(4) A federally insured credit union or IAP making a request pursuant to paragraphs (a)(1) through (3) of this section must demonstrate it does not possess and is not aware of any information, evidence, documents or other materials indicating there is a reasonable basis to believe, at the time the payment is proposed to be made, that:

(i) The IAP has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the federally insured credit union that has had or is likely to have a material adverse effect on the federally insured credit union;

(ii) The IAP is substantially responsible for the insolvency of, the appointment of a conservator liquidating agent for, or the troubled condition, as defined by § 750.1(l), of the federally insured credit union;

(iii) The IAP has materially violated any applicable federal or state law or regulation that has had or is likely to have a material effect on the federally insured credit union; and

(iv) The IAP has violated or conspired to violate sections 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18 of the United States Code, or sections 1341 or 1343 of that title affecting a federally insured financial institution, as defined in title 18 of the United States Code.

(b) In making a determination under paragraphs (a)(1) through (3) of this section, the Board may consider:

(1) Whether, and to what degree, the IAP was in a position of managerial or fiduciary responsibility;

(2) The length of time the IAP was affiliated with the federally insured credit union and the degree to which the proposed payment represents a reasonable payment for services rendered over the period of employment; and

(3) Any other factors or circumstances indicating the proposed payment would be contrary to the intent of section 206(t) of the Act or this part.

§ 750.5 Permissible indemnification payments.

(a) A federally insured credit union may make or agree to make reasonable indemnification payments to an IAP with respect to an administrative proceeding or civil action initiated by NCUA or a state regulatory authority if:

(1) The federally insured credit union's board of directors, in good faith, determines in writing after due investigation and consideration that the institution-affiliated party acted in good faith and in a manner he or she believed to be in the best interests of the institution;

(2) The federally insured credit union's board of directors, in good faith, determines in writing after due investigation and consideration that the payment of the expenses will not materially adversely affect the credit union's safety and soundness;

(3) The indemnification payments do not constitute prohibited indemnification payments as defined in § 750.1(k); and

(4) The IAP agrees in writing to reimburse the federally insured credit union, to the extent not covered by payments from insurance or bonds purchased pursuant to § 750.1(k)(2)(i), for that portion of the advanced indemnification payments which subsequently become prohibited indemnification payments, as defined in § 750.1(k).

(b) An IAP seeking indemnification payments must not participate in any way in the board of director's discussion and approval of such payments; however, the IAP may present his or her request to the board and respond to any inquiries from the board concerning his or her involvement in the circumstances giving rise to the administrative proceeding or civil action.

(c) In the event a majority of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the remaining members of the board may authorize independent legal counsel to review the indemnification request and provide the remaining members of the board with a written opinion of counsel as to whether the conditions in paragraph (e)(1) of this section have been met. If independent legal counsel concludes that the conditions have been met, the remaining members of the board of directors may rely on the opinion in authorizing the requested indemnification.

(d) In the event all of the members of the board of directors are named as respondents in an administrative proceeding or civil action and request indemnification, the board will authorize independent legal counsel to review the indemnification request and provide the board with a written opinion of counsel as to whether the conditions in paragraph (e)(1) of this section have been met. If independent legal counsel concludes the conditions have been met, the board of directors may rely on the opinion in authorizing the requested indemnification.

§ 750.6 Filing instructions.

Requests to make excess nondiscriminatory severance plan payments pursuant to § 750.1(f)(2)(v) and golden parachute payments permitted by § 750.4 must be submitted in writing to the Board. The request must be in letter form and must contain all relevant factual information as well as the reasons why such approval should be granted.

§ 750.7 Applicability in the event of liquidation or conservatorship.

The provisions of this part, or any consent or approval granted under the provisions of this part by the Board, will not in any way bind any liquidating agent or conservator for a failed federally insured credit union and will not in any way obligate the liquidating agent or conservator to pay any claim or obligation pursuant to any golden parachute, severance, indemnification or other agreement. Claims for employee welfare benefits or other benefits that are contingent, even if otherwise vested, when a liquidating agent or conservator is appointed for any federally insured credit union, including any contingency for termination of employment, are not provable claims or actual, direct compensatory damage claims against such liquidating agent or conservator.

