

Proposed Rules

Federal Register

Vol. 69, No. 172

Tuesday, September 7, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 784

RIN 0560—AH15

2004 Ewe Lamb Replacement and Retention Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposed rule invites comments on a new program, the 2004 Ewe Lamb Replacement and Retention Payment Program, as authorized by clause (3) of section 32 of the Act of August 24, 1935, as amended. The proposed program will assist producers of sheep and lambs by providing up to \$18 million total, in direct cash payments, to encourage the replacement and retention of ewe lamb breeding stock during the one-year period from August 1, 2003, through July 31, 2004. This action is designed to provide immediate financial assistance to sheep and lamb producers who have recently experienced reduced production and flock size, low prices and poor market conditions.

DATES: Comments on this rule must be received on or before October 7, 2004 in order to be assured of consideration. Comments on the information collections in this rule must be received by November 8, 2004 in order to be assured of consideration.

ADDRESSES: The Farm Service Agency invites interested persons to submit comments on this proposed rule and on the collection of information. Comments may be submitted by any of the following methods:

- E-Mail: Send comments to danielle_cooke@wdc.fsa.usda.gov.
- Fax: Submit comments by facsimile transmission to: (202) 690-3307.
- Mail: Send comments to Grady Bilberry, Director, Price Support Division (PSD), Farm Service Agency, United States Department of Agriculture (USDA), STOP 0512, Room 4095-S,

1400 Independence Avenue, SW., Washington, DC 20250-0512.

- *Hand Delivery or Courier:* Deliver comments to the above address * * *
- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments on the information collection requirements of this rule must also be sent to the addresses listed in the Paperwork Reduction Act section of this Notice.

Comments may be inspected in the Office of the Director, PSD, FSA, USDA, Room 4095 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this proposed rule is available on the PSD home page at <http://www.fsa.usda.gov/dafp/psd/>.

FOR FURTHER INFORMATION CONTACT:

Danielle Cooke, phone: (202) 720-1919; e-mail:

Danielle_Cooke@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Clause (3) of section 32 of the Act of August 24, 1935, as amended, authorizes the Secretary of Agriculture to “reestablish farmers purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption.”

There are an estimated 66,800 sheep and lamb operations in the United States that account for about one percent of the value of all U.S. farm production. A dramatic increase in imported lamb meat over the last several years has resulted in reduced incomes for the producers of domestically raised sheep and lambs. The reduction in income has forced U.S. producers to reduce the production of sheep and lambs and overall flock size. The reduced production and flock size, along with the long-term reduced market prices for lambs, has significantly reduced the overall purchasing power of producers, including the ability to invest in improved breeding stock genetics. Ewe lamb replacement and retention in the U.S. again decreased from July 2002 to July 2003, with the 2003 lamb crop expected to total 4.13 million, which is down five percent from the previous year. Extreme drought conditions over

the past several years in many of the sheep-producing areas of the U.S. have also adversely impacted the profitability of the industry due to reduced pasture carrying capacity and forage availability.

This proposed rule addresses that situation by providing for a new program. It is similar to the program previously provided for ewe retention, which was codified in 7 CFR part 784. Payments to sheep and lamb operations under the program will strengthen the entire industry by providing cash benefits while establishing larger and genetically improved flocks that will help the U.S. lamb industry achieve sustained competitiveness, while respecting international trade obligations. The program will only be administered for the base period of August 1, 2003 through July 31, 2004. Program benefits will be limited to eligible ewe lambs retained during this base period under this one-time only program, which will end at the conclusion of the application period announced by FSA and upon the dispersal of available funds to eligible program participants approved for benefits. The rule contemplates that \$18 million will be available for the program and limits expenditures to that amount with a provision for pro-rating payments. In the event that approval of all eligible applications would result in expenditures in excess of the amount available, FSA will prorate funds by a national factor to reduce the expected payments to be made to the amount available. Subject to such proration and the availability of funds, the maximum payment amount will be capped at \$18 per eligible ewe.

Payments under this new program will provide those eligible for the payments with an immediate infusion of funds to help pay to replace and retain ewe lamb breeding stock and meet other financial obligations.

Eligible sheep and lamb operations making application for payments under this part must certify that they will maintain the qualifying ewe lambs in the herd for at least one complete offspring lambing cycle and actually maintain the lambs for the period in accord with that certification. The offspring lambing cycle would be at least one cycle in which the lamb could bring its own lamb to weaning in the normal amount of time. Subject to available funds and prorating, the

