

**909.407-2 Causes for suspension. (DOE coverage—paragraph (d))**

(d) The Suspending Official may suspend an organization or individual:

- (1) Indicted for or suspected, upon adequate evidence, of the causes described in 48 CFR (DEAR) 909.406-2(c)(1).
- (2) On the basis of the causes set forth in 48 CFR (DEAR) 909.406-2(d)(2).
- (3) On the basis that an organization or individual is an affiliate of a suspended or debarred contractor.

**909.407-3 Procedures. (DOE coverage—paragraphs (b) and (c))**

(b) Decisionmaking process.

(1) In actions based on an indictment, the Suspending Official shall make a decision based upon the administrative record, which shall include submissions made by the contractor in accordance with 48 CFR (DEAR) 909.406-3(b)(1) and 909.406-3(b)(3).

(2) For actions not based on an indictment, the procedures in 48 CFR (DEAR) 909.406-3(b)(2) and FAR 9.407-3(b)(2) apply.

(3) Coordination with Department of Justice. Whenever a meeting or fact-finding conference is requested, the Suspending Official's legal representative shall obtain the advice of appropriate Department of Justice officials concerning the impact disclosure of evidence at the meeting or fact-finding conference could have on any pending civil or criminal investigation or legal proceeding. If such Department of Justice official requests in writing that evidence needed to establish the existence of a cause for suspension not be disclosed to the respondent, the Suspending Official shall:

(i) Decline to rely on such evidence and withdraw (without prejudice) the suspension or proposed debarment until such time as disclosure of the evidence is authorized; or

(ii) Deny the request for a meeting or fact-finding and base the suspension decision solely upon the information in the administrative record, including any submission made by the respondent.

(e) Notice of suspending official's decision. In actions in which additional proceedings have been held, following such proceedings, the Suspending Official shall notify respondent, as applicable, in accordance with paragraphs (e)(1) or (e)(2) of this section.

(1) Upon deciding to sustain a suspension, the Suspending Official shall promptly send each affected respondent a notice containing the following information:

(i) A reference to the notice of suspension, the meeting and the fact-finding conference;

(ii) The Suspending Official's findings of fact and conclusions of law;

(iii) The reasons for sustaining a suspension;

(iv) A reference to the Suspending Official's waiver authority under 48 CFR (DEAR) 909.405;

(v) A statement that the suspension is effective throughout the Executive Branch as provided in FAR 9.407-1(d);

(vi) Modifications, if any, of the initial terms of the suspension;

(vii) A statement that a copy of the suspension notice was sent to GSA and that the respondent's name and address will be added to the GSA List; and

(viii) If less than an entire organization is suspended, specification of the organizational element(s) or individual(s) included within the scope of the suspension.

(2) If the Suspending Official decides to terminate a suspension, the Suspending Official shall promptly send, by certified mail, return receipt requested, each affected respondent a copy of the final decision required under this section.

[FR Doc. 96-16015 Filed 7-30-96; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 121**

[Docket No. 28072; Amendment No. 121-258]

RIN 2120-AF29

**Advanced Simulation Plan Revisions**

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

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** These correcting amendments clarify a final rule published Monday, June 17, 1996 (61 FR 30726). That final rule revised the Advanced Simulation Plan to update terminology used to describe simulators, to eliminate the requirement that the minimum of 1 year of employment as an instructor or check airman be with the operator of the simulator, and to authorize the use of Level C simulators for initial and upgrade training and checking for second-in-command duties.

**EFFECTIVE DATE:** July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary E. Davis, Telephone: (202) 267-3747.

**SUPPLEMENTARY INFORMATION:****Need for Correction**

As published, the final rule did not modify the title or remove references to obsolete "phrases" of simulation contained in the introductory text of Appendix H to 14 CFR part 121, "Advanced Simulation Plan." Therefore, the June 17, 1996, final rule may prove to be misleading and is in need of correction.

**List of Subjects in 14 CFR Part 121**

Air carriers, Aircraft, Federal Aviation Administration.

Accordingly, 14 CFR part 121 is corrected by making the following correcting amendments:

**PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS**

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

**Appendix H to Part 121—[Corrected]**

2. The heading and the introductory text of Appendix H are revised to read as follows:

**Appendix H to Part 121—Advanced Simulation**

This appendix provides guidelines and a means for achieving flightcrew training in advanced airplane simulators. This appendix describes the simulator and visual system requirements which must be achieved to obtain approval of certain types of training in the simulator. The requirements in this appendix are in addition to the simulator approval requirements in § 121.407. Each simulator which is used under this appendix must be approved as a Level B, C, or D simulator, as appropriate.

