

interstate movement of breeding swine from Georgia.

EFFECTIVE DATE: The interim rule was effective on December 29, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, suite 3B08, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-4916; or e-mail: ataft@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the Federal Register on December 29, 1995 (60 FR 67320-67321, Docket No. 95-074-1), we amended the brucellosis regulations in 9 CFR Part 78 by adding Georgia to the list of validated brucellosis-free States in § 78.43.

Comments on the interim rule were required to be received on or before February 27, 1996. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR Part 78 and that was published at 60 FR 67320-67321 on December 29, 1995.

Authority: 21 U.S.C. 111-114a-1, 114g, 115, 117, 120, 121, 123-126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 4th day of April 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-8903 Filed 4-9-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-55-AD; Amendment 39-9562; AD 96-07-51]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) T96-07-51 that was sent previously to all known U.S. owners and operators of McDonnell Douglas Model DC-9 series airplanes by individual telegrams. This AD requires repetitive inspections to detect corrosion and cracking of the fuselage upper skin and frames in the area of the loop antenna assemblies of the automatic direction finder (ADF), and repair, if necessary. This amendment is prompted by reports of severe corrosion and cracking found in that area. The actions specified by this AD are intended to prevent rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problems associated with corrosion and fatigue cracking in the subject area.

DATES: Effective April 15, 1996, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96-07-51, issued March 22, 1996, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 15, 1996.

Comments for inclusion in the Rules Docket must be received on or before June 10, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-56-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The applicable service information may be obtained from McDonnell Douglas Corporation, 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, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 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:

Wahib Mina, Aerospace Engineer, Airframe Branch, ANM-1201, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5324; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION: On March 22, 1996, the FAA issued telegraphic AD T96-07-51, which is applicable to certain McDonnell Douglas Model DC-9 series airplanes. That action was prompted by a recent report indicating that severe corrosion and a 39-inch crack of the forward fuselage upper skin was found during scheduled maintenance on a McDonnell Douglas Model DC-9-31 series airplane. The crack originated under the loop antenna assemblies of the forward and aft automatic direction finders (ADF). Subsequent inspection of the adjacent structure revealed cracking of the fuselage frame at fuselage station 275. The cracking found has been attributed to fatigue. Corrosion and fatigue cracking in these areas, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage, significant damage to adjacent structure, and subsequent reduced structural integrity of the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin DC9-53A282, dated March 20, 1996, which describes procedures for repetitive internal visual inspections to detect corrosion and cracking of the fuselage forward upper skin, and to detect cracking of the fuselage frames in the area of the loop antenna assemblies of the forward and aft ADF. This alert service bulletin refers to the DC-9 Structural Repair Manual (SRM) for procedures to repair certain corrosion or cracking.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued Telegraphic AD T96-07-51 to prevent rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problems associated with corrosion and fatigue cracking in the area of the loop antenna assemblies of the forward and aft ADF. The AD requires repetitive internal visual inspections to detect corrosion and cracking of the fuselage

forward upper skin and to detect cracking of the fuselage frames in the subject area. This AD also requires repair of any corrosion or cracking found. The inspections are required to be accomplished in accordance with the alert service bulletin described previously. If cracking or corrosion that is found that is within specified limits, it is required to be repaired in accordance with the DC-9 SRM. However, if corrosion or cracking is found that is outside specified limits, it is required to be repaired in accordance with a method approved by the FAA.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on March 22, 1996, to all known U.S. owners and operators of McDonnell Douglas Model DC-9 series airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

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

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 96-NM-55-AD." The postcard will be date stamped and returned to the commenter.

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:

96-07-51 McDonnell Douglas: Amendment 39-9562. Docket 96-NM-55-AD.

Applicability: Model DC-9 series airplanes having fuselage numbers 001 through 631, inclusive; 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 (b) 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 rapid decompression of the fuselage, significant structural damage, and subsequent reduced structural integrity of the airplane, due to problem associated with corrosion and fatigue cracking, accomplish the following:

(a) Within 15 days after the effective date of this AD: Perform an internal visual inspection to detect corrosion and cracking of the fuselage forward upper skin and to detect cracking of the fuselage frame in the area of the loop antenna assemblies of the forward and aft automatic direction finder (ADF), in accordance with McDonnell Douglas Alert Service Bulletin DC9-53A282, dated March 20, 1996.

