

Issued in Renton, Washington, on November 17, 2016.

**Phil Forde,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2016-9433; Directorate Identifier 2016-NM-159-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model MD-90-30 airplanes. This proposed AD was prompted by a report of cracking in a horizontal stabilizer rear spar cap. This proposed AD would require repetitive open hole eddy current high frequency (ETHF) or surface eddy current low frequency (ETLF) inspections for any crack in the left and right side horizontal stabilizer rear spar upper caps, and repair or replacement if necessary. We are proposing this AD to prevent the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by January 19, 2017.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial

Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110-SK57, Seal Beach, CA 90740; telephone 562-797-1717; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9433.

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9433.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9433; 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 (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Haytham Alaidy, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5224; fax: 562-627-5210; email: [haytham.alaidy@faa.gov](mailto:haytham.alaidy@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2016-9433; Directorate Identifier 2016-NM-159-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

We have received a report of cracking in an MD-90 horizontal stabilizer rear spar cap at station XE = +/- 5.931. The affected airplane had accumulated 36,588 total flight hours and 24,975 total landing cycles. Without routine inspections, such cracks could grow to critical length before being detected. This condition, if not corrected, could result in fatigue cracking of the horizontal stabilizer rear spar upper cap, which could adversely affect the structural integrity of the airplane.

#### Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin MD90-55A018, dated June 29, 2016. The service information describes procedures for repetitive open hole ETHF or surface ETLF inspections for any crack in the left and right side horizontal stabilizer rear spar upper caps common to the elevator hinge fitting at station XE = +/- 5.931, and repair or replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

#### Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9433.

#### Costs of Compliance

We estimate that this proposed AD affects 105 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection .....	8 work-hours × \$85 per hour = \$680 per inspection cycle.	\$0	\$680 per inspection cycle.	\$71,400 per inspection cycle.

We estimate the following costs to do any necessary repairs or replacements

that would be required based on the results of the proposed inspection. We

have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Upper cap splice repair or replacement (each side) ....	368 work-hours × \$85 per hour = \$31,280 .....	\$64,306	\$95,586.

**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 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 this 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),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) 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.

**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 adding the following new airworthiness directive (AD):

**The Boeing Company:** Docket No. FAA–2016–9433; Directorate Identifier 2016–NM–159–AD.

**(a) Comments Due Date**

We must receive comments by January 19, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company Model MD–90–30 airplanes, certificated in any category.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a report of cracking in a horizontal stabilizer rear spar cap at station XE = +/- 5.931. We are issuing this AD to detect and correct fatigue cracking of the horizontal stabilizer rear spar upper cap, which could adversely affect the structural integrity of the airplane.

**(f) Compliance**

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

**(g) Repetitive Open Hole Eddy Current High Frequency or Surface Eddy Current Low Frequency Inspections**

Except as required by paragraph (i) of this AD, at the applicable times specified in table 1 of paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016: Do either an open hole eddy current high frequency (ETHF) or a surface eddy current low frequency (ETLF) inspection for any crack in the left and right side horizontal stabilizer rear spar upper caps common to the elevator hinge fitting at station XE = +/- 5.931, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016, except as required by paragraph (i) of this AD. Repeat the inspection thereafter at the time specified in tables 1 through 4, as applicable, of paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016.

**(h) Horizontal Rear Spar Upper Cap Splice Repair or Replacement**

If any crack is found during any inspection required by paragraph (g) of this AD, repair or replace before further flight in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016.

**(i) Service Information Exceptions**

Where Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016, specifies a compliance time “after the original issue date of this service bulletin,” this AD requires compliance within the specified compliance time after the effective date of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(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. In accordance with 14 CFR 39.19, send your request to your principal inspector

or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: [9-ANM-LAACO-AMOC-Requests@faa.gov](mailto:9-ANM-LAACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration 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. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or sub-step is labeled "RC Exempt," then the RC requirement is removed from that step or sub-step. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

#### (k) Related Information

(1) For more information about this AD, contact Haytham Alaidy, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5224; fax: 562-627-5210; email: [haytham.alaidy@faa.gov](mailto:haytham.alaidy@faa.gov).

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740; telephone 562-797-1717; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 15

#### 43 CFR Part 30

[178A2100DD/AAKC001030/AOA501010.999900 253G]

#### Probate Regulation Updates

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Tribal consultation; reopening of comment period.

**SUMMARY:** On June 20, 2016, the Bureau of Indian Affairs announced Tribal consultation on potential updates to probate regulations and announced that it would accept written comments until August 1, 2016. We are reopening the comment period to allow additional time for Tribal and public comment and will accept all comments received before January 4, 2017.

**DATES:** The comment period announced on June 20, 2016 (81 FR 39874) is reopened. Written comments must be received by January 4, 2017.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Email:* [consultation@bia.gov](mailto:consultation@bia.gov).
- *By hard copy:* Submit by U.S. mail or hand delivery to: Ms. Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS-3071-MIB, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Appel, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs; telephone (202) 273-4680, [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov).

**SUPPLEMENTARY INFORMATION:** As described below, we have identified three areas for modification that will have an immediate impact in streamlining the probate process. We are seeking comments with regard to the following topics, and welcome insight on other aspects of the probate regulatory framework that could be improved.

**Probate Revisions Currently Under Consideration**

#### 1. Increasing the monetary limit for distribution of IIM account funds to pay for funeral services from \$1,000 to \$5,000.

The regulation, at 25 CFR 15.301, currently establishes a monetary limit of \$1,000 for distribution of Individual Indian Money (IIM) account funds to

pay for funeral expenses. There is an ongoing concern that \$1,000 is not sufficient to pay for funeral expenses. While individuals may submit funeral related claims to be paid from estate account funds at any time before the conclusion of the first hearing by the Office of Hearings and Appeals (OHA), the Bureau of Indian Affairs (BIA) is aware that family members sometimes suffer financial hardship and lengthy delays as the estate is finalized and claims are approved.

Revisions under consideration:

- The BIA is considering a modification to this subpart that would increase the amount of funds available to use for funeral expenses. One proposed modification would amend current regulations by increasing the amount an individual may request from the decedent's IIM to no more than \$5,000 for funeral expenses. The account must still contain a minimum balance of \$2,500 in order to approve an expense under this section.

- In the interests of preserving estate account funds for heirs and other claimants, an alternative option would be to likewise raise the maximum payout to \$5,000, *but* with the limitation that the total payments could not exceed 40% of the available account balance.

2. *Allowing BIA to make minor estate inventory corrections.*

The current regulation, at 43 CFR 30.126, requires a judge to issue a modification order if trust or restricted property belonging to a decedent is omitted from the inventory of an estate. As a result, it can take significant time to make minor estate inventory corrections to include omitted property.

Revision under consideration:

- The BIA is considering a regulatory modification to grant the BIA the authority to make estate inventory modifications when heirship has already been determined by an OHA order. The BIA would notify all interested parties to an estate in the event property interests were to be added. As in this current regulatory section, any modification that would result in property taking a different line of descent would still require OHA issuing a decision to re-determine heirs. For example, if adding property to a decedent's estate would cause that interest to become 5% or more of the parcel, and thus no longer subject to the American Indian Probate Reform Act's highly fractionated interest provisions, OHA would need to issue a new decision to re-determine descent and distribution of those interests. There would be no change to the requirement that any *removal* of property from a