[Federal Register Volume 86, Number 118 (Wednesday, June 23, 2021)]
[Rules and Regulations]
[Pages 32735-32737]
From the Federal Register Online via the Government Publishing Office [www.gpo.gov]
[FR Doc No: 2021-13458]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0013; Project Identifier AD-2021-00087-T; Amendment 39-21540; AD 2021-10-07]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737-8 and 737-9 (737 MAX) airplanes. This AD was prompted by the determination that additional Certification Maintenance Requirements (CMRs) are necessary. This AD requires a revision of the existing maintenance or inspection program to incorporate three additional CMRs. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 8, 2021.

The FAA must receive comments on this AD by August 9, 2021.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to https://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: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket at https://www.regulations.gov by searching for and locating Docket No. FAA-2021-0013; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday

through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Ken Fairhurst, Manager, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3500; email: 9-FAA-SACO-AD-Inquiry@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

Modern transport category airplanes can remain in service for decades. To ensure that an airplane's critical systems and back-up systems continue to meet FAA requirements, such as those in 14 CFR 25.1309, manufacturers may develop and rely on required actions that include CMRs. CMRs are limitations documented in the airplane's instructions for continued airworthiness (ICA) that require operators to periodically check systems or replace certain equipment in order to ensure the continued availability and functionality of those systems over time.[1] Air carriers have existing programs to schedule CMRs and comply with their requirements.

The FAA's recent review of the 737 MAX flight control system resulted in the determination that three additional CMR items are necessary to ensure the continued functioning of certain systems throughout the life of the airplane. The manufacturer proposed, and the FAA reviewed and approved, these three new CMRs (i.e., 22-CMR-01, 22-CMR-02, and 27-CMR-09), which are described in Boeing Certification Maintenance Requirements Document D626A011-9-03, dated July 2020, and available in the docket for this AD.

Prior to return to service, initial inspections of these systems were completed when necessary on affected airplanes; this ensured the safety of the 737 MAX return to service. Due to most of the fleet being well below flight-hour thresholds that would require inspection, and Boeing's coordination with operators of affected airplanes to do initial inspections prior to return to service, the FAA determined this AD to incorporate the new CMR items could be issued subsequent to return to service. Consistent with that approach, Boeing released a Multi-Operator Message. This approach protects both the safety of the return to service and the long term safety of the fleet.

For newly produced airplanes, Boeing has incorporated the three additional CMRs into the ICA for every airplane delivered on or after November 20, 2020 (the effective date of AD 2020-24-02 (85 FR 74560, November 20, 2020) (AD 2020-24-02)). These CMRs have also already been incorporated into the maintenance programs for all U.S.-registered 737 MAX airplanes that had been delivered before the effective date of AD 2020-24-02 and are included in the applicability of AD 2020-24-02.

The manufacturer has also communicated guidance to incorporate these CMRs into the maintenance programs of all affected 737 MAX operators, via Boeing Multi Operator Message MOM-MOM-20-0891-01B, dated December 22, 2020.

Since these CMRs are part of the ICA for all 737 MAX airplanes delivered on or after November 20, 2020 (the effective date of AD 2020-24-02), this AD is applicable only to airplanes with an original airworthiness certificate or original export certificate of airworthiness issued prior to that date.

These CMRs are necessary because a potential latent failure of a flight control system function, as tested by one of these three CMRs, if combined with unusual flight maneuvers or with another flight control system failure, could result in reduced controllability of the airplane.

After these CMRs have been incorporated into the operator's maintenance and inspection program, they may be treated as other CMRs on the airplane (i.e., operators may propose any change,

[1] More detailed information on CMRs can be found in FAA Advisory Circular (AC) 25-19A, "Certification Maintenance Requirements," available at rgl.faa.gov.

escalation, or cancellation of these CMRs by following the processes described in AC 25-19A, and no AMOC would be required).

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires a revision of the existing maintenance or inspection program, as applicable, to incorporate additional CMR item information.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

As discussed previously, all U.S.-registered airplanes are already in compliance with the requirements of this AD. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3). In addition, for the foregoing reason, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under ADDRESSES. Include Docket No. FAA-2021-0013 and Project Identifier AD-2021-00087-T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to https://www.regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Ken Fairhurst, Manager, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3500; email: 9-FAA-SACO-AD-Inquiry@faa.gov. Any commentary that the

FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

Although the FAA estimates that 72 airplanes of U.S. registry are included in the applicability of this AD, all of these airplanes are already in compliance with the requirements of this AD. Nevertheless, the FAA provides the following cost estimate.

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleets, the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the average total cost per operator to be $7,650 (90 work-hours x $85 per work-hour).

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.

The FAA is 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

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a “significant regulatory action” under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39–AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021-10-07 The Boeing Company: Amendment 39-21540; Docket No. FAA-2021-0013; Project Identifier AD-2021-00407-T.

(a) Effective Date

This airworthiness directive (AD) is effective July 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737-8 and 737-9 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued before November 20, 2020.

(d) Subject

Air Transport Association (ATA) of America Code Codes 22, Autoflight; and 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by a determination that additional Certification Maintenance Requirements (CMRs) are necessary. The FAA is issuing this AD to ensure the availability of certain flight control system functions through maintenance tests to verify that the functions have not failed; a potential latent failure of a flight control system function, as tested by these three CMR items, if combined with unusual flight maneuvers or with another flight control system failure, could result in reduced controllability of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the CMR item information identified in figure 1 to paragraph (g) of this AD. For airplanes that have exceeded the CMR interval, in total flight hours (FHs), for a required CMR item, the associated task must be done before further flight after revision of the maintenance or inspection program.

Figure 1 to paragraph (g) – *CMR items*

CMR item number	Related MRBR item number	Task	CMR interval	Applicability		Task description
				APL	ENG	
22-CMR-01	22-020-00 (MPD number)	OPC	6,000 FH	ALL	ALL	Operationally check (BITE check) the digital flight control system (DFCS) speed trim/stab trim discretes and aileron/elevator actuator availability.
22-CMR-02	22-030-00 (MPD number)	OPC	41,000 FH	ALL	ALL	Operationally check the stabilizer trim enable ground path and autopilot arm cutout switch - S272 Pole 2.
27-CMR-09	27-117-00 (MPD number)	OPC	12,000 FH	ALL	ALL	Operationally check the primary and secondary aisle stand stabilizer trim cutout switches.

Note 1 to paragraph (g): The CMR tasks and intervals specified in figure 1 to paragraph (g) of this AD correspond to the items identified in Boeing Certification Maintenance Requirements Document D626A011-9-03, dated July 2020. The information in both sources is identical.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(i) Related Information

For more information about this AD, contact Ken Fairhurst, Manager, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3500; email: 9-FAA-SACO-AD-Inquiry@faa.gov.

(j) Material Incorporated by Reference

None.

Issued on June 9, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-13458 Filed 6-21-21; 4:15 pm]