

4. In § 56.37, the first sentence is revised to read as follows:

**§ 56.37 Lot marking of officially identified product.**

Each carton identified with the grademarks shown in § 56.36 shall be legibly lot numbered on either the carton or the consumer package. \* \* \*

5. In § 56.40, paragraph (a) is revised to read as follows:

**§ 56.40 Grading requirements of shell eggs identified with consumer grademarks.**

(a) Shell eggs to be identified with the grademarks illustrated in § 56.36 must be individually graded by a grader or by authorized personnel pursuant to § 56.11 and thereafter check graded by a grader.

\* \* \* \* \*

6. In § 56.76, the first sentence in paragraph (e)(5) is revised to read as follows:

**§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.**

\* \* \* \* \*

(e) \* \* \*

(5) Replacement water shall be added continuously to the wash water of washers. \* \* \*

\* \* \* \* \*

Dated: July 31, 1997.

**Lon Hatamiya,**

*Administrator, Agricultural Marketing Service.*

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 20

RIN 3150-AF44

### Reporting Requirements for Unauthorized Use of Licensed Radioactive Material

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking that was published in the **Federal Register** on January 31, 1996, regarding the intentional unauthorized use of licensed radioactive material by individuals. The majority of commenters stated that the costs of implementing the proposed rule would outweigh the benefits that might result from the rule. After reviewing these comments, the Commission has reconsidered the need for the proposed rule and is withdrawing it.

### FOR FURTHER INFORMATION CONTACT:

Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, telephone (301) 415-6230, E-mail MLT1@NRC.GOV.

**SUPPLEMENTARY INFORMATION:** On January 31, 1996, the NRC published a proposed amendment to 10 CFR part 20, in the **Federal Register** (61 FR 3334), that would have required licensees to report events involving intentional unauthorized use of licensed radioactive material to the NRC Operations Center within 24 hours of discovery.

Eighty-six comment letters were received on the proposed rule: 12 from power reactor licensees, 11 from industry representative groups, 8 from Agreement States, 14 from Agreement State licensees, 30 from NRC material licensees, 10 from private citizens, and one from a public interest group. Eighty-two of the commenters opposed the proposed rule; four were in favor of the proposed rule. In addition, comments were received from the Advisory Committee on Medical Uses of Isotopes (ACMUI) at a meeting held on February 22, 1996.

The commenters addressed the regulatory analysis, the severity level that would be assigned to violations for failure to report, and the backfit analysis as well as the proposed rule itself. Because the proposed rule is being withdrawn, only the comments received on the proposed rule itself are discussed here. All of the comments received on the rule are available for review in the NRC's Public Document Room.

**Comment:** Forty commenters stated that the concept presented in this rule was not consistent with the ALARA principle. They also stated that the rule would require every event of contamination and exposure to be reported regardless of the level of contamination or exposure. Several commenters argued that using a reporting threshold that included any "allegedly intentional" unauthorized use was too broad and would result in licensees spending more time and money than the 20 hours to evaluate an incident estimated in the proposed regulatory analysis for the proposed rule, and would detract from their ability to perform their other duties. They stated that this would place an undue burden on small licensees whose resources are already limited. Thirty-two commenters suggested that the requirement to report events where unauthorized use could not be ruled out within 48 hours be deleted. They stated that it was too vague, burdensome, and restrictive, and they would be forced to

report every contamination to avoid a Severity Level III violation. Forty-nine commenters suggested that the NRC be more specific with respect to the type of events to be reported. Thirty-six commenters suggested that the proposed rule be withdrawn. They stated that basing a rulemaking on only two incidents was not justified. Of this group, 26 commenters stated that regulations already exist to cover such incidents, such as 10 CFR 30.10, Deliberate misconduct, 10 CFR 20.2201, Reports of theft or loss of licensed material, 10 CFR 20.2202, Notification of incidents, and 10 CFR 30.50(a), Reporting requirements.

Of the eight Agreement States that provided comments, all stated that the proposed rule should be withdrawn. One Agreement State commented that this rule may violate the intent of that State's Regulatory Reform Act of 1995 that requires the State's regulatory system not impose excessive, unreasonable, or unnecessary obligations.

Four comments were received in favor of the proposed rule. One commenter supported the proposed rule without changes; the other three supported the intent of the proposed rule but suggested changes to further clarify the intent and to make the rule less burdensome. As discussed below, the Commission recognizes that regulations already exist requiring reporting of events when certain established dose thresholds have been reached. The Commission believes that a requirement to report events below these established thresholds would not provide any additional protection and the cost would not be justified.

**Response:** The Commission examined the comments received on the proposed rule, and concluded that a sufficient basis does not exist to promulgate a rule at this time. The Commission recognizes that regulations already exist requiring reporting of events when certain dose thresholds have been reached. The established thresholds in these existing requirements capture any event where the occupational dose limits have been exceeded. Therefore, any additional protection achieved from reporting events below the established thresholds would be low and the costs of both the reporting by licensees and the subsequent follow-up actions by the NRC staff would not be justified. For the above reasons, the Commission is withdrawing the proposed rule.

Dated at Rockville, Maryland, this 4th day of August, 1997.

For the Nuclear Regulatory Commission.  
**John C. Hoyle,**  
*Secretary of the Commission.*  
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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-49-AD]

RIN 2120-AA64

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

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 series airplanes, and C-9 (military) airplanes. This proposal would require a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. This proposal also would require low frequency eddy current inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary. This proposal is prompted by fatigue cracks found in the fuselage skin and doubler at the corners of the aft lower cargo doorjamb. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

**DATES:** Comments must be received by September 22, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule 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.

#### **FOR FURTHER INFORMATION CONTACT:**

Wahib Mina, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627-5324; fax (562) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-49-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-49-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### **Discussion**

The FAA has received reports of fatigue cracks in the fuselage skin and doubler at the corners of the aft lower cargo doorjamb on Model DC-9 series airplanes. These cracks were discovered during inspections conducted as part of

the Supplemental Structural Inspection Document (SSID) program, required by AD 96-13-03, amendment 39-9671 (61 FR 31009, June 19, 1996). Investigation revealed that such cracking was caused by fatigue-related stress. Fatigue cracking in the fuselage skin or doubler at the corners of the aft lower cargo doorjamb, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

##### **Explanation of Relevant Service Information**

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9-53-278, dated November 4, 1996. The service bulletin describes the following procedures:

1. For certain airplanes: Performing low frequency eddy current (LFEC) inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb;
2. For certain other airplanes: Contacting the manufacturer for disposition of certain conditions;
3. Conducting repetitive inspections, or modifying the corner skin of the aft lower cargo doorjamb and performing follow-on LFEC inspections, if no cracking is detected;
4. Performing repetitive LFEC inspections to detect cracks on the skin adjacent to any corner that has been modified; and
5. Modifying any crack that is found to be 2 inches or less in length at all corners that have not been modified and performing follow-on repetitive LFEC inspections.

Accomplishment of the modification will minimize the possibility of cracks in the fuselage skin and doubler.

##### **Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require, for certain airplanes, LFEC inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD also would require a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. The FAA finds that the LFEC inspections described in the referenced service bulletin are dependent on