

cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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); 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 is contained 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 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. 106(g), 40113, 44701.

#### § 39.13 [Amended]

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

**Boeing:** Docket 2000-NM-268-AD.

*Applicability:* Model 767-300 series airplanes, as listed in Boeing Alert Service Bulletin 767-33A0085, Revision 2, dated December 7, 2000, 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 request approval for an alternative method of compliance in accordance with paragraph (b) 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:** Required as indicated, unless accomplished previously.

To prevent damage to the wires in certain wire bundles due to contact between the bundles and the adjacent ceiling support bracket, which could result in electrical arcing, smoke, or fire in the cabin, and failure of certain systems essential to safe flight and landing of the airplane, accomplish the following:

#### One-Time Inspection/Corrective Actions

(a) Accomplish the requirements in paragraphs (a)(1) and (a)(2) of this AD, as applicable, at the times specified.

(1) Within 6 months after the effective date of this AD: Do a one-time general visual inspection to find chafing and determine adequate clearance of the wire bundles above the F4/G2 galley, per Figure 1 or Figure 3, as applicable, of the Accomplishment Instructions of Boeing Alert Service Bulletin 767-33A0085, Revision 2, dated December 7, 2000.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to find obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light 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."

(2) If chafing and/or inadequate clearance is found: Before further flight, repair or replace damaged wires in the wire bundles; install a bracket assembly on the wire bundle support bracket; install nut spacer plates; and re-route the wire bundles away from the ceiling support bracket, as applicable, as specified by and per Figure 2 or Figure 3, as applicable, of the Accomplishment Instructions of the alert service bulletin.

**Note 3:** Accomplishment of the one-time inspection and corrective actions before the effective date of this AD per Boeing Alert Service Bulletin 767-33A0085, dated May 11, 2000, or Revision 1, dated August 31, 2000, is considered acceptable for compliance with paragraph (a) of this AD.

#### Alternative Methods of Compliance

(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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permit

(c) Special flight permits may be issued per 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.

Issued in Renton, Washington, on March 5, 2001.

**Donald L. Riggins,**

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

[FR Doc. 01-5808 Filed 3-8-01; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-NM-310-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 737-100, -200, and -200C-Series Airplanes

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737-100, -200, and -200C series airplanes. This proposal would require inspection of certain floor beams and transverse beams, and corrective actions, if necessary. The actions specified in the proposed AD are intended to detect and correct cracking at the aileron control quadrant cutouts and in the cabin floor beams and pressure web transverse beams above the main wheelwell, which could result in rapid loss of cabin pressure and reduced structural integrity of the airframe.

**DATES:** Comments must be received by April 23, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-310-AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 99-NM-310-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Scott Fung, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1221; fax (425) 227-1181.

**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 shall 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 action 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 summarizing 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 action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99-NM-310-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, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-310-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The FAA has received reports indicating that, on numerous Boeing Model 737 series airplanes, cracks have been detected in the left and right buttock line (LBL and RBL) 24.8 floor beams in the area of the aileron control quadrant cutout, and in the floor beams and pressure web transverse beams above the main wheelwell. This cracking has been attributed to stress concentration at the aileron control quadrant cutout and to fatigue at beam intersections resulting from pressurization flexure, respectively. This condition, if not corrected, could result in rapid loss of cabin pressure and reduced structural integrity of the airframe.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Service Bulletin 737-57-1139, Revision 4, dated April 16, 1992. That service bulletin describes procedures for repetitive detailed visual inspections to detect cracking of the LBL and RBL 24.8 floor beams at the aileron control quadrant cutout; corrective actions, if necessary; and eventual modification of that area. That service bulletin also describes procedures for repetitive detailed visual inspections for cracking of the transverse beams and floor beams at the beam intersections, and eventual modification of that area. The modifications eliminate the need for the repetitive inspections. For any cracking of the LBL and RBL 24.8 floor beams at the aileron control quadrant cutout, if the cracking is within certain limits specified in the service bulletin, corrective actions include repair and accomplishment of the modification of the LBL and RBL 24.8 floor beams. For any cracking of the LBL and RBL 24.8 floor beams at the aileron control quadrant cutout that is outside the limits specified in the service bulletin, or any cracking of the transverse beams and floor beams at the beam intersections, the service bulletin specifies to contact Boeing for repair instructions.