eligible operation can receive payments for all ewes held by the operation that long which were owned during the base period. Because of the required holding period, compliance will not be completed until a time after the close of the base period. (The base period was August 1, 2003 through July 31, 2004). Ewes, to qualify, must meet certain quality standards, for which sheep and lamb producers must also certify. In addition, eligible sheep and lamb operations must be in the business of producing and marketing agricultural products at the time of filing an application for program benefits and must certify that they are in compliance with related requirements described in 9 CFR parts 54 and 79. Sheep and lamb operations determined to have made any false certifications or adopted any misrepresentation, scheme or device that defeats the program purpose will be required to refund any payments issued under this program with interest and will be ineligible to participate in this program and any other USDA program, in addition to other civil, criminal, or administrative remedies that may apply. Payments are subject to all requirements of the regulations and program documents. The proposed rule follows the rules for the previous ewe retention program with some clarification. Eligible sheep and lamb operations must apply for payments during the application period set by FSA pursuant to these regulations. Information provided on applications and supporting documentation submitted to FSA will be subject to verification by FSA. Applications to be verified will be selected randomly. Penalties for false certification can be easily assessed and are expected to minimize such certifications. Adequate records must be maintained by the sheep and lamb operation to verify the eligibility of the operation and the qualifying ewe lambs. Documentation used to support eligibility may include, but is not limited to sales receipts, farm management records, veterinarian certifications, and scrapie program forms. The documentation should be verifiable and include adequate information to substantiate eligibility, such as, date of lamb purchase or birth, lamb identification and control information, number of ewe lambs purchased or retained and scrapie program identification numbers. In addition, adequate documentation that includes the date of death must be maintained for any death loss of qualifying ewe lambs.

Sheep and lamb operations may, during the applicable application period

established by the Deputy Administrator for Farm Programs for FSA, apply in person at FSA county offices during regular business hours. Alternatively, program applications may be obtained by mail, telephone, and facsimile from their designated FSA county office or obtained via the Internet at <http://www.fsa.usda.gov/dafp/psd/>. This new program does not replace the previous ewe retention program. To the extent of any outstanding issues, the previous program will be operated under the regulations issued in connection with that program.

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because the FSA is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is necessary for this proposed rule.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this proposed rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, FSA intends to request approval by OMB of an information collection required to support the proposed rule establishing a new ewe lamb replacement and retention payment program for sheep and lamb producers. Copies of the information collection may be obtained from Linda Turner, the Agency Information Collection Coordinator, at (202) 690-1855.

Title: 2004 Ewe Lamb Replacement and Retention Payment Program.

OMB Control Number: 0560-New.

Type of Request: Request for Approval of a New Information Collection.

Abstract: Sheep and lamb operations are eligible to receive direct payments provided they make certifications that attest to their eligibility to receive such payments. These operations must certify, as appropriate, with respect to: (1) The number of ewe lambs not older than 18 months of age that were purchased or retained by the sheep and lamb operation during the period of August 1, 2003, through July 31, 2004, to replenish the breeding stock of the sheep and lamb operation and did not receive funds under the Lamb Meat Adjustment Assistance Program (LMAAP) for the same ewe lamb; (2) retention of the qualifying ewe lambs in the herd for at least one complete offspring lambing cycle; (3) certain characteristics of the qualifying ewe lambs as determined by the Secretary; (4) identification of the qualifying ewe lambs according to their State identification requirements and through the Animal Plant and Health Inspection Service (APHIS) Voluntary Scrapie Flock Certification Program or the APHIS Scrapie Eradication Program; and (5) that the operation is still in the business of agricultural production. The information will be used by FSA to determine the program eligibility of the sheep and lamb operation. FSA considers the information collected essential to prudent eligibility determinations and payment calculations. Additionally, without accurate information on sheep and lamb operations, the national payment rate

would be inaccurate, resulting in payments being made to ineligible recipients and compromising the integrity and accuracy of the program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Sheep and Lamb Operations.

Estimated Number of Respondents: 63,000.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 27,540 hours.

Proposed topics for comment include:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Grady Bilberry, Director, Price Support Division, Farm Service Agency, United States Department of Agriculture, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250-0512 or telephone (202) 720-7901.

Executive Order 12612

It has been determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 7 CFR Part 784

Agriculture, Livestock, Reporting and record keeping requirements.

Accordingly, 7 CFR Part 784 is proposed to be revised to read as follows:

PART 784—2004 EWE LAMB REPLACEMENT AND RETENTION PAYMENT PROGRAM

Sec.

- 784.1 Applicability.
- 784.2 Administration.
- 784.3 Definitions.
- 784.4 Time and method of application.
- 784.5 Payment eligibility.
- 784.6 Rate of payment and limitations on funding.
- 784.7 Availability of funds.
- 784.8 Appeals.
- 784.9 Misrepresentation and scheme or device.
- 784.10 Estates, trusts, and minors.
- 784.11 Death, incompetence, or disappearance.
- 784.12 Maintaining records.
- 784.13 Refunds; joint and several liability.
- 784.14 Offsets and withholdings.
- 784.15 Assignments.
- 784.16 Termination of program.

Authority: Clause (3) of section 32 of the Act of August 24, 1935, as amended; 7 U.S.C. 612c.

