

# Proposed Rules

Federal Register

Vol. 73, No. 156

Tuesday, August 12, 2008

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-2008-0858; Directorate Identifier 2008-NM-054-AD]

RIN 2120-AA64

**Airworthiness Directives; McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; Model DC-8-50 Series Airplanes; Model DC-8F-54 and DC-8F-55 Airplanes; Model DC-8-60 Series Airplanes; Model DC-8-60F Series Airplanes; Model DC-8-70 Series Airplanes; and Model DC-8-70F Series Airplanes**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all McDonnell Douglas airplanes identified above. This proposed AD would require repetitive inspections of the lower skin and stringers at stations Xw = 408 and Xw = -408 and corrective actions if necessary. This proposed AD results from reports of cracks in the skins and stringers at the end fasteners common to the stringer end fittings at station Xw = 408 and Xw = -408 wing splice joints. We are proposing this AD to detect and correct fatigue cracking in the skins and stringers at the end fasteners common to the stringer end fittings at a certain station and wing splice joints, which could result in wing structure that might

not sustain limit load, and consequent loss of structural integrity of the wing.

**DATES:** We must receive comments on this proposed AD by September 26, 2008.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this 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).

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Dara Albouyeh, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5222; fax (562) 627-5210.

## SUPPLEMENTARY INFORMATION:

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-0858; Directorate Identifier 2008-NM-054-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

### Discussion

We have received numerous reports of cracks in the skins and stringers at the end fasteners common to the stringer end fittings at station Xw = 408 and Xw = -408 wing splice joints. Results of an investigation conducted by Boeing Engineering revealed the cracks were due to fatigue. The area where the cracks were found is identified as a principal structural element (PSE). The earliest cracks were discovered at 21,519 total flight cycles, and 58,935 total flight hours. The cracks were discovered by visual inspections and findings of fuel leaks. In addition to unscheduled maintenance for repair of the PSE, this condition, if not corrected, could result in wing structure that might not sustain limit load, and consequent loss of structural integrity of the wing.

### Relevant Service Information

We have reviewed Boeing Alert Service Bulletin DC8-57A102, dated February 12, 2008. The service bulletin describes the following procedures.

## DESCRIBED ACTIONS AND COMPLIANCE TIMES

Condition	Action	Compliance times
Initial inspection for all airplanes .....	Do initial high frequency eddy current (HFEC) inspection of the lower wing skin or stringers at the affected fastener hole areas—stations Xw = 408 and Xw = -408, stringers 51 to 64 (for sequence 101, inspection sequence 1, inspection method 01; or sequence 103, inspection sequence 1, inspection method 03), or a visual inspection of any accessible area along the cross section of the stringer in the area of the affected fastener holes (for sequence 102, inspection sequence 1, inspection method 02).	Before the accumulation of 20,000 total flight cycles, or within 1,500 flight cycles or 2 years after the date of the service bulletin, whichever occurs latest.
Condition 1: No cracks at any of the locations—and prior inspection was done by external skin eddy current inspection as given in sequence 103.	Repeat the HFEC or visual inspection, as applicable.	Intervals not to exceed 600 flight cycles after doing the external skin eddy current inspection.
Condition 1: No cracks at any of the locations—prior inspection was done by external skin eddy current inspection as given in sequence 103—and—internal stringer inspection as given in sequence 101 or 102 is done.	Repeat the HFEC or visual inspection, as applicable.	Intervals not to exceed 1,200 flight cycles after doing the external skin eddy current inspection and internal stringer inspection.
Condition 2: Skin cracks less than 3.7 inches long in wing skin at stringer end fittings.	Repair crack and repeat the applicable inspection specified for Condition 2, as applicable.	Before further flight (repair only).
Condition 2: Skin cracks less than 3.7 inches long in wing skin at stringer end fittings—and prior inspection was done by external skin eddy current inspection as given in sequence 103.	Repeat the HFEC or visual inspection, as applicable.	Intervals not to exceed 600 flight cycles after doing the external skin eddy current inspection.
Condition 2: Skin cracks less than 3.7 inches long in wing skin at stringer end fittings—and prior inspection was done by external skin eddy current inspection as given in sequence 103—and—internal stringer inspection as given in sequence 101 or 102 is done.	Repeat the HFEC or visual inspection, as applicable.	Intervals not to exceed 1,200 flight cycles after doing the external skin eddy current inspection and internal stringer inspection.
Condition 3: Skin cracks greater than 3.7 inches at stringer end fittings.	Contact Boeing for repair instructions .....	Before further flight.
Condition 4: Stringer cracks at stringer end fittings.	Repair crack and repeat the applicable inspection specified for Condition 4, as applicable.	Before further flight (repair only).
Condition 4: Stringer cracks at stringer end fittings—and prior inspection was done by external skin eddy current inspection as given in sequence 103.	Repeat the HFEC or visual inspection, as applicable.	Repeat at intervals not to exceed 600 flight cycles after doing the external skin eddy current inspection.
Condition 4: Stringer cracks at stringer end fittings—and prior inspection was done by external skin eddy current inspection as given in sequence 103—and—internal stringer inspection as given in sequence 101 or 102 is done.	Repeat the HFEC or visual inspection, as applicable.	Repeat at intervals not to exceed 1,200 flight cycles after doing the external skin eddy current inspection and internal stringer inspection.
Condition 5: Cracks at more than two adjacent stringers.	Contact Boeing for repair instructions .....	Before further flight.

**FAA's Determination and Requirements of This Proposed AD**

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference

Between the Proposed AD and the Service Bulletin."

