

(n) Before the MLG outer cylinder is 3 years old since new or since the last overhaul, or within 90 days after May 6, 2002, whichever is later, perform a detailed inspection for cracks and corrosion of the cross bolt hole inner chamfer, in accordance with "Part 2—Cross Bolt Hole Inner Chamfer Inspection—Bushings Not Removed" of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001; or Revision 1, dated March 13, 2003.

(1) If no crack or corrosion is found during the inspection required by paragraph (n) of this AD, before further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with "Part 3—C.I.C. Application" of the Accomplishment Instructions of the service bulletin, until the next MLG overhaul. After the next MLG overhaul has been completed, no further action is required by this AD.

(2) If any corrosion is found during the detailed inspection required by paragraph (n) of this AD, before further flight, remove the cross bolt bushings and perform the detailed inspection specified in paragraph (k) of this AD, and remove the corrosion per Figure 2 of the service bulletin.

(i) If all of the corrosion can be removed, perform the actions specified in paragraph (n)(2)(i)(A) and (n)(2)(i)(B) of this AD, at the applicable times indicated.

(A) Prior to further flight, perform the restoration steps shown in Figure 2 of the service bulletin; and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with "Part 3—C.I.C. Application" of the Accomplishment Instructions of the service bulletin.

(B) Within 18 months after the corrosion removal required by paragraph (n)(2) of this AD, perform the terminating action described in paragraph (q) of this AD.

(ii) If all the corrosion cannot be removed, before further flight, perform the terminating action required by paragraph (q) of this AD.

(3) If any crack is found during the detailed inspection required by paragraph (n) of this AD, before further flight, perform the terminating action described in paragraph (q) of this AD.

Parts Installation

(o) As of May 6, 2002, no person shall install on any airplane an MLG outer cylinder unless maintenance records conclusively show that JC5A has never been used on that MLG outer cylinder, or unless it complies with paragraph (q) of this AD.

Use of JC5A Prohibited

(p) As of May 6, 2002, no person shall use the C.I.C. JC5A in the aft trunnion area of the MLG outer cylinder on any airplane.

Terminating Action

(q) Perform the terminating action (including removal of the existing bushings, repair of the aft trunnion area of the outer cylinder, and machining and installation of new bushings) in accordance with "Part 4—Terminating Action" of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001; or

Revision 1, dated March 13, 2003. Completion of the terminating action terminates the requirements for the repetitive inspections and C.I.C. applications of this AD.

Credit for Terminating Action

(r) For all airplanes, accomplishment of the actions specified in paragraph (q) of this AD is considered acceptable for compliance with the requirements of paragraph (e) of AD 2002–01–13, amendment 39–12607.

New Requirements of This AD

L/Ns 834 Through 874 Inclusive

(s) For airplanes with L/Ns 834 through 874 inclusive: Do the actions specified in paragraphs (s)(1), (s)(2), and (s)(3) of this AD.

(1) Within 90 days after the effective date of this AD, and thereafter at intervals not to exceed 180 days: Do the actions specified in paragraph (m) of this AD until the terminating action required by paragraph (q) of this AD has been accomplished.

(2) Before the MLG outer cylinder is 3 years old since new or since last overhaul, or within 90 days after the effective date of this AD, whichever is later: Do the actions as specified in paragraph (n) of this AD.

(3) As of the effective date of this AD, the actions specified in paragraphs (o) and (p) of this AD must be complied with.

Reporting Requirement

(t) Although the service bulletins referenced in this AD specify to submit certain information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance (AMOCs)

(u)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) 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 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

(v) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001; or Boeing Alert Service Bulletin 767–32A0192, Revision 1, dated March 13, 2003.

(1) The Director of the Federal Register approves the incorporation by reference of Boeing Alert Service Bulletin 767–32A0192, Revision 1, dated March 13, 2003 in accordance with 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 767–32A0192, dated May 31, 2001, as of May 6, 2002 (67 FR 19322, April 19, 2002).

(3) For copies of the service information, contact Boeing Commercial Airplanes, P.O.

Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on January 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–1805 Filed 2–3–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20250; Directorate Identifier 2003–NM–267–AD; Amendment 39–13961; AD 2005–03–05]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is revising an existing airworthiness directive (AD), which applies to certain McDonnell Douglas Model MD–90–30 airplanes. This AD requires a one-time general visual inspection to detect wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory; and corrective actions, if necessary. This new AD revises the applicability of the existing AD. This AD is prompted by the determination that certain airplanes unaffected by the existing AD are subject to the unsafe condition, and certain other airplanes should be removed from the applicability. We are issuing this AD to prevent damage to certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

DATES: Effective February 22, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of February 22, 2005.

We must receive comments on this AD by April 5, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.

- Fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Data and Service Management, Dept. C1-L5A (D800-0024). You can examine this information 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.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20250; the directorate identifier for this docket is 2003-NM-267-AD.

