

recognized organizations and their clients has been the impetus for a renewed effort to change or eliminate the restriction.

#### Request for Comments

The concerns outlined above have led EOIR to formally request comments on possible changes to the nominal fee and accreditation provisions of 8 CFR 292.2. The outlined concerns are not considered to be comprehensive, and those responding are invited to address these and any additional areas of concern they may have regarding the nominal fee issue. For example, EOIR also seeks comments on the following:

1. Should the nominal fee restriction be retained, but more broadly interpreted, so as to permit higher fees to be charged?
2. If the nominal fee restriction is changed, or is eliminated from the regulation, what should replace it?
3. Should recognized organizations be able to fund themselves, in whole or in part, through imposition of fees? If so, what would be an appropriate level of such funding?
4. What safeguards should exist to ensure that recognized organizations are in fact operating in the best interests of their clientele and not for profit?

A concern that is frequently raised in discussing change or elimination of the nominal fee requirement is that the requirement guards against the proliferation of unregulated immigration consultants or "notarios," who are operating for profit, and who frequently provide poor advice or otherwise take advantage of their clients. The concern is that if larger fees may be charged by recognized organizations, more unscrupulous organizations may apply for and gain recognition by the Board. Those arguing in favor of changing the regulation, on the other hand, contend that such questionable organizations are more likely to exist where there are inadequate quality legal services available. They argue that these organizations take advantage of the fact that many aliens cannot afford lawyers, that legal services are not available, and that aliens therefore turn to unqualified and sometimes dishonest organizations for advice and help.

Parties on each side of this argument, however, agree that if the nominal fee regulation is changed or eliminated, some safeguards should be put in place to carefully regulate the recognition of organizations before the Board. Comments are requested regarding how best to do this. The following are ideas on which comments are invited:

- (a) Should an organization be required to show that it has both non-profit and

tax-exempt status, within the meaning of the Internal Revenue Code?

- (b) Should an organization be required to show that it serves only low-income clients? Should the term low-income be defined, and if so, how?

(c) Should an organization be required to provide, as part of the application for recognition, proof of where they receive their funding? Once recognized, should they also be required to provide annual reports which include the sources of their revenue, their fee schedules, their income guidelines, and proof that they serve only, or primarily, low-income clients?

- (d) Should an organization be required to vary its fees depending on ability to pay?

(e) Should there be formal procedures requiring recognized organizations to show continuing compliance with any applicable regulation? Should recognized organizations be required to be re-recognized periodically, as is the case with accredited representatives?

(f) In requests for reaccreditation of accredited representatives of recognized organizations, should there be a requirement that Immigration Judges before whom the representative practices be consulted? Should the local bar be notified of reaccreditation applications, with opportunity to comment?

(g) Should there be formal procedures for filing complaints against recognized organizations or accredited representatives? Should the regulation provide that any attorney or advocate may report suspected abuse?

5. Should the regulation regarding lists of free legal services, at 8 CFR part 292a, be amended to allow including organizations and/or individuals who provide low cost legal services? Should private attorneys be permitted to have their names on this list, provided their fees are within the range accepted:

As mentioned above, EOIR welcomes all comments regarding any of the concerns identified in this notice as well as any other comments regarding possible changes in the qualifications required of an organization for recognition by EOIR to represent persons before the Service, the Board, and the Immigration Court.

Dated: November 6, 1995.

Janet Reno,

*Attorney General.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-CE-47-AD]

#### Airworthiness Directives; de Havilland Model DHC-3 Airplanes

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

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

**SUMMARY:** This document proposes to supersede Airworthiness Directive (AD) 90-12-08, which currently requires the following on de Havilland Model DHC-3 airplanes: repetitively inspecting (using dye penetrant methods) the tailplane main rib forward flanges and the main rib forward lower flanges at the tailplane front attachment fitting for cracks and repairing any cracked flange. The proposed action would retain the repetitive inspections currently required by AD 90-12-08, and would allow the provision of incorporating a certain modification as terminating action for these repetitive inspections. The proposed action is prompted by the Federal Aviation Administration's determination that installing new angles and plates on the tailplane root ribs on de Havilland Model DHC-3 airplanes provides an equivalent level of safety to the repetitive inspections required by AD 90-12-08. The actions specified by the proposed AD are intended to prevent failure of the tailplane structure caused by cracked tailplane main rib forward flanges or main rib forward lower flanges at the tailplane front attachment fitting, which, if not detected and corrected, could result in loss of control of the airplane.