[FR Doc. 2010–19095 Filed 8–4–10; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0705; Directorate Identifier 2009–NM–206–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model DC–9–14, DC–9–15, and DC–9–15F Airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Model DC–9–14 and DC–9–15 airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. The existing AD currently requires repetitive high frequency eddy current inspections to detect cracking in the vertical radius

(also known as the "vertical leg") of the upper cap of the center wing rear spar, and repair if necessary. This proposed AD expands the area to be inspected by including inspections to detect cracking of the horizontal flange of the upper cap of the left and right center wing rear spar, and repair if necessary. This proposed AD also adds certain airplanes to the applicability. This proposed AD results from reports of cracking in the vertical radius of the upper cap of the center wing rear spar, and the horizontal flange on the inboard side of the rear spar upper cap, which resulted from stress corrosion. We are proposing this AD to detect and correct cracking in the vertical leg or the horizontal flange of the upper cap of the left or right center wing rear spar, which could cause a possible fuel leak, damage to the wing skin, and structural failure of the upper cap, and result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by September 20, 2010.

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 proposed 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*. You may review copies of the referenced 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.

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: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; 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–2010–0705; Directorate Identifier 2009–NM–206–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

On November 1, 2004, we issued AD 2004–23–11, Amendment 39–13866 (69 FR 65522, November 15, 2004), for certain Model DC–9–14 and DC–9–15 airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. That AD requires repetitive high frequency eddy current inspections to detect cracks in the vertical radius (also known as the "vertical leg") of the upper cap of the center wing rear spar, and repair if necessary. That AD resulted from reports of cracks in the upper cap of the center wing rear spar that resulted from stress corrosion. We issued that AD to detect and correct cracking of the left or right upper cap of the center wing rear spar, which could cause a possible fuel leak and structural failure of the upper cap, and result in reduced structural integrity of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2004–23–11, one operator reported finding two cracks in the horizontal flange on the inboard side of the rear spar upper cap, and Boeing's investigation determined that the cracks resulted from stress corrosion.

Relevant Service Information

We have reviewed Boeing Service Bulletin DC9–57–223, Revision 1, dated August 13, 2009, which adds Model DC–9–15F airplanes to the applicability. The service bulletin describes procedures for doing repetitive high frequency eddy current inspections of the vertical leg and horizontal flange of the upper caps of the left and right center wing rear spar, inboard and outboard sides, of the bulkhead at wing station Xcw = 58.500 for cracking. The service bulletin specifies to contact Boeing for repair instructions if any cracking is found during the inspections. We referred to the original issue of the service bulletin for accomplishing the inspections required by AD 2004–23–11.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2004–23–11 and would continue to require repetitive high frequency eddy current inspections to detect cracks in the vertical radius (also known as the "vertical leg") of the upper cap of the center wing rear spar, and repair if necessary. This proposed AD would also require repetitive inspections for cracking in the horizontal flange of the upper cap of the left or right center wing rear spar, and repair if necessary.

Differences Between the Proposed AD and Service Information

Where Boeing Service Bulletin DC9–57–223, Revision 1, dated August 13, 2009, specifies to contact Boeing for repair instructions, this proposed AD requires operators to repair any cracking in accordance with a method approved in accordance with paragraph (k) of the AD.

Change to Existing AD

This proposed AD would retain certain requirements of AD 2004–23–11. Since AD 2004–23–11 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this

proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–23–11	Corresponding requirement in this proposed AD
Paragraph (f)	paragraph (g).

REVISED PARAGRAPH IDENTIFIERS—Continued

Requirement in AD 2004–23–11	Corresponding requirement in this proposed AD
Paragraph (g)	paragraph (h).