**Other Relevant Rulemaking**

The FAA previously has issued AD 90-06-02, amendment 39-6489 (55 FR 8372, March 7, 1990), and AD 93-17-08, amendment 39-8679 (58 FR 46076,

September 1, 1993), which apply to certain Boeing Model 737 series airplanes. AD 90-06-02 requires incorporation of structural modifications listed in Boeing Document No. D6-38505, Revision C, dated December 11, 1989; and AD 93-17-08 requires incorporation of structural modifications listed in Appendices A.3 and B.3 of Boeing Document No. D6-38505, Revision F, dated April 23, 1992. The modifications specified in Boeing Service Bulletin 737-57-1139, Revision 4, are listed in Boeing Document No. D6-38505, Revisions C and F. Because the modifications in Boeing Service Bulletin 737-57-1139, Revision 4, are already required by AD 90-06-02 and AD 93-17-08, this proposed AD would require only the inspections in the service bulletin, not the modifications. "Note 3" has been included in the body of this notice of proposed rulemaking to clarify that the modifications in the service bulletin are already required by other AD's. In addition, accomplishment of the modifications in the service bulletin in accordance with AD 90-06-02 and AD 93-17-08 is terminating action for the inspections in this proposed AD, and paragraphs (c)(1) and (c)(2) of this proposed AD clarify this point.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the inspections specified in the service bulletin described previously, except as discussed below.

**Differences Between Proposed Rule and Service Bulletin**

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

**Cost Impact**

There are approximately 971 airplanes of the affected design in the worldwide fleet. The FAA estimates that 333 airplanes of U.S. registry would be affected by this proposed AD, and that it would take approximately 10 work

hours per airplane to accomplish the proposed inspections, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be \$199,800, or \$600 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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); 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 is contained 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 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. 106(g), 40113, 44701.

### § 39.13 [Amended]

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

**Boeing:** Docket 99-NM-310-AD.

**Applicability:** Model 737-100, -200, and -200C series airplanes; line numbers 1 through 1585 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 request approval for an alternative method of compliance in accordance with paragraph (d) 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:** Required as indicated, unless accomplished previously. To detect and correct cracks in the floor beams at the aileron control quadrant cutout and in the floor beams and pressure web transverse beams above the main wheelwell, which could result in rapid loss of cabin pressure and reduced structural integrity of the airplane, accomplish the following:

### Initial Inspection and Follow-On Actions: Groups 1, 2, and 5

(a) For airplanes in Groups 1, 2, and 5; as listed in Boeing Service Bulletin 737-57-1139, Revision 4, dated April 16, 1992: Prior to the accumulation of 12,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking of the left and right buttock line (LBL and RBL) 24.8 floor beams in the area of the aileron control quadrant cutout, in accordance with Part II of the Accomplishment Instructions of the service bulletin.

**Note 2:** For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriated by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles, until the

modification in paragraph (c)(1) of this AD is done.

(2) If cracking is detected that is within the limits specified in Part II, Paragraphs C.1. and C.2., of the Accomplishment Instructions of the service bulletin, prior to further flight, repair the crack per the service bulletin, and accomplish the modification specified in paragraph (c)(1) of this AD.

(3) If cracking is detected that is outside the limits identified in Part II, Paragraphs C.1. and C.2., of the Accomplishment Instructions of the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with a method approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For the repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

### Initial Inspection and Follow-On Actions: Groups 1, 2, 3, and 4

(b) For airplanes in Groups 1, 2, 3, and 4; as listed in Boeing Service Bulletin 737-57-1139, Revision 4, dated April 16, 1992: Prior to the accumulation of 20,000 total flight cycles, or within 6,000 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking of the transverse beams and floor beams at the beam intersections in accordance with Part II of the Accomplishment Instructions of the service bulletin.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles, until the modification in paragraph (c)(2) of this AD is done.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or in accordance with a method approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For the repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

### Modifications (Terminating Action)

(c) The following modifications in accordance with Boeing Service Bulletin 737-57-1139, Revision 4, dated April 16, 1992, constitute terminating action for certain requirements of this AD.

(1) For airplanes in Groups 1, 2, and 5; as listed in the service bulletin: Modification of the LBL and RBL 24.8 floor beams in the area of the aileron control quadrant cutout in accordance with Part I of the Accomplishment Instructions of the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(2) For airplanes in Groups 1, 2, 3, and 4; as listed in the service bulletin: Modification of the transverse beams and floor beams at the beam intersections in accordance with Part III or Part I, as applicable, of the

Accomplishment Instructions of the service bulletin constitutes terminating action for the repetitive inspections required by paragraph (b) of this AD.

