper lock link assembly"), or has been manufactured from aluminum plate (a "possible discrepant upper lock link assembly"). No further action is necessary if an exempt upper lock link assembly is installed.

Both alert service documents also describe procedures for conducting repetitive high frequency eddy current inspections or Type I fluorescent penetrant inspections to detect fatigue cracking in a possible discrepant upper lock link assembly. When fatigue cracking is detected in this upper lock link assembly or when the assembly's safe life (46,500 cycles of the NLG) has been reached, the pin assembly of the NLG is to be replaced with a new or serviceable pin assembly. (The upper lock link assembly is contained within the pin assembly.) If the pin assembly is replaced with one that contains an exempt upper lock link assembly, the need for subsequent repetitive inspections and replacement of parts is eliminated.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model DC-9, DC-9-80, and C-9 (military) series airplanes, Model MD-88 airplanes, and Model MD-90 airplanes, of the same type design, this AD is being issued to prevent fracturing of the upper lock link assembly due to fatigue cracking, and the consequent failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane.

This AD requires a visual check of the part number and serial number on the upper lock link assembly to identify whether this assembly is a possible discrepant assembly or an exempt assembly. (No further action is required if an upper lock link assembly is an exempt assembly.)

This AD also requires repetitive high frequency eddy current inspections or Type I fluorescent penetrant inspections of any possible discrepant upper lock link assembly to detect fatigue cracking. When fatigue cracking is detected in the upper lock link assembly, this AD requires that the pin assembly of the

NLG be replaced with a new or serviceable pin assembly. The operator, at its option, may install a replacement pin assembly that contains an exempt, rather than a possible discrepant, upper lock link; this substitution terminates the requirement for repetitive inspections.

The actions are required to be accomplished in accordance with the applicable alert service bulletin described previously.

Interim Action

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

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact

concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-01-AD." The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

97-02-10 McDonnell Douglas: Amendment 39-9895. Docket 97-NM-01-AD.

Applicability: Model DC-9, DC-9-80, and C-9 (military) series airplanes, Model MD-88 airplanes, and Model MD-90 airplanes; as listed in McDonnell Douglas Alert Service Bulletins DC9-32A298 [for Model DC-9, DC-9-80, and C-9 (military) series airplanes, and Model MD-88 airplanes], and McDonnell Douglas Alert Service Bulletin MD90-32A019 [for Model MD-90 airplanes], both dated December 19, 1996; 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 request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fracturing of the upper lock link assembly of the nose landing gear (NLG) due to fatigue cracking, and the consequent failure of the NLG to extend fully, which could lead to injury to passengers and flight crew, and damage to the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total cycles of the NLG, or within 90 days after the effective date of this AD, whichever occurs later, conduct a visual check of the upper lock link assembly of the NLG to determine its part and serial number, in accordance with McDonnell Douglas Alert Service Bulletin DC9-32A298 [for Model DC-9, DC-9-80, and C-9 (military) series airplanes, and Model MD-88 airplanes], or McDonnell Douglas Alert Service Bulletin MD90-32A019 [for Model MD-90 airplanes], both dated December 19, 1996, as applicable.

(b) If the part number and serial number of the upper lock link assembly are listed in paragraph (b)(1) or (b)(2) of this AD ("an exempt upper lock link assembly"), no further action is required.

Note 2: An "exempt upper lock link assembly" as specified in paragraph (b) of this AD is an assembly that is manufactured of forged aluminum.

(1) For Model DC-9, DC-9-80, and C-9 (military) series airplanes, and Model MD-88 airplanes: Part Number (P/N) 3914464-(any configuration) having serial numbers (S/N) HMI001 through HMI172 inclusive, or S/N WPI1000 and subsequent; or P/N 5920472-(any configuration) having any serial number.

(2) For Model MD-90 airplanes: P/N 3914464-503 having S/N HMI001 through

HMI172 inclusive, or S/N WPI1000 and subsequent.

(c) If the part number and serial number of the upper lock link assembly are not listed in paragraph (b)(1) or (b)(2) of this AD ("a possible discrepant upper lock link assembly"), except as provided by paragraph (c)(3) of this AD, prior to further flight, conduct either a high frequency eddy current inspection or a Type I fluorescent penetrant inspection of this assembly to detect fatigue cracks, in accordance with McDonnell Douglas Alert Service Bulletin DC9-32A298 [for Model DC-9, DC-9-80, and C-9 (military) series airplanes, and Model MD-88 airplanes], or McDonnell Douglas Alert Service Bulletin MD90-32A019 [for Model MD-90 airplanes], both dated December 19, 1996.

Note 3: A "possible discrepant upper lock link assembly" as specified in paragraph (c) of this AD is an assembly that may be manufactured from aluminum plate.

(1) If no crack is detected, repeat either type of inspection required by paragraph (c) of this AD at intervals not to exceed 5,000 cycles of the NLG.