Examining the Docket

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in

person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

FOR FURTHER INFORMATION CONTACT:

George Y. Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5341; fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: On February 14, 2003, we issued AD 2003-04-10, amendment 39-13058 (68 FR 9513, February 28, 2003), for certain McDonnell Douglas Model MD-90-30 airplanes. That AD requires a one-time general visual inspection to find wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory; and corrective actions, if necessary. That AD was prompted by a report of uncommanded deployment of cabin oxygen masks due to chafing of certain wires. We issued that AD to prevent damage to certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

Actions Since Existing AD Was Issued

Since we issued AD 2003-04-10, Boeing has revised relevant service information to change the effectivity, as explained in the following section.

Relevant Service Information

AD 2003-04-10 requires accomplishing the actions specified in

Boeing Alert Service Bulletin MD90-24A074, Revision 1, dated August 8, 2001. The manufacturer has since issued Revision 02, dated June 3, 2003. Revision 02 revises the effectivity by adding certain airplanes and removing others. The procedures have not changed. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the AD

We have evaluated all pertinent information, identified an unsafe condition that is likely to exist or develop on other products of this same type design, and determined that it is necessary to revise AD 2003-04-10. This new AD retains the requirements of AD 2003-04-10. This new AD revises the applicability by removing certain airplanes and adding other airplanes.

This AD requires using the revised service information described previously to perform these actions, except as discussed under "Differences Between the AD and the Service Bulletin."

Differences Between the AD and the Service Bulletin

The service bulletin specifies a compliance time of 120 days after the issue date of Revision 1 of the service bulletin (August 8, 2001). For those airplanes newly added to the applicability in this AD, we have provided a compliance time of 6 months after the effective date of the AD to avoid potentially grounding those airplanes.

Costs of Compliance

There are about 89 airplanes of the affected design worldwide. 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	1	\$65	None required	\$65	21	\$1,365

The airplanes that are newly added to the applicability of this AD are currently operated by non-U.S. operators under foreign registry; therefore, those airplanes are not directly affected by this AD. If a newly affected airplane is imported and placed on the U.S.

Register in the future, the costs provided in the above table would apply.

FAA's Determination of the Effective Date

For U.S.-registered airplanes, the changes in this new AD provide relief from the requirements of AD 2003-04-

10, and none of the newly added airplanes is on the U.S. Register. Therefore, providing notice and opportunity for public comment is unnecessary before this AD is issued, and this AD may be made effective in less than 30 days after it is published in the **Federal Register**.

Comments Invited

Although this is a final rule that was not preceded by notice and an opportunity for public comment, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20250; Directorate Identifier 2003-NM-267-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

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 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 the 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 AD. 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.

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:

2005-03-05 McDonnell Douglas:

Amendment 39-13961. Docket No. FAA-2005-20250; Directorate Identifier 2003-NM-267-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 22, 2005.

Affected ADs

(b) This AD revises AD 2003-04-10, amendment 39-13058 (68 FR 9513, February 28, 2003).

Applicability

(c) This AD applies to McDonnell Douglas Model MD-90-30 airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin MD90-24A074, Revision 02, dated June 3, 2003.

Unsafe Condition

(d) This AD was prompted by our determination that certain airplanes unaffected by AD 2003-04-10, amendment 39-13058, are subject to the unsafe condition, and certain other airplanes should be removed from the applicability of that AD. We are issuing this AD to prevent damage to

certain wires due to contact between the wires and the adjacent structure, which could result in electrical arcing and consequent smoke and fire in the cabin.

Compliance

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

One-time Inspection/Corrective Actions

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Do a one-time general visual inspection to find wire chafing damage and to determine adequate clearance between the disconnect panel structure and the wires above the aft left lavatory, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90-24A074, Revision 02, dated June 3, 2003. If no damage is found and the clearance is adequate, no further action is required by this AD.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) For airplanes listed in Boeing Alert Service Bulletin MD90-24A074, Revision 1, dated August 8, 2001: Inspect within 12 months after April 4, 2003 (the effective date of AD 2003-04-10).

(2) For airplanes not identified in paragraph (f)(1) of this AD: Inspect within 6 months after the effective date of this AD.

(g) Based on the findings of the inspection required by paragraph (f) of this AD, do the applicable actions specified in paragraph (g)(1) or (g)(2) of this AD before further flight in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90-24A074, Revision 02, dated June 3, 2003.

(1) If no damage is found, but the clearance is inadequate: Secure the wires using tie-wraps to obtain 0.50-inch minimum clearance.

(2) If damage and/or inadequate clearance is found: Repair damaged wires, replace damaged wires with new wires, and/or secure the wires using tie-wraps to obtain 0.50-inch minimum clearance.

(h) An inspection and corrective actions are also acceptable for compliance with the requirements of paragraphs (f) and (g) of this AD, if done as specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) Boeing Alert Service Bulletin MD90-24A074, dated May 14, 2001, done before April 4, 2003.

