

(c) If the court rules that the employee must comply with the demand regardless of the Chairman's instructions not to do so, the employee must respectfully refuse to comply.

(d) FCA's determination under this subpart to comply or not to comply with any demand will not be a waiver or an assertion of privilege, or an objection based on relevance, technical deficiency, or any other ground. We may oppose any demand on any legal ground.

**§ 602.24 Responses to demands served on non-FCA employees or entities.**

If you are not an FCA employee as defined in § 602.18(e) and are served with a demand or a subpoena in a legal proceeding directing you to produce or testify about an FCA report of examination, other document generated or adopted by FCA, or any related document, you must object and immediately notify the General Counsel of such service, the testimony and documents described in the demand, and all relevant facts. You must also object to the production of the documents on the basis that the documents are FCA's property and cannot be released without FCA's consent. You should inform the requester that the production of documents or testimony must follow the procedures in this part.

**Subpart E—Release of Records in Public Rulemaking Files**

**§ 602.25 General.**

FCA compiles a public rulemaking file for each regulation. You may obtain documents in the public rulemaking file by sending a written request to the Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. We will charge fifteen cents per copy for each page made by photocopy or similar process. If the requested records are maintained in an electronic format, we will charge for the actual reproduction costs. We will waive fees of \$15.00 or less.

Dated: March 2, 1999.

**Vivian L. Portis,**

*Secretary, Farm Credit Administration Board.*  
[FR Doc. 99-5550 Filed 3-5-99; 8:45 am]

BILLING CODE 6705-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 98-NM-326-AD]

RIN 2120-AA64

**Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 Airplanes**

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

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

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes. That AD currently requires a revision to the Airplane Flight Manual (AFM) to specify restrictions on operations during icing conditions, and installation of tufts and triangular decals on the inboard side of the wing upper surfaces, and a revision to the AFM to specify restrictions on operations when such tufts or decals are missing. This action would require installation of an overwing heater blanket system or a primary wing ice detection system, and a new revision to the AFM to advise the flightcrew of the hazards associated with ice accumulation on wing surfaces. This proposal is prompted by incidents in which ice accumulation on the wing upper surfaces shed into the engines during takeoff. The actions specified by the proposed AD are intended to prevent such ice accumulation, which could result in ingestion of ice into one or both engines and consequent loss of thrust from one or both engines.

**DATES:** Comments must be received by April 22, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-326-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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. 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.

**FOR FURTHER INFORMATION CONTACT:** Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5346; 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 98-NM-326-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-114, Attention: Rules Docket No. 98-NM-326-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

On January 3, 1992, the FAA issued AD 92-03-02, amendment 39-8156 (57 FR 2014, January 17, 1992), applicable to all McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes, to require a revision to the

FAA-approved Airplane Flight Manual (AFM) to specify that takeoff may not be initiated unless the flightcrew verifies that visual and physical checks of the wing upper surfaces have been accomplished, and that the wing is clear of ice accumulation. That AD also requires installation of tufts and triangular decals on the inboard side of wing upper surfaces. That action was prompted by several incidents in which ice build-up on wing upper surfaces may have shed into the engines during takeoff, causing damage to one or both engines. The requirements of that AD are intended to prevent such ice build-up, which, if not corrected, could result in loss of thrust from one or both engines.

#### **Actions Since Issuance of Previous Rule**

Since the issuance of that AD, several incidents occurred in which ice that had accumulated on the wing upper surfaces shed during takeoff and was ingested into an engine, which resulted in damage to the engine. In those incidents, the wings of the airplanes reportedly had been subjected to visual and physical checks to detect ice accumulation on the wing upper surfaces, in accordance with the AFM revision required by AD 92-03-02. Reportedly, no ice was detected during those inspections.

In the preamble to AD 92-03-02, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered. The FAA finds that the physical and visual checks to detect ice accumulation, as specified by the AFM revision required by AD 92-03-02, may not be adequate to ensure the safety of the affected transport airplane fleet. Therefore, the FAA has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

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

The FAA has reviewed and approved McDonnell Douglas Service Bulletins MD80-30-071, Revision 02, dated February 6, 1996; and MD80-30-078, Revision 01, dated April 8, 1997. Those service bulletins describe procedures for installation of an overwing heater blanket system. The procedures include installation of an overwing heater blanket assembly on each wing; a heater control unit in the mid cargo compartment; and associated system wiring, circuit breakers, and cockpit switches. For certain airplanes (Group 3), service bulletin MD80-30-071, Revision 02, also describes procedures

for removal of the overwing ice detector system from the wing upper surfaces. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition.

