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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

[NRC-2009-0538]

RIN 3150-AI75

#### List of Approved Spent Fuel Storage Casks: NUHOMS® HD System Revision 1; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; correction.

**SUMMARY:** This document corrects a notice appearing in the *Federal Register* on May 6, 2010 (75 FR 24786), that amends the regulations that govern storage of spent nuclear fuel. Specifically, this action amends the list of approved spent fuel storage casks to add revision 1 to the NUHOMS HD spent fuel storage cask system. This action is necessary to correctly specify the effective date of the rule if no adverse comments are received, because the notice of direct final rulemaking and the companion notice of proposed rulemaking (75 FR 25120; May 7, 2010) were published in the *Federal Register* on different dates instead of being published concurrently on the same date, as erroneously stated in the notices.

**DATES:** Effective July 21, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6219, e-mail [Jayne.McCausland@nrc.gov](mailto:Jayne.McCausland@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On page 24786, in the first column, the **DATES** section is corrected to indicate that the final rule is effective on July 21, 2010. On page 24787, column one, the fourth

sentence in the Procedural Background section is corrected to read: The amendment to the rule will become effective on July 21, 2010. Also, on page 24787, in the first column, the fifth sentence in the Procedural Background is corrected to read: However, if the NRC receives significant adverse comments on the direct final rule by June 7, 2010, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Rules and Regulations section of the *Federal Register* on May 7, 2010 (75 FR 25120).

Dated at Rockville, Maryland, this 10th day of May 2010.

For the Nuclear Regulatory Commission.

**Helen Chang,**

*Acting Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 2010-11561 Filed 5-14-10; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0685; Directorate Identifier 2009-NM-113-AD; Amendment 39-16299; AD 2010-10-20]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Corporation Model DC-9-30, DC-9-40, and DC-9-50 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Model DC-9-30, DC-9-40, and DC-9-50 series airplanes. This AD requires inspecting to determine the part numbers of the forward and aft auxiliary tank fuel boost and transfer pump conduit/conduit assembly and conduit assembly electrical connector, as applicable, and corrective actions if necessary. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to detect and correct the potential for an arc/spark condition to occur within the

fuel boost or transfer pump conduit assembly connectors and propagate into the forward and aft auxiliary fuel tanks, which could result in a fire or explosion.

**DATES:** This AD is effective June 21, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 21, 2010.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; e-mail [dse.boecom@boeing.com](mailto:dse.boecom@boeing.com); Internet <https://www.myboeingfleet.com>.

#### 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** William Bond, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5253; fax (562) 627-5210.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Model DC-9-30, DC-9-40, and DC-9-50 series airplanes. That NPRM was published in the *Federal Register* on August 12, 2009 (74 FR 40525). That NPRM proposed to require inspecting to determine the part numbers of the forward and aft auxiliary tank fuel boost and transfer pump conduit/conduit

assembly and conduit assembly electrical connector, as applicable, and corrective actions if necessary.

#### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received from the commenter. Northwest Airlines (NWA) concurs with the intent of the NPRM.

#### Request To Delay Issuance of the Final Rule Until the Revised Service Bulletin Is Issued, Reviewed, and Commented On by Operators

NWA states that operators should have the opportunity to review and comment on the revised service bulletin prior to any final rule decision. NWA explains that there are omissions regarding airplane effectivity and part number discrepancies in Boeing Service Bulletin DC9-28-227, dated April 23, 2009. NWA notes that Boeing was notified of these issues, and that Boeing concurs with the effectivity problems and noted the differences in the associated wiring diagrams and drawings that affect the part numbers. NWA asserts that Boeing has acknowledged that Boeing Service Bulletin DC9-28-227, dated April 23, 2009, needs to be revised.

NWA believes that certain airplanes were delivered with a 780 gallon forward fuselage supplemental tank but without a 780 gallon aft fuselage supplemental tank, and that these airplanes may not be addressed as a group in Boeing Service Bulletin DC9-28-227, dated April 23, 2009.

NWA also believes that certain airplanes identified as Group 1 in Boeing Service Bulletin DC9-28-227, dated April 23, 2009, have the same conduit assembly part number as other airplanes. NWA believes that these airplanes cannot use the same conduit assembly because conduit assemblies have specified wire numbers as per certain drawings.

From these statements, we infer that NWA requests that we delay issuing the AD until Boeing Service Bulletin DC9-28-227, dated April 23, 2009, is revised and released. We do not agree to delay issuing the final rule until a revised service bulletin is reviewed and commented on by operators. The airplanes that NWA believes were delivered with a 780 gallon forward fuselage supplemental tank but without a 780 gallon aft supplemental fuselage tank, and that may not be addressed as a group in Boeing Service Bulletin DC9-28-227, dated April 23, 2009, are not included in the effectivity of that service bulletin because they already had the

acceptable conduit assembly installed prior to the time of delivery. Also, Boeing Service Bulletin DC9-28-227, dated April 23, 2009, reflects the correct conduit part numbers installed prior to the time of airplane delivery; therefore, the content in Boeing Service Bulletin DC9-28-227, dated April 23, 2009, is correct. We have confirmed with Boeing that Boeing Service Bulletin DC9-28-227, dated April 23, 2009, does not need to be revised regarding these issues. We have not changed the AD in this regard.