**Difference Between the Proposed AD and the Service Bulletin**

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and

that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

**Costs of Compliance**

We estimate that this proposed AD would affect 87 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

## ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection .....	6	\$80	\$0	\$480, per inspection cycle	87	\$41,760, per inspection cycle.

**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 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 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. 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

**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 AD:

**McDonnell Douglas:** Docket No. FAA-2008-0858; Directorate Identifier 2008-NM-054-AD.

**Comments Due Date**

(a) We must receive comments by September 26, 2008.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, DC-8-43, DC-8-51, DC-8-52, DC-8-53, DC-8-55, DC-8F-54, DC-8F-55, DC-8-61, DC-8-62, DC-8-63, DC-8-61F, DC-8-62F, DC-8-63F, DC-8-71, DC-8-72, DC-8-73, DC-8-71F, DC-8-72F, and DC-8-73F airplanes; certificated in any category.

**Unsafe Condition**

(d) This AD results from reports of cracks in the skins and stringers at the end fasteners common to the stringer end fittings at stations Xw = 408 and Xw = -408 wing splice joints. We are issuing this AD to detect and correct fatigue cracking in the skins and stringers at the end fasteners common to the stringer end fittings at a certain station and wing splice joints, which could result in wing structure that might not sustain limit load, and consequent loss of structural integrity of the wing.

**Compliance**

(e) Comply with this AD within the compliance times specified, unless already done.

**Repetitive Inspections and Corrective Actions**

(f) At the times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin DC8-57A102, dated February 12, 2008, except as provided by paragraph (g) of this AD: Do the applicable inspections for fatigue cracking of the lower skin and stringers at stations Xw = 408 and Xw = -408, and do all applicable corrective

actions, by accomplishing all applicable actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (h) of this AD. Do all corrective actions before further flight, in accordance with the service bulletin. Thereafter, repeat the inspections at the applicable intervals specified in paragraph 1.E. of the service bulletin.

(g) Where Boeing Alert Service Bulletin DC8-57A102, dated February 12, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(h) If any cracking is found during any inspection required by this AD, and Boeing Alert Service Bulletin DC8-57A102, dated February 12, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(i)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, ATTN: Dara Albouyeh, Aerospace Engineer, Airframe Branch, ANM-120L, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5222; fax (562) 627-5210; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

(4) Accomplishing the requirements of this AD is an acceptable AMOC with the requirements of paragraph (b) of AD 93-01-15, amendment 39-8469, for those areas of principal structural element 57.08.037/038.

Issued in Renton, Washington, on July 31, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E8-18560 Filed 8-11-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 15

[Docket No. FR-5206-P-01]

RIN 2501-AD39

#### Public Access to HUD Records Under the Freedom of Information Act (FOIA) and Production of Material or Provision of Testimony by HUD Employees: Revisions to Policies and Practices Regarding Subpoenas and Other Demands for Testimony

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would modify HUD's policies and practices regarding responses to subpoenas and other demands for testimony of HUD employees, or for production of documents by HUD. This proposed rule would delegate authority to additional officials within HUD's Office of General Counsel and would revise the criteria used to evaluate such demands. Finally, this rule would eliminate unnecessary provisions covering HUD's response to demands in cases in which the United States is a party to the case in which testimony or documents are requested.

**DATES:** *Comment Due Date:* October 14, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly

encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All comments and communications submitted to HUD will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Nancy Christopher, Associate General Counsel for Litigation, Office of Litigation, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10258, Washington, DC 20410-0500; telephone number 202-708-0300 (this is not a toll-free telephone number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

HUD's regulations at 24 CFR part 15 describe the policies and procedures governing public access to HUD records under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the policies and procedures governing the production of material or provision of testimony by HUD employees. On February 26, 2007 (72 FR 8580), HUD

published a final rule to clarify and explain the various types of requests for HUD documents and testimony by HUD employees that are intended to be covered by HUD's document production and testimony approval regulations. The final rule revised subparts C and D to describe the procedures to be followed by a party in making a demand to HUD for documents or testimony, and to explain the standards followed by HUD in determining whether production or testimony should be permitted. A technical correction to the final rule was published on September 20, 2007 (72 FR 53876).

#### II. This Proposed Rule—Proposed Amendments to Part 15

After implementing the revised procedures for consideration of demands for documents or testimony, HUD has determined that additional changes are necessary to ensure the careful and efficient processing of all such demands. The revisions proposed to be made to HUD's regulations at 24 CFR part 15 are as follows:

##### Terminology

This proposed rule would amend § 15.2 to add, in alphabetical order, the terms "Appropriate Associate General Counsel," "Appropriate Regional Counsel," and "Authorized Approving Official" to the list of definitions.

##### Technical Changes

This proposed rule would correct outdated references to Web sites in §§ 15.102(b) and 15.103(c). This proposed rule would also make technical changes to Appendix A of part 15 by directing the public to HUD's Web site to update the location information of HUD FOIA Reading Rooms and by providing the public with the contact information of HUD's Regional Counsel.

##### Purpose and Scope

This proposed rule would amend § 15.201 by providing guidance to persons engaged in private litigation, to which the United States is not a party, on the procedures to be followed when making a demand for documents or testimony on HUD. This proposed rule would provide that HUD's regulations in subpart C do not create any affirmative right or benefit, substantive or procedural, that would be enforceable against HUD.

##### Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings Among Private Litigants

This proposed rule would amend §§ 15.202 through 15.206 by outlining