

encountering windshear conditions will be delayed.

(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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note:** 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) This amendment becomes effective on May 15, 1995.

Issued in Renton, Washington, on April 21, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 95-10319 Filed 4-27-95; 8:45 am]

BILLING CODE 4910-13-U

#### 14 CFR Part 39

[Docket No. 94-NM-127-AD; Amendment 39-9207; AD 95-09-04]

#### Airworthiness Directives; de Havilland Model DHC-8-100 and -300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC-8-100 and -300 series airplanes, that requires an inspection to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), and correction of any discrepancy. This amendment also requires measurement of the electrical resistance of certain shield grounds, and repair, if necessary. This amendment is prompted by a report of an engine flameout after a lightning strike, due to several shields for the cable harness of the EEC not being properly grounded to the airframe. The actions specified by this AD are intended to prevent engine flameout due to insufficient protection of the EEC.

**DATES:** Effective May 30, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 1995.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. 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, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Richard Fiesel, Aerospace Engineer, Propulsion Branch, ANE-174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7504; fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC-8-100 and -300 series airplanes, was published in the **Federal Register** on September 21, 1994 (59 FR 48408). That action proposed to require a visual inspection to verify the integrity of the shield grounds for the cable harness of the EEC, and correction of any discrepancy. That action also proposed to require measurement of the electrical resistance of certain shield grounds, and repair, if necessary.

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

One commenter requests that the proposed 45-day compliance time in paragraph (b) of the proposed AD be extended to permit operators to schedule the proposed actions according to the size of their individual fleets and, specifically, to allow up to 165 days for a fleet-wide inspection. The commenter bases this request on the following factors:

1. The commenter states that, to accomplish the proposed measurement requirement, the use of a low resistance ohm meter (micro-ohm) is necessary. The commenter has only one low resistance ohm meter to perform the measurement of all the airplanes in its fleet. With only one micro-ohm meter available, the commenter could inspect only a limited number of its fleet of airplanes during its regularly scheduled maintenance visits, and would not be

able to accomplish the proposed inspections within the proposed 45-day compliance time. Further, the commenter does not believe it should have to purchase or otherwise obtain additional units to satisfy the requirements of the proposed AD.

2. The commenter states that the actions specified in the service bulletin could not be accomplished in less than 25 hours and, that based on the amount of time available for a scheduled maintenance visit, up to 4 visits may be required to complete the inspection. The commenter is concerned about these additional expenses that would be associated with this action.

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the normal maintenance schedules for timely accomplishment of the actions required by the final rule for all affected airplanes to continue to operate without compromising safety. In consideration of these items, the FAA has determined that the 45-day compliance time represents an average maintenance interval for the affected fleet, during which time the required inspections, measurement, repair, and restoration can reasonably be accomplished and an acceptable level of safety can be maintained. However, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

As for the commenter's concern regarding the expenses associated with accomplishing the requirements of this AD, the FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions (such as testing with special equipment) to address specific unsafe conditions as required in this rule, they appear to impose costs that would not otherwise be borne by operators. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions in a timely manner even if they were not required to do so by the AD.

One commenter requests that a certain procedure for repairing frayed or broken harnesses be referenced in the proposed rule as an acceptable means of repair. The commenter states that

accomplishment of this repair procedure may be necessary in the course of performing the required inspections. The commenter notes that this repair procedure is not included in any service bulletin or manual.

The FAA does not concur. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator. Paragraph (e) of this AD provides for the approval of alternative methods of compliance to address these types of unique circumstances.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from \$55 per work hour to \$60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 141 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$135,360, or \$960 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted.

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.

For the reasons discussed above, I certify that this action (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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**95-09-04 De Havilland, Inc.:** Amendment 39-9207. Docket 94-NM-127-AD.

Applicability: Model DHC-8-102, -103, and -106 series airplanes, serial numbers 3 through 369 inclusive; and Model DHC-8-301, -311, and -314 series airplanes, serial numbers 100 through 370 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 use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent engine flameout following a lightning strike, accomplish the following:

(a) Within 45 days after the effective date of this AD, perform a visual inspection of the mounting clamps and "breakout junctions" in the metal overbraid to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994, as applicable. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the applicable service bulletin.

(b) Within 45 days after the effective date of this AD, perform an electrical resistance measurement of Class A and Class B shield grounds in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994, as applicable.

(1) For Class A shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 50 flight hours after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(2) For Class B shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 180 days after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(c) For Model DHC-8-102, -103, and -106 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 93 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8-73-18, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 161 of the Accomplishment Instructions of that service bulletin.

(d) For Model DHC-8-301, -311, and -314 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 112 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8-73-19, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph

200 of the Accomplishment Instructions of that service bulletin.

(e) 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, New York Aircraft Certification Office (ACO), ANE-170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) 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.

(g) The inspections, measurement, repair, and restoration shall be done in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or de Havilland S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994. 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 Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 30, 1995.