#### **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 supersede AD 92-03-02 to continue to require a revision to the AFM to specify that takeoff may not be initiated unless the flightcrew verifies that visual and physical checks of the wing upper surfaces have been accomplished, and that the wing is clear of ice accumulation. The proposed AD also would continue to require installation of tufts and triangular decals on the inboard side of the wing upper surfaces, and a revision to the Configuration Deviation List (CDL) appendix of the AFM to specify restrictions on operations when such tufts and decals are not present. In addition, the proposed AD would require installation of an overwing heater blanket system or a primary wing ice detection system, and a new revision to the AFM to advise the flightcrew of the hazards associated with ice accumulation on wing surfaces. After accomplishment of the installation and insertion of the new revision into the AFM, the AFM revision that specifies visual and physical inspections to detect ice accumulation on the wing may be removed from the AFM, and the tufts and triangular decals may be removed from the airplane.

Installation of an overwing heater blanket system, if accomplished, would be required to be accomplished in accordance with the applicable service bulletin described previously, except as discussed below; or in accordance with certain Supplemental Type Certificates identified in the proposed rule. Installation of a primary wing ice detection system, if accomplished, would be required to be accomplished in accordance with a method approved by the FAA.

#### **Differences Between Proposed Rule and Service Bulletins**

McDonnell Douglas Service Bulletins MD80-30-071, Revision 02, dated February 6, 1996, and MD80-30-078, Revision 01, dated April 8, 1997, describe procedures for installation of an overwing heater blanket system. Operators should note that this AD proposes to mandate, within 3 years, the installation of an overwing heater blanket system or a primary wing ice

detection system. Installation of an overwing heater blanket system is classified as optional in the service bulletins.

The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed installation is in consonance with these conditions.

#### **Cost Impact**

There are approximately 1,153 airplanes of the affected design in the worldwide fleet. The FAA estimates that 643 airplanes of U.S. registry would be affected by this proposed AD.

The AFM revision that is currently required by AD 92-03-02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required AFM revision on U.S. operators is estimated to be \$38,580, or \$60 per airplane.

The revision of the CDL that is currently required by AD 92-03-02 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the CDL revision on U.S. operators is estimated to be \$38,580, or \$60 per airplane.

The installation of tufts and decals that is currently required by AD 92-03-02 takes approximately 3 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts cost approximately \$25 per airplane. Based on these figures, the cost impact of the currently required installation of tufts and decals on U.S. operators is estimated to be \$131,815, or \$205 per airplane.

The installation of the wing heater system that is proposed as one option for compliance with this AD action would take approximately 254 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$62,166 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be \$77,406 per airplane.

In lieu of installation of a wing heater system, this proposed AD provides for installation of a primary wing ice detector system. Because the manufacturer has not issued service information that describes the procedures for such an installation, the FAA is unable at this time to provide specific information as to the number of work hours or cost of parts that would be required to accomplish that proposed installation. However, based on estimated costs provided by the manufacturer, the FAA can reasonably estimate that the proposed installation would require 200 work hours to accomplish, at an average labor rate of \$60 per work hour. The cost of required parts is estimated to be \$31,341 per airplane. Based on these figures, the cost impact of the installation of a primary wing ice detector system proposed by this AD on U.S. operators is estimated to be \$43,341 per airplane.

The new AFM revision that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the new AFM revision proposed by this AD on U.S. operators is estimated to be \$38,580, or \$60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

### Regulatory Impact

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this 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) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by

contacting the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 removing amendment 39-8156 (57 FR 2014, January 17, 1992), and by adding a new airworthiness directive (AD), to read as follows:

**McDonnell Douglas:** Docket 98-NM-326-AD. Supersedes AD 92-03-02, Amendment 39-8156.

**Applicability:** All Model DC-9-81, -82, -83, and -87 series airplanes; and Model MD-88 airplanes; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (f)(1) 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 ice accumulation on the wing upper surfaces, which could result in ingestion of ice into one or both engines and consequent loss of thrust from one or both engines, accomplish the following:

#### Restatement of Requirements of AD 92-03-02

(a) Within 10 days after January 17, 1992 (the effective date of AD 92-03-02, amendment 39-8156), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

#### "Ice on Wing Upper Surfaces

##### Caution

Ice shedding from the wing upper surface during takeoff can cause severe damage to one or both engines, leading to surge, vibration, and complete thrust loss. The formation of ice can occur on wing surfaces during exposure of the airplane to normal icing conditions. Clear ice can also occur on the wing upper surfaces when cold-soaked fuel is in the main wing fuel tanks, and the airplane is exposed to conditions of high humidity, rain, drizzle, or fog at ambient temperatures well above freezing. Often, the ice accumulation is clear and difficult to detect visually. The ice forms most frequently on the inboard, aft corner of the main wing tanks. [END OF CAUTIONARY NOTE]

The wing upper surfaces must be physically checked for ice when the airplane has been exposed to conditions conducive to ice formation. Takeoff may not be initiated unless the flight crew verifies that a visual check and a physical (hands-on) check of the wing upper surfaces have been accomplished, and that the wing is clear of ice accumulation when any of the following conditions occur:

(1) When the ambient temperature is less than 50 degrees F and high humidity or visible moisture (rain, drizzle, sleet, snow, fog, etc.) is present;

(2) When frost or ice is present on the lower surface of either wing;

(3) After completion of de-icing.