**DATES:** Comments must be received on or before January 12, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-CE-47-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Bombardier Inc., (the parent company of de Havilland) Bombardier Regional Aircraft Division, Garrett Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone (416) 633-7310. This information also may be examined at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Casale, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 5th St., 3rd Floor, Valley Stream, New York 11581; telephone (516) 256-7521; facsimile (516) 568-2716.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95-CE-47-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-CE-47-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**Discussion**

AD 90-12-08, Amendment 39-6622 (55 FR 1450, January 16, 1990), currently requires the following on de Havilland Model DHC-3 airplanes: repetitively inspecting (using dye penetrant methods) the tailplane main rib forward flanges and the main rib forward lower flanges at the tailplane front attachment fitting for cracks and repairing any cracked flange. Accomplishment of the actions required by AD 90-12-08 is in accordance with de Havilland Service Bulletin (SB) No.

3/46, Revision B, dated December 1, 1989.

Since issuance of AD 90-12-08, de Havilland has developed tailplane root rib angles and plates of improved design (Modification 3/935). When incorporated, Modification 3/935 eliminates the need for the repetitive inspections required by AD 90-12-08.

Bombardier, Inc. (the parent company of de Havilland) has issued de Havilland SB No. 3/50, Revision A, dated February 17, 1995, which specifies procedures for incorporating Modification 3/935 on de Havilland Model DHC-3 airplanes.

Transport Canada, which is the airworthiness authority for Canada, classified this service bulletin as mandatory and revised Transport Canada AD CF-89-20 to the R1 level, dated February 22, 1995, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement between Canada and the United States. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above.

After examining the findings of Transport Canada and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that (1) incorporating Modification 3/935 provides an equivalent level of safety to the repetitive inspections required by AD 90-12-08; and (2) AD action should be taken to prevent failure of the tailplane structure caused by cracked tailplane main rib forward flanges or main rib forward lower flanges at the tailplane front attachment fitting, which, if not detected and corrected, could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other de Havilland Model DHC-3 airplanes of the same type design that do not have Modification 3/935 incorporated, the proposed AD would supersede AD 90-12-08 with a new AD that would (1) retain the requirement of repetitively inspecting the tailplane main rib forward flanges and the main rib forward lower flanges at the tailplane front attachment fitting for cracks and repairing any cracked flange; and (2) allowing for the provision of incorporating Modification 3/935 as terminating action for the

repetitive inspections. Accomplishment of the proposed inspections would be in accordance with de Havilland SB No. 3/46, Revision B, dated December 1, 1989. Accomplishment of the proposed modification would be in accordance with de Havilland SB No. 3/50, Revision A, dated February 17, 1995.

The FAA estimates that 49 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 35 workhours per airplane to accomplish the proposed inspection and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$102,900 or \$2,100 per airplane. This figure represents the cost of the initial inspection, and does not reflect the costs for repetitive inspections or possible repairs. The FAA has no way of determining how many tailplane main rib forward or main rib forward lower flanges may need repaired or how many repetitive inspections each owner/operator of the affected airplanes would incur over the life of the airplane.

The FAA has issued alternative methods of compliance (AMOC) to the repetitive inspection requirement of AD 90-12-08 for owners/operators of three de Havilland Model DHC-3 airplanes. These AMOC's consist of the incorporation of a certain design modification in the tailplane root rib area of the affected airplanes. These AMOC's would remain in effect for the proposed AD, which would eliminate the inspection costs for these three airplanes. With this in mind, the cost of the proposed AD would be reduced by \$6,300 from \$102,900 to \$96,600.