Issued in Renton, Washington, on April 20, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 95-10203 Filed 4-27-95; 8:45 am]

BILLING CODE 4910-13-U

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 240 and 249

[Release No. 34-35637; File No. S7-4-95]

RIN 3235-AG28

### Unlisted Trading Privileges

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting new rules and amendments to existing rules concerning unlisted trading privileges ("UTP"). The rules would

reduce the period that exchanges have to wait before extending UTP to any listed initial public offering, from the third trading day in the security to the second trading day in the security. The rules also would require exchanges to have rules and oversight mechanisms in place to ensure fair and orderly markets and the protection of investors with respect to UTP in any security.

**EFFECTIVE DATE:** April 21, 1995.

#### FOR FURTHER INFORMATION CONTACT:

Betsy Prout, 202/942-0170, Attorney, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5-1), 450 5th Street, N.W., Washington, D.C. 20549.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

On February 2, 1995, the Securities and Exchange Commission ("Commission") proposed for comment rules<sup>1</sup> under Section 12(f) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>2</sup> as recently amended by the Unlisted Trading Privileges Act of 1994 ("UTP Act"). The proposed rules would have: (1) Required national securities exchanges ("exchanges"), for any security that is the subject of an initial public offering ("IPO") and is listed on another exchange ("listed IPO"), to wait until the listing exchange reports the first trade in the security to the Consolidated Tape before trading the security pursuant to unlisted trading privileges ("UTP"); (2) required each national securities exchange to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP; and (3) amended certain existing rules under Section 12(f) of the Exchange Act to conform to the recent statutory amendments effected by the UTP Act. The Commission also requested comments on alternatives to the proposed rule concerning UTP in listed IPOs from commenters who believe that either no waiting period or a longer waiting period would be appropriate. In addition, the Commission requested comment on whether any Commission action is necessary to carry out the congressional objectives of linked markets as required by Section 11A(a)(1)(D) of the Exchange Act.<sup>3</sup>

<sup>1</sup> See Securities Exchange Act Release No. 35323 (February 2, 1995), 60 FR 7718 ("Proposing Release").

<sup>2</sup> 15 U.S.C. 78l.

<sup>3</sup> 15 U.S.C. 78k-1(a)(1)(D).

The Commission received nine comment letters on the proposed rules,<sup>4</sup> eight of which discuss the proposed rule concerning UTP in listed IPOs.<sup>5</sup> The Commission also received, prior to publication of the proposed rules in the **Federal Register**, a report presenting certain volume and price parameter statistics of listed IPOs.<sup>6</sup>

The Commission is adopting the rules as proposed, except for the rule that would have required exchanges to wait, before extending UTP to listed IPOs, until the first trade is reported by the listing exchange. Instead, that proposed rule is being replaced with a requirement that exchanges wait, before trading a listed IPO pursuant to UTP, until the opening of business on the day following the initial public offering of the security on the listing exchange.

#### II. Background

As stated above, the Commission is adopting rules pursuant to the UTP Act, which recently amended Section 12(f) of the Exchange Act. The UTP Act became effective on October 22, 1994. As discussed more fully in the Proposing Release and below, the UTP Act amended Section 12(f) of the Exchange Act to require the Commission to prescribe rules concerning UTP in listed IPOs. Rule 12f-2, as adopted, meets this requirement. The UTP Act also authorizes the Commission to prescribe other rules pertaining to exchange extensions of UTP, and specifically authorizes the Commission to prescribe, by rule or order, the procedures that will apply to exchanges when they apply to reinstate UTP in a security after the Commission has suspended UTP in the security on the applicant exchange.

Section 12(f) governs when an exchange may trade a security that is

<sup>4</sup> See letters from James F. Duffy, American Stock Exchange, Inc., dated March 21, 1995 ("Amex letter"), George W. Mann, Boston Stock Exchange, Inc., dated March 6, 1995 ("BSE letter"), Lisa W. Barry, CS First Boston, dated March 14, 1995 ("CS First Boston letter"), J. Craig Long, Foley & Lardner, dated March 20, 1995 ("Chx letter"), Richard T. Chase, Lehman Brothers, dated March 10, 1995 ("Lehman letter"), James E. Buck, New York Stock Exchange, Inc., dated March 15, 1995 ("NYSE letter"), Leopold Korins, Pacific Stock Exchange, Inc., dated March 14, 1995 ("PSE letter"), John C. Katovich, Pacific Stock Exchange, Inc., dated March 29, 1995 ("PSE response"), and William Uchimoto, Philadelphia Stock Exchange, Inc., dated March 29, 1995 ("Phlx response"), to Jonathan G. Katz, Secretary, SEC.

<sup>5</sup> See BSE letter, Chx letter, CS First Boston letter, Lehman letter, NYSE letter, PSE letter, Phlx response, and PSE response, *id*.

<sup>6</sup> See letter and report from William Uchimoto, Philadelphia Stock Exchange, Inc., dated February 6, 1995 ("Phlx Study"). The Phlx Study was submitted to the Commission on behalf of the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Pacific Stock Exchange, Inc.