**Note 3:** The modifications specified in Boeing Service Bulletin 737-57-1139, Revision 4, dated April 16, 1992, are required by AD 90-06-02, amendment 39-6489, and AD 93-17-08, amendment 39-8679.

#### Alternative Methods of Compliance

(d) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(e) 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.

Issued in Renton, Washington, on March 5, 2001.

**Donald L. Riggin,**

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

[FR Doc. 01-5807 Filed 3-8-01; 8:45 am]

**BILLING CODE 4910-13-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 255

[Docket No. RM 2000-7]

#### Mechanical and Digital Phonorecord Delivery Compulsory License

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Copyright Office of the Library of Congress requests public comment on the interpretation and application of the mechanical and digital phonorecord compulsory license, 17 U.S.C. 115, to certain digital music services.

**DATES:** Comments are due no later than April 23, 2001. Reply comments are due May 23, 2001.

**ADDRESSES:** If sent by mail, and original and ten copies of comments and reply comments should be addressed to: Office of the Copyright General Counsel, PO Box 70977, Southwest Station,

Washington, DC 20024. If hand delivered, an original and ten copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE, Washington, DC 20559-6000.

#### FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel, PO Box 70977, Southwest Station, Washington, DC 20024 Telephone: (202) 707-8380. Telefax: (202) 252-3423.

#### SUPPLEMENTARY INFORMATION:

#### Background

The copyright laws of the United States grant certain rights to copyright owners for the protection of their works of authorship. Among these rights is the right to make, and to authorize others to make, a reproduction of the copyrighted work, and the right to distribute, and to authorize others to distribute, the copyrighted work. Both the reproduction right and the distribution right granted to a copyright owner inhere in all works of authorship and are, for the most part, exclusive rights. However, for copyright holders of nondramatic musical works, the exclusivity of the reproduction right and distribution right are limited by the compulsory license of section 115 of the Copyright Act. Often referred to as the "mechanical license," section 115 grants third parties a nonexclusive license to make and distribute phonorecords of nondramatic musical works.

The license can be invoked once a nondramatic musical work embodied in a phonorecord is distributed "to the public in the United States under the authority of the copyright owner." 17 U.S.C. 115(a)(1). Unless and until such an act occurs, the copyright owner's rights in the musical work remain exclusive, and the compulsory license does not apply. Once it does occur, the license permits anyone to make and distribute phonorecords of the musical work provided, of course, that they comply with all of the royalty and accounting requirements of section 115. It is important to note that the mechanical license only permits the making and distribution of phonorecords of a musical work, and does not permit the use of a sound recording created by someone else. The compulsory licensee must either assemble his own musicians, singers, recording engineers and equipment, or obtain permission from the copyright owner to use a preexisting sound

recording. One who obtains permission to use another's sound recording is eligible to use the compulsory license for the musical composition that is performed on the sound recording.

The mechanical license was the first compulsory license in U.S. copyright law, having its origin in the 1909 Copyright Act. It operated successfully for many years, and it continued under the 1976 Copyright Act with only some technical modifications. However, in 1995, Congress passed the Digital Performance Right in Sound Recordings Act ("Digital Performance Act"), Public Law 104-39, 109 Stat. 336, which amended sections 114 and 115 of the Copyright Act to take account of technological changes which were beginning to enable digital transmission of sound recordings. With respect to section 115, the Act expanded the scope of the mechanical license to include the right to distribute, or authorize the distribution of, a phonorecord by means of a digital transmission which constitutes a "digital phonorecord delivery." 17 U.S.C. 115(c)(3)(A). A "digital phonorecord delivery" is defined as "each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording \* \* \*." 17 U.S.C. 115(d).

As a result of the Digital Performance Act, the mechanical license applies to two kinds of disseminations of nondramatic musical works: (1) The traditional making and distribution of physical, hard copy phonorecords; and (2) digital phonorecord deliveries, commonly referred to as DPDs. However, in including DPDs within section 115, Congress added a wrinkle by creating a subset of DPDs, commonly referred to as "incidental DPDs." It did this by requiring that royalty fees established under the compulsory license rate adjustment process of chapter 8 of the Copyright Act distinguish between "(i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, and (ii) digital phonorecord deliveries in general." 17 U.S.C. 115(c)(3)(D). However, Congress did not define what constitutes an incidental DPD, and that omission is the source of today's Notice of Inquiry.

As required by the Digital Performance Act, in 1996 the Library of Congress initiated a Copyright Arbitration Royalty Panel ("CARP") proceeding to adjust the royalty rates for