

referendum in order to trigger the conduct of a referendum. If a referendum is requested, it will be held within 1 year of that determination.

On October 1, 1999, through November 16, 1999, a nationwide Request for Referendum was conducted to determine if there was sufficient interest among soybean producers to vote on whether to continue the soybean checkoff program. Ten percent of the 600,813 soybean producers nationwide (not in excess of one-fifth of which may be producers in any one State) needed to participate in the Request for Referendum to trigger a referendum. Only 17,970 eligible soybean producers completed valid requests.

Five years later, another Request for Referendum was conducted May 1, 2004, through May 28, 2004. As in the prior Request for Referendum, the purpose was to determine if there was sufficient interest among soybean producers to vote on whether to continue the soybean checkoff Program. To be eligible to participate in the Request for Referendum, producers or the producer entity that they are authorized to represent had to certify and provide supporting documentation showing that they or the producer entity they represent paid an assessment sometime during the representative period between January 1, 2002, and December 31, 2003. Of the total 663,880 soybean producers eligible to participate, 3,206 valid Requests for Referendum were completed. This number did not meet the requisite number of 66,388; therefore, a referendum was not conducted.

In accordance with the Act, another Request for Referendum will be conducted in 2009. In this proposed rule, data provided by USDA's FSA would be used to amend the number of soybean producers in preparation for this upcoming Request for Referendum. Presently, § 1220.616 of the Order states that the number of soybean producers in the United States is 663,880. The latest number of soybean producers identified by FSA is 589,182 soybean producers for crop years 2006 and 2007, using information based on acreage reports compiled on a daily basis. The data were sorted in such a manner as to include all producers that were engaged in the production of soybeans in at least one of the 2 years and exclude counting a producer more than once if that producer engaged in production during both years. Using the last two crop years for which complete data is available ensures that all eligible producers are counted, as some producers use soybeans in rotation with other crops and do not plant soybeans every year or

the market for some producers in a particular crop year may not have been conducive to growing soybeans. This methodology is consistent with that used during the last amendment to § 1220.616 in 2004.

In addition to the changes proposed relating to the number of eligible soybean producers, AMS also intends to amend §§ 1220.622 and 1220.628 to update Web site addresses and office locations as a result of internal changes within the agency.

A 15-day comment period is provided for interested persons to comment on the proposed changes to section 1220.616. This comment period is deemed appropriate because the Act provides that the Secretary, every 5 years after the initial continuation referendum, will give soybean producers the opportunity to request additional referenda on the Order. A 15-day comment period will allow sufficient time to publish a final rule to amend § 1220.616 before the upcoming Request for Referendum. As such, the number of soybean producers eligible to participate in a Request for Referendum will be established, and a Request for Referendum can be conducted as early in 2009 as practicable.

#### List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Reporting and recordkeeping requirements, Soybeans and soybean products.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1220 be amended as follows:

#### PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

**Authority:** 7 U.S.C. 6301–6311 and 7 U.S.C. 7401.

#### Subpart F—Procedures To Request a Referendum

2. In § 1220.616, paragraph (d) is revised to read as follows:

##### § 1220.616 General.

\* \* \* \* \*

(d) For purposes of paragraphs (b) and (c) of this section, the number of soybean producers in the United States is determined to be 589,182.

##### § 1220.622 [Amended]

3. In § 1220.622, paragraph (b) the Web site “[www.ams.usda.gov/lsg/mpb/rp-soy.htm](http://www.ams.usda.gov/lsg/mpb/rp-soy.htm)” is removed and a new Web

site “[www.ams.usda.gov/lsmarketingprograms](http://www.ams.usda.gov/lsmarketingprograms)” is added in its place.

4. In § 1220.628, paragraph (a) is revised to read as follows:

##### § 1220.628 Results of the request for referendum.

(a) The Administrator, FSA, shall submit to the Administrator, AMS, the reports from all State FSA offices. The Administrator, AMS shall tabulate the results of the Request for Referendum. USDA will issue an official press release announcing the results of the Request for Referendum and publish the same results in the **Federal Register**. In addition, USDA will post the official results at the following Web site: <http://www.ams.usda.gov/lsmarketingprograms>. Subsequently, State reports and related papers shall be available for public inspection upon request during normal business hours in the Marketing Programs Branch office, Livestock and Seed Program, AMS, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC.

\* \* \* \* \*

Dated: November 26, 2008.

**James E. Link,**  
Administrator.

[FR Doc. E8–28674 Filed 12–4–08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2008–1275; Directorate Identifier 2007–NM–167–AD]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD would require repetitive detailed and high frequency eddy current inspections to detect cracks of the backup intercostals and the upper sill of the forward airstair doorway, and applicable corrective actions. This proposed AD would also provide for an optional terminating

action, which would eliminate the need for repetitive inspections. This proposed AD results from a report indicating that cracks were found in the backup intercostals and upper sill web of the forward airstair doorway. We are proposing this AD to detect and correct fatigue cracking of the backup intercostals and upper sill web of the forward airstair doorway, which could result in a rapid loss of cabin pressure.