(1) If no corrosion or cracking is detected: Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed six months.

(2) If any corrosion or cracking is detected that is within the limits specified in Chapter 53-04, Figure 29, of the DC-9 Structural Repair Manual (SRM): Prior to further flight, repair in accordance with Chapter 53-04, Figure 29, of the SRM. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed six months.

(3) If any corrosion or cracking is detected in the fuselage forward upper skin, or if any cracking is detected in the fuselage frame, and that corrosion or cracking is outside the limits specified in Chapter 53-04, Figure 29, of the SRM: Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) 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, 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) 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.

(d) The inspections shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9-53A282, dated March 20, 1996. 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, 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, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on April 15, 1996, to all persons except those persons to whom it was made immediately effective by telegraphic AD T96-07-51, issued on March 22, 1996, which contained the requirements of this amendment.

Issued in Renton, Washington, on March 28, 1996.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-8583 Filed 4-9-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 216 and 228

[Docket No. 950504128-6085-02; I.D. 031095A]

RIN 0648-AG80

Small Takes of Marine Mammals; Harassment Takings Incidental to Specified Activities in Arctic Waters; Regulation Consolidation; Update of Office of Management and Budget (OMB) Approval Numbers

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

SUMMARY: The Marine Mammal Protection Act (MMPA) Amendments of 1994 established an expedited process by which citizens of the United States can apply for an authorization to take incidentally, but not intentionally, small numbers of marine mammals by harassment. This rule sets forth the process for applying for, and obtaining, an authorization in Arctic waters. This rule also makes minor modifications to the existing regulations that clarify the requirements for petitioning for and obtaining a small take authorization.

This rule also updates OMB approval numbers for application and reports of incidental small takes.

EFFECTIVE DATE: This rule is effective on May 10, 1996.

ADDRESSES: A copy of the Environmental Assessment (EA), and/or the results of a February 8-9, 1994 meeting cited in the preamble may be obtained by writing to the Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226 or by telephoning the person below (see **FOR FURTHER INFORMATION CONTACT**).

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*), directs the Secretary of Commerce to allow, upon request by U.S. citizens engaged in a specific activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals, if certain findings are made and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill. Pursuant to part 228 of title 50, permission may be granted for periods up to 5 years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe activity-specific

regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. These regulations must include requirements pertaining to the monitoring and reporting of such taking.

The Marine Mammal Protection Act Amendments of 1994 amended section 101(a)(5) of the MMPA to establish an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. It established specific time limits for public notice and comment on any requests for authorization under this new provision.

The legislative history notes that NMFS should use the general rulemaking authority available under section 112 of the MMPA to establish a process for granting authorization in the case of small takes by harassment in the Arctic Ocean (H.R. Rep. No. 439, 103d Cong., 2d Sess. 29, 30 (Mar. 21, 1994)). As a result of that mandate, NMFS has expedited this rulemaking process in order to have incidental harassment regulations effective for Arctic activities prior to the 1996 open water season in the Beaufort Sea.

This rule will result in a more streamlined and cost-effective method for obtaining small take by incidental harassment authorizations in Arctic waters, without lessening the MMPA's protection of species and stocks of marine mammals. This rule does not cover incidental harassment authorizations for non-Arctic waters. A final rule, which will include an expanded discussion on what constitutes harassment for purposes of issuing authorizations under this subpart, remains under development. Until that final rule is published, NMFS will continue to process and grant incidental harassment authorizations under the statutory provisions and requirements.

Comments and Responses

On May 31, 1995 (60 FR 28379), NMFS issued a proposed rule to modify regulations found at 50 CFR part 228, subpart A to include the simplified process for authorizing the incidental taking of small numbers of marine mammals by harassment without the need to issue specific regulations governing the taking of marine mammals for each and every activity. The proposed rule set forth: (1) The process for obtaining an authorization;