The compliance time of the proposed AD is in calendar time instead of hours time-in-service (TIS). In developing the compliance time of AD 90-12-08, the FAA utilized calendar time because it was unknown whether the rib flange cracking was a result of in-flight loads (flight hours) or loads associated with ground gusts. With this in mind, airplanes with lower usage may experience a cracked rib flange before an airplane with higher usage. For this reason, calendar time rather than flight hours was judged to be an appropriate inspection basis. This situation still exists and in order to maintain the repetitive inspection continuity between AD 90-12-08 and the proposed AD, a compliance based on calendar time is proposed.

The regulations proposed herein would 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 proposal would 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) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations 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); 40101, 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 90-12-08, Amendment 39-6622 (55 FR 1450, January 16, 1990), and by adding the following new AD:

De Havilland: Docket No. 95-CE-47-AD; Supersedes AD 90-12-08, Amendment 39-6622.

*Applicability:* Model DHC-3 Airplanes (all serial numbers), certificated in any category, that do not have Modification 3/935 incorporated in accordance with de Havilland Service Bulletin (SB) number (No.) 3/50, Revision A, dated February 17, 1995.

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 request approval for an alternative method of compliance in

accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it. Compliance: Within the next 3 calendar months after the effective date of this AD, unless already accomplished (compliance with AD 90-12-08), and thereafter at intervals not to exceed 24 calendar months.

To prevent failure of the tailplane structure caused by cracked tailplane main rib forward flanges or main rib forward lower flanges at the tailplane front attachment fitting, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect, using dye penetrant methods, the tailplane main rib forward flanges and the main rib forward lower flanges at the tailplane front attachment fitting in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 3/46, Revision B, dated December 1, 1989.

(b) Prior to further flight, repair any tailplane main rib forward flange or main rib forward lower flange found cracked during any inspection required by this AD. Accomplish this repair in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of de Havilland SB No. 3/46, Revision B, dated December 1, 1989.

(c) Installing tailplane root rib angles and plates of improved design (Modification 3/935) in accordance with de Havilland SB 3/50, Revision A, dated February 17, 1995, terminates the repetitive inspection requirement of this AD. Modification 3/935 may be incorporated at any time provided that any tailplane main rib forward flange or main rib forward lower flange found cracked during any inspection required by this AD is repaired.

(d) 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.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office (ACO), 10 5th St., 3rd Floor, Valley Stream, New York 11581. The request shall be forwarded through an appropriate FAA 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) Alternative methods of compliance approved in accordance with AD 90-12-08 (superseded by this action) are considered approved as alternative methods of compliance with this AD.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Bombardier Inc., Bombardier Regional Aircraft Division,

Garrett Boulevard, Downsview, Ontario, Canada M3K 1Y5; telephone (416) 633-7310; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment supersedes AD 90-12-08, Amendment 39-6622.

Issued in Kansas City, Missouri, on November 6, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 18 and 75

RIN 1219-AA75

### High-Voltage Longwall Equipment Standards for Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In response to requests from the mining community for additional time in which to prepare comments, the Mine Safety and Health Administration (MSHA) is extending the period for public comment on its proposed rule addressing the use of high-voltage longwall equipment in production areas of underground coal mines.

**DATES:** All comments must be submitted on or before December 18, 1995.

**ADDRESSES:** Send comments to MSHA, Office of Standards, Regulations and Variances, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203. Commenters are encouraged to submit comments on a computer disk along with a hard copy.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On October 18, 1995, MSHA published a document in the Federal Register (60 FR 53891) announcing the reopening of the rulemaking record on its proposed standard allowing the use of high-voltage longwall equipment in underground coal mines. The comment period was scheduled to close on November 17, 1995. By this document, the Agency is extending the comment period to December 18, 1995. All interested parties are encouraged to submit comments prior to that date.