

(3) Apply BMS 10–86 Teflon-filled coating.

*Alternative Methods of Compliance (AMOCs)*

(m)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 917–6437; 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, 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 September 26, 2008.

**Michael Kaszycki,**

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

[FR Doc. E8–23824 Filed 10–7–08; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2008–1070; Directorate Identifier 2008–NM–087–AD]

**RIN 2120–AA64**

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

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. For all airplanes, this proposed AD would require repetitive overhaul of the retract actuator beam of the main landing gear (MLG). For certain

airplanes, this proposed AD would require repetitive inspections for damage of the retract actuator beam, and related investigative and corrective actions if necessary. This proposed AD results from reports of broken retract actuator beams of the MLG and the subsequent failure of the MLG to fully retract. We are proposing this AD to detect and correct broken retract actuator beams of the MLG, which could cause damage to the beam arm, hydraulic tubing, and flight control cables. Damage to the flight control cables could result in loss of control of the airplane.

**DATES:** We must receive comments on this proposed AD by November 24, 2008.

**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.

#### **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 proposed 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:**

Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; 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–2008–1070; Directorate Identifier 2008–NM–087–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 reports of broken retract actuator beams of the main landing gear (MLG) and the subsequent failure of the MLG to fully retract. In one incident, hydraulic system A became unserviceable. In another incident, the flightcrew declared an emergency and made an air turn-back. For all the reports of MLG retract actuator beams that broke in service, the MLG fell to the down-and-locked position, and landings were normal. Investigation revealed that proper procedures were not followed during overhaul, resulting in stress corrosion cracking initiating from small corrosion pits that were not entirely removed. In one incident, cracking initiated in an area of heat damage/burning caused by incorrect stylus cadmium plating. Broken retract actuator beams of the MLG, if not corrected, could cause damage to the beam arm, hydraulic tubing, and flight control cables. Damage to the flight control cables could result in loss of control of the airplane.

### **Relevant Service Information**

We have reviewed Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008. The service bulletin describes the procedures and compliance times specified in the following service information table.

## SERVICE INFORMATION

| Applicability description                                                                                                                                                                                                            | Actions                                                                                                                                                                                                                                                                                                                                                | Compliance time                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| All airplanes .....                                                                                                                                                                                                                  | An overhaul of the beam is performed and improved finishes are applied. New fittings, bushings and bearings are installed. The lubrication passages must be cleared. The related investigative and corrective actions, if necessary, include a special detailed inspection for corrosion pits or damage of the beam, and repair before further flight. | Within 180 days after the date of this service bulletin, or within 10 years from the date of the most recent overhaul of the beam, whichever occurs later. Repeat interval is not to exceed 10 years after the last overhaul. |
| Group 1, Configuration 3 airplanes with a MLG retract actuator beam having part number (P/N) 65-46108-14 and previous dash numbers that have not incorporated the original issue, Revision 1, or Revision 2 of the service bulletin. | A general visual inspection (GVI) of the beam is performed for damage, finish degradation, and corrosion. The related investigative and corrective actions, if necessary, include a special detailed inspection for corrosion pits or damage of the beam, and repair before further flight.                                                            | Within 2 years after the date of this service bulletin. Repeat interval is not to exceed 2 years after the last inspection.                                                                                                   |

**FAA's Determination and Requirements of This Proposed AD**

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and Service Information."

**Differences Between the Proposed AD and Service Information**

Boeing Service Bulletin 737-32A1355, Revision 2, dated March 5,

2008, does not specify a compliance time for repairing the retract actuator beam if damage, finish degradation, or corrosion is found. This proposed AD would require that those repairs be done before further flight after accomplishing the applicable inspections.

Boeing Service Bulletin 737-32A1355, Revision 2, dated March 5, 2008, specifies that the actions are for airplanes with new MLG retract actuator beams having P/N 65-46108-15 and subsequent dash numbers that have not been overhauled, and new or overhauled MLG retract actuator beams having P/N 65-46108-14 and previous dash numbers. However, MLG retract actuator beams which are not new or overhauled may also exhibit the

identified unsafe condition. For this reason, this proposed AD is not limited to new or overhauled beams; the proposed AD would require that the actions be done on airplanes having any MLG retract actuator beam having one of those P/Ns. This correction will be included in the next revision of the service bulletin.