If a new revision to the service information is published, under the provisions of paragraph (h) of the final rule, we will consider requests for alternative methods of compliance (AMOCs) if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed the AD in this regard.

#### Request for a Clarification Statement Acknowledging Post-Production Removal of Auxiliary Fuel Tank(s)

NWA states that the final rule should include a clarification statement for paragraph (g) of the NPRM that acknowledges post-production removal of an auxiliary fuel tank, which releases the operator from those requirements of Boeing Service Bulletin DC9-28-227, dated April 23, 2009, that are no longer applicable. NWA explains that Boeing Service Bulletin DC9-28-227, dated April 23, 2009, does not address the issue of a removed auxiliary fuel tank and that the equipment effectivity list quantifies airplane groups at the time of production and does not address post-production modifications to the airplane. NWA acknowledges that an auxiliary fuel tank, which was installed at the time of production, may have been removed by operators for a variety of reasons. NWA asserts that the removal of the auxiliary fuel tank and thereby the fuel boost or transfer pump conduit assembly connectors removes the unsafe condition specified in paragraph (e) of the NPRM, although the language specified in paragraph (g) of the NPRM will still require operators to request an AMOC for removed auxiliary fuel tanks.

We agree. If the auxiliary fuel tank(s) has been removed, thereby removing the fuel boost or transfer fuel pump conduit assembly connectors, the unsafe condition is removed as well. We have revised paragraph (g) of the final rule to account for auxiliary fuel tank(s) that have been removed.

#### Explanation of Change Made to This AD

We have revised this AD to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

#### Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

#### Explanation of Change to Costs of Compliance

Since issuance of the NPRM, we have increased the labor rate used in the Costs of Compliance from \$80 per work-hour to \$85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

#### Costs of Compliance

We estimate that this AD affects 137 airplanes of U.S. registry. We also estimate that it takes up to 8 work-hours per product to comply with this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$93,160, or \$680 per product.

#### 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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under 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, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

##### 2010-10-20 McDonnell Douglas

Corporation: Amendment 39-16299.  
Docket No. FAA-2009-0685; Directorate Identifier 2009-NM-113-AD.

##### Effective Date

(a) This airworthiness directive (AD) is effective June 21, 2010.

##### Affected ADs

(b) None.

##### Applicability

(c) This AD applies to McDonnell Douglas Corporation Model DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-33F, DC-9-34, DC-9-34F, and DC-9-32F (C-9A, C-9B), DC-9-41, and DC-9-51 airplanes, certificated in any category; as identified in Boeing Service Bulletin DC9-28-227, dated April 23, 2009.

##### Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

##### Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The

Federal Aviation Administration is issuing this AD to detect and correct the potential for an arc/spark condition to occur within the fuel boost or transfer pump conduit assembly connectors and propagate into the forward and aft auxiliary fuel tanks, which could result in a fire or explosion.

##### Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

##### Inspection

(g) Within 60 months after the effective date of this AD, inspect to determine the part numbers of the forward and aft auxiliary fuel tank boost and transfer pumps conduit assembly and conduit assembly electrical connector, as applicable, and do applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9-28-227, dated April 23, 2009. Do the applicable corrective actions before further flight. If the auxiliary fuel tank(s) has been removed, thereby removing the fuel boost or transfer fuel pump conduit assembly connectors, the corrective action specified in the Accomplishment Instructions of Boeing Service Bulletin DC9-28-227, dated April 23, 2009, is not required. If the removed auxiliary fuel tank(s) are re-installed, the requirements of paragraph (g) of this AD must be done before further flight.

##### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: William Bond, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5253; fax (562) 627-5210.

(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 principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

##### Material Incorporated by Reference

(i) You must use Boeing Service Bulletin DC9-28-227, dated April 23, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800-0019, Long Beach, California 90846-0001; telephone 206-544-5000, extension 2; fax 206-766-5683; e-mail

dse.boecom@boeing.com; Internet <https://www.myboeingfleet.com>.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on May 3, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-11185 Filed 5-14-10; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0714; Directorate Identifier 2009-NM-041-AD; Amendment 39-16290; AD 2010-10-11]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It was reported that after commanding the landing gear lever to down the three green landing gear positioning indication was displayed followed by the LG/LEVER DISAGREE EICAS [engine indicating and crew alerting system] message. The crew decided to continue the approach and landing procedure. As soon as the crew identified that the landing gear was not extended properly, a go-around procedure was successfully performed. During maneuver, the airplane settled momentarily onto the flaps and belly.

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