(2) Boeing Alert Service Bulletin MD90-24A074, Revision 01, dated August 8, 2001, done before the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin MD90-24A074, excluding Appendix, Revision 02, dated June 3, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846; Attention: Data and Service Management, Dept. C1-L5A (D800-0024). You can review copies at the Docket Management Facility office, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC; or 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.

Issued in Renton, Washington, on January 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-1931 Filed 2-3-05; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 155

RIN 3038-AC16

Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is amending Rule 1.55 to provide that non-institutional customers may indicate with a single signature, in addition to the acknowledgment of receipt of various disclosures and the making of certain elections, the consent referenced in Rules 155.3(b)(2) and 155.4(b)(2) and 155.4(b)(2) concerning customer permission for futures commission merchants ("FCMs") and introducing brokers ("IBs") to take the opposite side of an order. The

Commission is also amending Rule 1.55(f) to specify that the acknowledgments required by Rules 155.3(b)(2) and 155.4(b)(2) are not required of institutional customers when they open an account.

DATES: Effective March 7, 2005.

FOR FURTHER INFORMATION CONTACT:

Lawrence B. Patent, Deputy Director, or Susan A. Elliott, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5439 or (202) 418-5464, or electronic mail: lpatent@cftc.gov or selliott@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 2004 (69 FR 64873), the commission published a proposed amendment to Rule 1.55 to provide that the single signature by which non-institutional customers acknowledge receipt of basic risk disclosures of futures and option trading, and elect how hedging positions shall be handled in the event of a commodity broker bankruptcy, may also reflect the consent referenced in Rules 155.3(b)(2) and 155.4(b)(2) concerning customer permission for FCMs and IBs to take the opposite side of an order. The Commission adopted a similar rule amendment in November 2000,¹ but withdrew it the following month upon passage of the Commodity Futures Modernization Act of 2000.² Most of the rules adopted and withdrawn in 2000 were repropose and re-adopted in 2001,³ but this one was not. Because Commission staff received an inquiry about this issue, the Commission repropose the rule amendment and sought comments.

II. Rule Amendments

Three comments were received, from the National Futures Association ("NFA"), the Futures Industry Association ("FIA") and an FCM, Goldman Sachs & Co. All comments supported adoption of the proposed amendment to Rule 1.55(d)(1). In addition, the three commenters were unanimous in their recommendation that the Commission adopt another rule amendment that clarifies, in Rule 1.55(f), that acknowledgment to consent for an FCM or IB to take the opposite side of an order is not required of

institutional customers when they open an account.

The commenters requested that Rule 1.55(f) also be amended to add the consent required under Commission Rules 155.3(b)(2) and 155.4(b)(2) to the prescribed disclosures, consents and elections that institutional customers are not required to acknowledge in opening an account with an FCM. The Commission believes that such a further amendment is consistent with the proposal and with the general structure of Rule 1.55 and that it is appropriate to clarify Rule 1.55(f) as the commenters suggest. The Commission emphasizes the point by cross-referencing Rule 1.55 in Rules 1.55.3 and 155.4.⁴

As the Commission emphasized in its proposal, the single signature acknowledgment format was first adopted in 1993 based on a rationale of customer sophistication. If, with the Commission's proposed rule amendment, non-institutional customers are now deemed sufficiently sophisticated to have their consents acknowledged with a single signature, it is certainly appropriate to assume that more sophisticated institutional customers understand that they are consenting to the trade practices described in Rule 155.3(b)(2) and 155.4(b)(2) without a separate acknowledgment when an account is opened.

Section 4b of the Act⁵ nonetheless requires intermediaries to have the prior consent of the customer before knowingly taking, directly or indirectly, the opposite side of a customer's order. Thus, as one of the commenters pointed out, it is still the responsibility of the entity opening the account to ensure that prospective customers give "the consent required under this rule," even when the customer is an institutional customer.⁶ The amendment of Rule 1.55(f) permits an entity to choose the most appropriate means to accomplish that objective. Finally, Rules 155.3(b)(2) and 155.4(b)(2) are amended to cross-reference Rule 1.55(d)(1).

⁴ The Commission took a similar approach when it amended Rule 1.55 as well as Rule 1.33 concerning electronic transmission of customer account statements. See 66 FR 53517 (Oct. 23, 2001).

⁵ Commodity Exchange Act § 4b(a)(2)(iv) ("unlawful * * * to fill such order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such person to become the buyer in respect to any selling order of such person, or become the seller in respect to any buying order of such person"), 7 U.S.C. 4b(2)(C)(iv) (2003).

⁶ Comment letter of Goldman Sachs & Co., December 9, 2004 at p. 2.

¹ 65 FR 77993 at 78013 (December 13, 2000).

² 65 FR 82272 (December 28, 2000).

³ 66 FR 45221 at 45226 (August 28, 2001)

(proposed rules) and 66 FR 53510 at 53513 (October 23, 2001) (final rules).