**DATES:** We must receive comments on this proposed AD by January 20, 2009.

**ADDRESSES:** You may send comments 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: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, 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, P.O. Box 3707, Seattle, Washington 98124-2207; telephone 206-544-9990; fax 206-766-5682; e-mail [DDCS@boeing.com](mailto:DDCS@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Howard Hall, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6430; fax (425) 917-6590.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-1275; Directorate Identifier 2007-NM-167-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 indicating that cracks were found in the backup intercostals and upper sill web of the forward airstair doorway on a Boeing Model 737-200 series airplane. The cracks were found in the upper sill web at the stop fitting at station (STA) 312 and in the two backup intercostals of the stop support structure at STA 322.7 and STA 333.3. Investigation revealed the cracks are due to fatigue caused by cyclic loads acting on the upper sill web, which is stabilized by the backup intercostals. Fatigue cracking of the backup intercostals and upper sill web of the forward airstair doorway, if not detected and corrected, could result in a rapid loss of cabin pressure.

The configuration of the subject area on certain Boeing Model 737-100, -200C, -300, -400, and -500 series airplanes is almost identical to that on the affected Boeing Model 737-200 series airplanes. Therefore, those Boeing Model 737-100, -200C, -300, -400, and -500 series airplanes are subject to the unsafe condition revealed on the Boeing Model 737-200 series airplanes.

#### Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737-53A1269, dated May 17, 2007. The service bulletin describes procedures for repetitive detailed and high frequency eddy current inspections to detect fatigue cracking of the backup intercostals and the upper sill web of the forward airstair doorway, and applicable corrective actions. The service bulletin also describes procedures for an optional terminating action, which would eliminate the need for the repetitive inspections.

The corrective and optional terminating actions include doing a repair/preventive modification to install new backup intercostals with radius fillers, installing the preventive modification filler and doubler plate, and repairing any cracked upper sill web.

The service information also specifies the following compliance times:

- For the initial inspections: The threshold is prior to 45,000 or 49,500 total flight cycles depending on the flight cycles on the airplane. The grace period is 1,000 or 4,500 flight cycles depending on the flight cycles on the airplane.

- For the applicable repetitive inspections: The compliance time is at intervals of 4,500 flight cycles.

- For the applicable corrective actions: The compliance time is before further flight.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

#### FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing certain actions specified in the service information described previously. The proposed AD also provides for an optional terminating action, as specified in the service bulletin, for the repetitive inspection requirements.

#### Costs of Compliance

There are about 1,712 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 509 airplanes of U.S. registry. The proposed inspections would take about 2 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators would be \$81,440, or \$160 per airplane, per inspection cycle.

The optional terminating action, if done, would take about 9 work hours, at an average labor rate of \$80 per work hour. Required parts would cost between \$533 and \$566 per airplane, depending on the airplane configuration. Based on these figures, the estimated cost of the optional terminating action would range between \$1,253 and \$1,286 per airplane, depending on the airplane configuration.

### 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 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 that the 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. 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 proposed AD and placed it in the AD docket. 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.

### 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 Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA-2008-1275; Directorate Identifier 2007-NM-167-AD.

#### Comments Due Date

(a) The FAA must receive comments on this AD action by January 20, 2009.

#### Affected ADs

(b) None

#### Applicability

(c) This AD applies to Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737-53A1269, dated May 17, 2007.

#### Unsafe Condition

(d) This AD results from a report indicating that cracks were found in the backup intercostals and upper sill web of the forward airstair doorway. We are issuing this AD to detect and correct fatigue cracking of the backup intercostals and upper sill web of the forward airstair doorway, which could result in a rapid loss of cabin pressure.

#### 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.

#### Inspections

(f) At the applicable compliance times and repeat intervals listed in the tables of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737-53A1269, dated May 17, 2007 (hereafter "the service bulletin"), except as provided by paragraphs (f)(1), (f)(2), and (f)(3) of this AD: Do repetitive detailed and high frequency eddy current inspections to detect cracks of the backup intercostals and the upper sill of the forward airstair doorway, and applicable corrective actions by accomplishing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Do the applicable corrective actions before further flight.

(1) Where the service bulletin specifies a compliance time from the release date of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where the columns identified as "Airplane Flight Cycles" in the tables of the service bulletin specify less than 45,000 total flight cycles for certain actions, this AD affects airplanes having less than or equal to 45,000 total flight cycles.

(3) Where the columns identified as "Repeat Interval" in the tables of the service

bulletin specify an interval of 4,500 flight cycles for all conditions, this AD requires repetitive inspections only if no crack is found during any inspection required by paragraph (f) of this AD.

#### Optional Terminating Action

(g) Accomplishing the backup intercostal repair/preventative modification and/or the upper door sill web repair, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1269, dated May 17, 2007, ends all the corresponding repetitive inspection requirements of paragraph (f) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Howard Hall, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (917) 917-6430; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, FAA, 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.

Issued in Renton, Washington on November 26, 2008.

**Ali Bahrami,**

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

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 31

[REG-158747-06]

RIN 1545-BG45

#### Withholding Under Internal Revenue Code Section 3402(t)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to