When tufts and triangular decals are installed in accordance with McDonnell Douglas MD-80 Service Bulletin 30-59, the physical check may be made by assuring that all installed tufts move freely.

##### Note

This limitation does not relieve the requirement that aircraft surfaces are free of frost, snow, and ice accumulation, as required by Federal Aviation Regulations Sections 91.527 and 121.629. [END OF NOTE]"

(b) Within 10 days after January 17, 1992, revise the Configuration Deviation List (CDL) Appendix of the FAA-approved AFM to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

#### "30-80-01 Triangular Decal and Tuft Assemblies

Up to two (2) decals or tufts per side may be missing, provided:

(a) At least one decal and tuft on each side is located along the aft spar line; and

(b) The tufts are used for performing the physical check to determine that the upper wing is free of ice by observing that the tufts move freely.

Up to eight (8) decals and/or tufts may be missing, provided:

(a) Takeoff may not be initiated unless the flight crew verifies that a physical (hands-on) check is made of the upper wing in the location of the missing decals and/or tufts to assure that there is no ice on the wing when icing conditions exist; OR

(b) When the ambient temperature is more than 50 degrees F."

(c) Within 30 days after January 17, 1992, install tufts and triangular decals on the inboard side of the wings' upper surfaces, in accordance with McDonnell Douglas Service Bulletin 30-59, dated September 18, 1989; Revision 1, dated January 5, 1990; or Revision 2, dated August 15, 1990.

#### New Requirements of This AD

##### Corrective Actions

(d) Within 3 years after the effective date of this AD, accomplish the requirements of either paragraph (d)(1) or (d)(2) of this AD.

(1) Install an overwing heater blanket system in accordance with McDonnell Douglas Service Bulletin MD80-30-071, Revision 02, dated February 6, 1996, or McDonnell Douglas Service Bulletin MD80-30-078, Revision 01, dated April 8, 1997, as applicable; or in accordance with Supplemental Type Certificate (STC) SA6042NM or STC SA6061NM.

(2) Install an FAA-approved primary wing ice detection system in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

**Note 2:** McDonnell Douglas has received FAA approval of an acceptable primary wing ice detection system. This modification has been assigned a McDonnell Douglas service bulletin number but, at this time, no service bulletin is available.

##### AFM Revision

(e) Prior to further flight after accomplishment of the installation required by paragraph (d)(1) or (d)(2) of this AD, revise the Limitations Section of the FAA-approved AFM to include the following. This may be accomplished by inserting a copy of this AD in the AFM. After accomplishment of the installation required by paragraph (d) of this AD and this AFM revision, the AFM revisions required by paragraphs (a) and (b) of this AD may be removed from the AFM, and the tufts and triangular decals required by paragraph (c) of this AD may be removed from the airplane.

##### "Ice on Wing Upper Surfaces"

##### Caution

Ice shedding from the wing upper surface during takeoff can cause severe damage to one or both engines, leading to surge, vibration, and complete thrust loss. The formation of ice can occur on wing surfaces during exposure of the airplane to normal icing conditions. Clear ice can also occur on the wing upper surfaces when cold-soaked fuel is in the main wing fuel tanks, and the airplane is exposed to conditions of high humidity, rain, drizzle, or fog at ambient temperatures well above freezing. Often, the ice accumulation is clear and difficult to detect visually. The ice forms most frequently on the inboard, aft corner of the main wing tanks. [END OF CAUTIONARY NOTE]

##### Alternative Methods of Compliance

(f)(1) 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 ACO. 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 92-03-02, amendment 39-8156, are approved as alternative methods of compliance with this AD.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

##### Special Flight Permits

(g) 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.

Issued in Renton, Washington, on March 1, 1999.

**Darrell M. Pederson,**

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

[FR Doc. 99-5549 Filed 3-5-99; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 97-ASO-18]

#### Proposed Realignment and Establishment of VOR Federal Airways; KY and TN

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to realign Federal Airway V-517 in the vicinity of Snowbird, TN, and to establish two Federal airways, V-347 between London, KY, and Hinch Mountain, TN, and V-384 between Livingston, TN, and Volunteer, TN. This action would improve navigational routings and enhance service for users, and provide for the more efficient handling of air traffic between the Indianapolis and the Atlanta Air Route Traffic Control Centers' (ARTCC) airspace.

**DATES:** Comments must be received on or before April 22, 1999.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO-500, Docket No. 97-ASO-18, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except

Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 97-ASO-18." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661). Internet users may reach the Federal Register's web page at <http://www.access.gpo.gov/nara/index.html>