(2) If any crack is detected, prior to further flight, replace the pin assembly of the NLG in accordance with the applicable alert service bulletin.

(3) A Type I fluorescent penetrant inspection of the upper lock link assembly that has been conducted within the last 12 months prior to the effective date of this AD and in accordance with the DC-9 Overhaul Manual or MD-90 Component Manual, Chapter 20-70-2, is considered acceptable for compliance with the initial inspection required by paragraph (c) of this AD. If no crack was detected during that inspection, subsequent repetitive inspections are required to be accomplished at the intervals specified in paragraph (c)(1) of this AD.

(d) When replacement of the pin assembly of the NLG is required in accordance with paragraph (c)(1) or (c)(2) of this AD:

(1) If the pin assembly is replaced with a new assembly that contains a possible discrepant upper lock assembly: After the pin assembly has been replaced, repeat the inspection required by paragraph (c) of this AD prior to the accumulation of 10,000 cycles of the NLG.

(2) If the pin assembly is replaced with a serviceable assembly that contains a possible discrepant upper lock assembly: After the pin assembly has been replaced, repeat the inspection required by paragraph (c) of this AD either prior to the accumulation of 10,000 total cycles of the NLG for that pin assembly, or prior to further flight, whichever occurs later.

(3) If the pin assembly is replaced with a pin assembly that contains an exempt upper lock link assembly: No further action is required. This installation constitutes terminating action for the repetitive inspections required by this AD.

(e) 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.

(f) 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.

(g) The visual check, repetitive inspections, and replacement of the pin assembly of the NLG shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9-32A298, dated December 19, 1996; or McDonnell Douglas Alert Service Bulletin MD90-32A019, dated December 19, 1996; as applicable. 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, Transport Airplane Directorate, 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.

(h) This amendment becomes effective on February 11, 1997.

Issued in Renton, Washington, on January 14, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-1438 Filed 1-24-97; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 95-NM-192-AD; Amendment 39-9906; AD 97-02-21]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB-120 series airplanes, that requires repetitive inspections to detect cracks in the wing rib-to-skin support brackets (shear clips), and replacement of cracked brackets with new or serviceable brackets. This amendment also requires the eventual replacement

of certain brackets with new brackets, which terminates the requirement for the inspections. This amendment is prompted by reports of cracks in certain wing rib-to-skin support brackets in both the lower and upper skin of the wings. The actions specified by this AD are intended to prevent cracking of those support brackets, which can subsequently lead to the loosening of the rivets in the wing skin, leakage of fuel through the rivet holes, and, ultimately, the reduction of the structural integrity of the wing.

DATES: Effective March 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica, S.A. (EMBRAER), Sao Jose dos Campos—SP, Brazil. 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, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe and Propulsion Branch, ACE-117A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7358; fax (404) 305-7348.

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 EMBRAER Model EMB-120 series airplanes was published in the Federal Register on April 24, 1996 (61 FR 17853). That action proposed to require repetitive inspections to detect cracks in the wing rib-to-skin support brackets (shear clips), and replacement of cracked brackets with new or serviceable brackets. That action also proposed to require the eventual replacement of certain brackets with new brackets, which would terminate the requirement for the inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the single comment received.

Request to Delete Inspection Requirement

The only commenter, a U.S. operator, requests that the proposal be revised to delete the requirement to conduct repetitive inspections of the brackets. This commenter states that the subject area already is inspected by its flight crews on preflight inspections, and by its mechanics on daily inspections and line checks. The commenter considers that the need for the inspection requirement, and the extra paperwork that would be involved, cannot be justified by any data. This commenter, who operates 63 of the affected airplanes, indicates that it has analyzed the last 12 months of data on fuel leaks in its fleet; the data indicate that there have been 43 fuel leaks associated with leaking rivets, but there were no broken or cracked brackets found.

The FAA does not concur with the commenter's request. While this commenter specifically may not have found cracked brackets, there have been several cases reported by other operators in which fuel leaks caused by broken or cracked brackets were discovered on in-service airplanes. The FAA finds that the proposed inspection requirement will be effective in finding and addressing fuel leakage, and any associated cracking of a support bracket, well before more serious problems associated with these conditions could occur. The FAA also points out that operators may discontinue the inspections once the newly designed brackets are installed and follow-on actions are accomplished.

Request to Clarify "New" and "Old" Bracket Design

This same commenter requests clarification regarding the types of replacement brackets that are required to be installed. Specifically, the commenter questions whether it would be acceptable to install "old style" brackets as replacement parts in cases where no "new style" brackets are available.

The FAA concurs that clarification is necessary. If cracking is found in the brackets at ribs 15, 16, or 18, and the extent of the cracking necessitates replacement, operators may install either another new or serviceable "old style" bracket having the same part number; or a "new style" bracket, having a part number that is specified in paragraph 3.1. of EMBRAER Service Bulletin 120-57-0031. However, terminating action consists of replacing