

blended area of the fuselage skin, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin

747-53A2478, Revision 1, dated March 27, 2008.

TABLE 1—COMPLIANCE TIMES

| Action   | Compliance time (whichever occurs later)  |   | Repeat interval (Not to exceed)   |
|--|---|---|---|
|  | Threshold   | Grace Period  |   |
| For actions required by paragraph (i)(1) of this AD. | Prior to the accumulation of 20,000 total flight hours since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 7,500 flight hours after the last inspection of this AD, whichever occurs later. | Within 6,000 flight hours after the effective date of this AD.  | 7,500 flight hours.   |
| For actions required by paragraph (i)(2) of this AD. | Prior to the accumulation of 20,000 total flight cycles since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 6,000 flight cycles after the initial blend, whichever occurs later.            | Within 1,000 flight cycles after the effective date of this AD. | 1,200 flight cycles for external detailed inspection, or 6,000 flight cycles for HFEC inspection. |

#### Exception to the Repetitive Inspections

(j) If corrosion-resistant steel rubstrips are installed in the interface area of the vertical stabilizer seal and fuselage skin: Within the applicable compliance times specified in paragraph (i) of this AD, inspect the fuselage skin using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

#### For No Wear Damage or Cracks Found: Apply Teflon

(k) If no wear damage or crack is found in the fuselage skin (or skin repair doubler) during any inspection required by paragraph (i) of this AD: Before further flight, apply Boeing Material Specifications (BMS) 10-86 Teflon-filled coating in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2478, Revision 1, dated March 27, 2008.

#### For Any Wear Damage or Crack Found: Applicable Corrective Actions

(l) If any wear damage or crack is found in the fuselage skin (or skin repair doubler) during any inspections required by paragraph (i) of this AD: Before further flight, after the inspection required by paragraph (i), do the actions specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2478, Revision 1, dated March 27, 2008.

(1) Measure the depth of the wear and record the location.

(2) Repair any wear damage and any crack.

(3) Apply BMS 10-86 Teflon-filled coating.

#### Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(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 appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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 an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle 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.

#### Material Incorporated by Reference

(n) You must use Boeing Alert Service Bulletin 747-53A2478, dated February 7, 2002; and Boeing Alert Service Bulletin 747-53A2478, Revision 1, dated March 27, 2008; as applicable; 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 Boeing Alert Service Bulletin 747-53A2478, Revision 1, dated March 27, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2478, dated February 7, 2002, on February 10, 2003 (68 FR 476, January 6, 2003).

(3) For service information identified in this 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](mailto:me.boecom@boeing.com); Internet <https://www.myboeingfleet.com>.

(4) 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 or 425-227-1152.

(5) You may also review copies of the service information 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 June 19, 2009.

**Dorr M. Anderson,**

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

[FR Doc. E9-15085 Filed 6-26-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0160; Directorate Identifier 2008-NM-176-AD; Amendment 39-15947; AD 2009-13-08]

**RIN 2120-AA64**

#### Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all McDonnell Douglas Model MD-90-30 airplanes. This AD requires repetitive inspections for cracks of the upper aft skin panels on the horizontal stabilizer, and related investigative and corrective actions if necessary. This AD results from a report of cracks found in the aft skin panels on the upper right side of

the horizontal stabilizer at the aft inboard corner. We are issuing this AD to detect and correct cracks in the fail-safe structure that may not be able to sustain limit load, which could result in the loss of overall structural integrity of the horizontal stabilizer.

**DATES:** This AD is effective August 3, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 3, 2009.

**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:** Roger Durbin, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5233; 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 all

McDonnell Douglas Model MD-90-30 airplanes. That NPRM was published in the **Federal Register** on March 23, 2009 (74 FR 12100). That NPRM proposed to require repetitive inspections for cracks of the upper aft skin panels on the horizontal stabilizer, and related investigative and corrective actions if necessary.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

We estimate that this AD affects 16 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

| Action           | Work hours | Average labor rate per hour | Parts      | Cost per airplane           | Number of U.S.-registered airplanes | Fleet cost                    |
|------------------|------------|-----------------------------|------------|-----------------------------|-------------------------------------|-------------------------------|
| Inspection ..... | 4          | \$80                        | None ..... | \$320 per inspection cycle. | 16                                  | \$5,120 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**

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:

**2009-13-08 McDonnell Douglas:**

Amendment 39-15947. Docket No. FAA-2009-0160; Directorate Identifier 2008-NM-176-AD.

**Effective Date**

(a) This airworthiness directive (AD) is effective August 3, 2009.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all McDonnell Douglas Model MD-90-30 airplanes, certificated in any category.

**Subject**

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

**Unsafe Condition**

(e) This AD results from a report of cracks found in the right upper aft skin panel of the horizontal stabilizer at the aft inboard corner. We are issuing this AD to detect and correct cracks in the fail-safe structure that may not be able to sustain limit load, which could result in the loss of overall structural integrity of the horizontal stabilizer.

**Compliance**

(f) Comply with this AD within the compliance times specified, unless already done.

**Inspections**

(g) Except as required by paragraphs (h) and (i) of this AD: At the times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin MD90-55A012, dated September 23, 2008, do an eddy current inspection for cracks of the upper aft skin panels on the left and right sides of the horizontal stabilizer, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of the service bulletin.

**Exceptions to Service Bulletin Specifications**

(h) Where Boeing Alert Service Bulletin MD90-55A012, dated September 23, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) If any crack is found during any inspection required by this AD, and Boeing Alert Service Bulletin MD90-55A012, dated September 23, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

**Inspections Done According to Multiple Operator Message**

(j) Inspections and corrective actions done before the effective date of this AD are acceptable for compliance with the corresponding requirements of this AD, if done in accordance with Boeing Multiple Operator Message 1-669017091-1, dated November 9, 2007.

**Alternative Methods of Compliance (AMOCs)**

(k)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, ATTN: Roger Durbin, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5233; fax (562)

627-5210; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(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, in the FAA Flight Standards District Office (FSDO), or lacking a principal inspector, your local FSDO. The AMOC approval letter must specifically reference 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 an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who 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.

**Material Incorporated by Reference**

(1) You must use Boeing Alert Service Bulletin MD90-55A012, dated September 23, 2008, 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](mailto: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 or 425-227-1152.

(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 June 16, 2009.

**Dorr M. Anderson,**

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

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 35**

[Docket No. RM04-7-006; Order No. 697-C]

**Market-Based Rates For Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities**

Issued June 18, 2009.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order on rehearing and clarification.

**SUMMARY:** The Federal Energy Regulatory Commission is granting in part and denying in part the requests for rehearing and clarification of its determinations in Order No. 697-B, which granted rehearing and clarification of certain revisions to Commission regulations and to the standards for obtaining and retaining market-based rate authority for sales of energy, capacity and ancillary services to ensure that such sales are just and reasonable.

**DATES: Effective Date:** This order on rehearing will become effective July 29, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Michelle Barnaby (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8407.

Paige Bullard (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-6462.

**SUPPLEMENTARY INFORMATION:**

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