We have coordinated these differences with the manufacturer.

**Costs of Compliance**

We estimate that this proposed AD would affect 652 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

## ESTIMATED COSTS

| Action/airplane group                             | Work hours | Average labor rate per hour | Parts cost | Cost per product                | Number of U.S.-registered airplanes | Fleet cost  |
|---------------------------------------------------|------------|-----------------------------|------------|---------------------------------|-------------------------------------|-------------|
| Overhaul for Group 1; Configurations 1, 2, and 3. | 64         | \$80                        | None ..... | \$5,120, per overhaul cycle ..  | 652                                 | \$3,338,240 |
| Inspection for Group 1, Configuration 3.          | 1          | 80                          | None ..... | \$80, per inspection cycle .... | 525                                 | 42,000      |

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and

responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866,
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Boeing:** Docket No. FAA-2008-1070; Directorate Identifier 2008-NM-087-AD.

### Comments Due Date

(a) We must receive comments by November 24, 2008.

### Affected ADs

(b) None.

### Applicability

(c) This AD applies to all Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category.

### Unsafe Condition

(d) This AD results from reports of broken retract actuator beams of the main landing gear (MLG) and the subsequent failure of the MLG to fully retract. We are issuing this AD to detect and correct broken retract actuator beams of the MLG, which could result in damage to the beam arm, hydraulic tubing, and flight control cables. Damage to the flight control cables could result in loss of control of the airplane.

### Compliance

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

### Inspection and Related Investigative and Corrective Actions/Overhaul

(f) Except as provided by paragraphs (g) and (h) of this AD: At the applicable times specified in paragraph 1.E. of Boeing Service Bulletin 737-32A1355, Revision 2, dated March 5, 2008; inspect for damage of the retract actuator beam of the MLG and overhaul the retract actuator beam, as applicable, by doing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspection or overhaul thereafter at the applicable time specified in paragraph 1.E. of the service bulletin.

### Exceptions to Service Information

(g) Where Boeing Service Bulletin 737-32A1355, Revision 2, dated March 5, 2008, specifies a compliance time after “\* \* \* the date on this service bulletin,” this AD

requires compliance within the specified compliance time after the effective date of this AD.

(h) Boeing Service Bulletin 737-32A1355, Revision 2, dated March 5, 2008, specifies that the actions are for airplanes with new MLG retract actuator beams that have not been overhauled having P/N 65-46108-15 and subsequent dash numbers, and new or overhauled MLG retract actuator beams having P/N 65-46108-14 and previous dash numbers; however, this AD is not limited to new or overhauled beams. This AD requires that the actions required by paragraph (f) of this AD be done on airplanes with any MLG retract actuator beam having those P/Ns.

### Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6440; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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(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, 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 September 26, 2008.

**Michael Kaszycki,**

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

[FR Doc. E8-23828 Filed 10-7-08; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Parts 620, 635, 636, and 710

[FHWA Docket No. FHWA-2008-0136]

RIN 2125-AF29

### Fair Market Value and Design-Build Amendments

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** This NPRM proposes to amend FHWA regulations, to require State departments of transportation (DOT) and other public authorities to negotiate for and obtain fair market value as part of any concession agreement involving a facility acquired or constructed with Federal-aid highway funds. Additionally, this NPRM proposes to amend FHWA regulations to permit public agencies to compete against private entities for the right to obtain a concession agreement involving such facilities. Also, this notice proposes to amend the design-build regulations to permit contracting agencies to incorporate unsuccessful offerors' ideas into a design-build contract upon the acceptance of a stipend.

**DATES:** Comments must be received on or before November 7, 2008. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dms.dot.gov/submit> or fax comments to (202) 493-2251.

Alternatively, comments may be submitted to the Federal eRulemaking portal at <http://www.regulations.gov>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marcus J. Lemon, Chief Counsel, Mr. Michael Harkins, Office of Chief Counsel, or Mr. Steve Rochlis, Office of Chief Counsel, (202) 366-0740, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Office hours are from 7:45