Costs of Compliance

There are approximately 510 airplanes of the affected design in the worldwide fleet. We estimate that 322 airplanes of U.S. registry would be affected by this proposed AD. 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 airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	3	$85	$0	$255 per inspection cycle.	322	$82,110 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 have 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 that the 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. *See* the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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 removing Amendment 39–13866 (69 FR 65522, November 15, 2004) and adding the following new AD:

McDonnell Douglas Corporation: Docket No. FAA–2010–0705; Directorate Identifier 2009–NM–206–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by September 20, 2010.

Affected ADs

(b) This AD supersedes AD 2004–23–11, Amendment 39–13866.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, 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 DC9–57–223, Revision 1, dated August 13, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Unsafe Condition

(e) This AD results from reports of cracking in the vertical radius (also known as the "vertical leg") of the upper cap of the center wing rear spar, and the horizontal flange on the inboard side of the rear spar upper cap, which resulted from stress corrosion. The Federal Aviation Administration is issuing this AD to detect and correct cracking in the vertical leg or the horizontal flange of the upper cap of the left or right center wing rear spar, which could cause a possible fuel leak, damage to the wing skin, and structural failure of the upper cap, and result in reduced structural integrity of the airplane.

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.

Restatement of Requirements of AD 2004–23–11, With Revised Service Information

Inspection

(g) For all airplanes except Model DC–9–15F airplanes, at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do a high frequency eddy current inspection to detect cracks in the vertical radius of the upper cap of the center wing rear spar, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–57–223, dated July 21, 2003; or Revision 1, dated August 13, 2009. After the effective date of this AD, only Revision 1 may be used.

(1) Before the accumulation of 25,000 total flight cycles.

(2) Within 15,000 flight cycles or 5 years after December 20, 2004 (the effective date of AD 2004–23–11), whichever occurs first.

Corrective Action

(h)(1) If no crack is found during any inspection required by paragraph (g) of this AD, then repeat the inspection thereafter at

intervals not to exceed 15,000 flight cycles or 5 years, whichever occurs first, until the initial inspection required by paragraph (i) of this AD is done.

(2) If any crack is found during the inspection required by paragraph (g) of this AD, before further flight, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

New Requirements of This AD

Inspection

(i) At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD: Do a high frequency eddy current inspection to detect cracking in the vertical leg (also known as the "vertical radius") and horizontal flange of the left and right rear spar upper cap, inboard and outboard sides, at the bulkhead at wing station Xcw = 58.500, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–57–223, Revision 1, dated August 13, 2009. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 15,000 flight cycles or 5 years, whichever occurs first. Accomplishment of the initial inspection required by paragraph (i) of this AD terminates the requirements of paragraphs (g) and (h)(1) of this AD.

(1) Before the accumulation of 25,000 total flight cycles.

(2) Within 15,000 flight cycles or 5 years after accomplishing the most recent high frequency eddy current inspection required by paragraph (g) of this AD, whichever occurs first.

Corrective Action

(j) If any cracking is found during any inspection required by paragraph (i) of this AD, before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Los Angeles 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: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, Los Angeles ACO, FAA, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; 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 refer to this AD.

(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 the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that 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 the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2004–23–11, Amendment 39–13866, are approved as AMOCs for the corresponding provisions of paragraph (h)(2) of this AD.

Issued in Renton, Washington, on July 27, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–19292 Filed 8–4–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0706; Directorate Identifier 2010–NM–064–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747–400, 747–400D, and 747–400F Series Airplanes Equipped With General Electric CF6–80C2 or Pratt & Whitney PW4000 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model 747–400, 747–400D, and 747–400F series airplanes. This proposed AD would require modifying certain thrust reverser control system wiring to the flap control unit (FCU). This proposed AD results from a report of automatic retraction of the leading edge flaps due to indications transmitted to the FCU from the thrust reverser control system during takeoff. We are proposing this AD to prevent automatic retraction of the leading edge flaps during takeoff, which could result in reduced climb performance and consequent collision with terrain and obstacles or forced landing of the airplane.

DATES: We must receive comments on this proposed AD by September 20, 2010.

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 proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced 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.

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: Douglas Bryant, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6505; fax (425) 917–6590.

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–2010–0706; Directorate Identifier 2010–NM–064–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.