To obtain FAA approval of the simulator for a specific level, the following must be demonstrated to the satisfaction of the Administrator:

1. Documented proof of compliance with the appropriate simulator, visual system, and additional training requirements of this appendix for the level for which approval is requested.

2. An evaluation of the simulator to ensure that its ground, flight, and landing performance matches the type of airplane simulated.

3. An evaluation of the appropriate simulator and visual system requirements of the level for which approval is requested.

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Issued in Washington, DC, on July 25, 1996.

Donald P. Byrne,

*Assistant Chief Counsel, Regulations Division.*

[FR Doc. 96-19357 Filed 7-30-96; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 95-NM-186-AD; Amendment 39-9704; AD 96-16-04]

RIN 2120-AA64

#### **Airworthiness Directives; McDonnell Douglas Model DC-9 and DC-9-80 Series Airplanes, and C-9 (Military) Airplanes, Equipped With a Ventral Aft Pressure Bulkhead**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (military) airplanes, that currently requires repetitive inspections to detect fatigue cracking in the area of the attach tees of the ventral aft pressure bulkhead. This amendment requires revised inspection and repair procedures, and provides for terminating action. It also deletes Model MD-88 airplanes from the applicability of the rule. This amendment is prompted by reports of fatigue cracking found in the subject area. The actions specified by this AD are intended to prevent the propagation of fatigue cracking, which could lead to structural failure of the ventral aft pressure bulkhead and subsequent rapid depressurization of the airplane.

**DATES:** Effective September 4, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 4, 1996.

**ADDRESSES:** 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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:** Brent Bandle, 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:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89-16-12, amendment 39-6287 (54 FR 31649, August 1, 1989), which is applicable to certain McDonnell Douglas Model DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (Military) airplanes, was published in the Federal Register on August 1, 1989 (54 FR 31649). The action proposed to require revised inspection and repair procedures, and provide for terminating action. It also proposed to delete Model MD-88 airplanes from the applicability of the rule, since the terminating action was installed on those airplanes during production.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### **Support for the Proposal**

Two commenters support the proposal.

#### **Request To Allow Inspections at Current Intervals**

Several commenters oppose the proposed shorter inspection intervals. These commenters request that the proposal be revised to permit operators to continue to conduct inspections at the same frequency as was mandated previously by AD 89-16-12. The commenters contend that the proposed AD is founded on the FAA's statement that improved inspection methods are available and should be used. These commenters do not object to modernizing the inspection methods, but state that nothing supports the proposed increase in inspection frequency. The commenters maintain that the increase in the frequency of inspections will be disruptive to airline maintenance programs and scheduling, and this will have an adverse economic impact on operators.

The FAA does not concur with the commenters' request. After cracking of the ventral aft pressure bulkhead tees was found, the FAA issued AD 89-16-12 only as an interim measure to mandate some type of inspection on

these tees. Because no inspection procedures had been developed at that time for inspecting these specific tees, the FAA required that operators inspect them using the same inspection methods—and inspection intervals—that already had been developed for inspecting non-ventral aft pressure bulkhead tees. (Those inspection methods and intervals were described in McDonnell Douglas Service Bulletin A53-231.) The FAA issued AD 89-16-12 in the absence of any specific, pertinent technical data relative to appropriate inspections of ventral bulkhead tees, and considered that some type of inspection of these tees was better than none at all. Even at the time that AD 89-16-12 was issued, it was the FAA's intention to revise that AD once the manufacturer had developed inspection methods that were specific to ventral bulkhead tees. (The FAA explained this in the preamble to AD 89-16-12.)

When McDonnell Douglas eventually developed inspections for the ventral bulkhead tees, it issued Service Bulletin A53-232, which contained the inspection instructions and recommended inspection intervals. The inspection intervals were shorter than those that had been recommended for non-ventral bulkhead tees. These shorter intervals were determined based on the crack growth rate of these specific tees, residual strength of uncracked tees, and the detectability of the cracking using the inspection method. The FAA reviewed and approved the technical material presented in Service Bulletin A53-232.

Based on that material and other data gathered from the in-service fleet, the FAA has determined that:

1. The structure of the ventral and non-ventral bulkheads differs enough to justify the difference in the inspection intervals of the associated attach tees;
2. Using the same inspection interval for both ventral and non-ventral attach tees cannot be technically justified;
3. Shorter repetitive inspection intervals are appropriate for the ventral attach tees; and
4. The shorter inspection intervals will ensure that fatigue cracking at the attach tees positioned in the ventral aft pressure bulkhead is detected and corrected before cracking can grow to a critical length and jeopardize the integrity of the bulkhead.

While operators may incur additional costs because of more frequent inspections and maintenance schedule changes, the FAA finds that these costs are necessary in order to ensure the continued airworthiness of these