§ 784.1 Applicability.

(a) Subject to the availability of funds, this part establishes terms and conditions under which the 2004 Ewe Lamb Replacement and Retention Payment Program will be administered. The purpose of this program is to provide benefits to sheep and lamb operations, pursuant to clause (3) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), in order to enhance their purchasing power in connection with the normal production of sheep and lambs for domestic consumption and increase the size of the United States breeding flock. Increasing flock size will, in turn, boost producers' purchasing power and competitive position in the marketplace by fostering a sustainable industry, increasing industry efficiency through larger volumes of production, and enhancing the value of products in the marketplace.

(b) Unless otherwise determined by the Farm Service Agency (FSA) in accordance with the provisions of this part, the amount that may be expended under this part for program payments shall not exceed \$18 million. Claims that exceed that amount will be prorated in accordance with the provisions for proration that are contained in this part.

(c) Producers must comply with all provisions of this part and 7 CFR 718.9—Finality Rule.

§ 784.2 Administration.

(a) This part shall be administered by FSA under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or

waive any of the provisions of the regulations in this part.

(c) The State committee shall take any action required by this part that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No delegation herein to a State or county committee shall preclude the Deputy Administrator for Farm Programs, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program.

(f) The program described under this part is a one time only program that will be administered with respect to eligibility and qualifying factors occurring during the base period of August 1, 2003 through July 31, 2004.

§ 784.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the 2004 Ewe Lamb Replacement and Retention Payment Program established by this part.

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

Application means the Ewe Lamb Replacement and Retention Payment Program Application.

Application period means the date established by the Deputy Administrator for producers to apply for program benefits.

Base period means the period from August 1, 2003 through July 31, 2004, that ewe lambs must meet all qualifying eligibility criteria.

Ewe lamb means a female lamb no more than 18 months of age that has not produced an offspring.

Farm Service Agency or FSA means the Farm Service Agency of the Department.

Foot rot means an infectious, contagious disease of sheep that causes severe lameness and economic loss from decreased flock production.

Lambing cycle means the period of time from birth to weaning.

Parrot mouth means a genetic defect resulting in the failure of the incisor teeth to meet the dental pad correctly.

Person means any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien or aliens in the United States.

Sheep and lamb operation means any self-contained, separate enterprise operated as an independent unit exclusively within the United States in which a person or group of persons raise sheep and/or lambs.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 784.4 Time and method of application.

(a) A request for benefits under this part must be submitted on the Ewe Lamb Replacement and Retention Program Application. The application form may be obtained in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the form at <http://www.usda.gov/dafp/psd/>.

(b) The form may be obtained from and must be submitted to the FSA county office serving the county where the sheep and lamb operation is located. The completed form must be received by the FSA county office by the date established by the Agency. Applications not received by that date will be disapproved and returned as not having been timely filed and the sheep and lamb operation filing the application will not be eligible for benefits under this program.

(c) The sheep and lamb operation requesting benefits under this part must certify to the accuracy of the information provided in their application for benefits. All information provided is subject to verification and spot checks by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Providing a false certification may be subject to additional civil and criminal sanctions.

(d) The sheep and lamb operation requesting benefits under this part must maintain accurate records that document that they meet all eligibility requirements specified herein, as may be requested by FSA. Acceptable forms of supporting documentation include,

but are not limited to: sales receipts, farm management records, veterinarian certifications, scrapie program forms and identification numbers, as well as, other types of documents that prove the eligibility of the qualifying ewe lambs and the sheep and lamb operation. The supporting documentation provided must at a minimum include at least the following: date of lamb purchase or date of birth, date of lamb death (if applicable), lamb identification and control information, number of ewe lambs purchased or retained, and scrapie program identification numbers.

§ 784.5 Payment eligibility.

(a) Payments can be made, as agreed to by FSA and subject to the availability of funds, for eligible ewe lambs acquired or held during the base period by eligible sheep and lamb operations. Payments may be made for eligible ewe lambs held continuously by the operation, through the end of the compliance period, from the time of the first possession of the ewe lamb. The payment rate cannot exceed the rate provided for in § 784.6 or it may be prorated pursuant to § 784.7. For purposes of this section the "base period" is the period from August 1, 2003 through July 31, 2004.

(b) For the ewe lamb to be eligible, a sheep and lamb operation must certify that the ewe lamb:

(1) During at least part of the base period was not older than 18 months of age;

(2) Had not produced an offspring; and

(3) At the time of certification, does not possess the following characteristics:

(i) Parrot mouth; or

(ii) Foot rot.

(c) Sheep and lamb operation must certify and agree to:

(1) Maintain the qualifying ewe lambs in the herd for at least one complete, normal offspring lambing cycle and actually maintain the lambs for that period in accord with that certification. The "offspring" lambing cycle refers to the time in which the qualifying ewe lamb's own offspring would be weaned, in a normal course, from that qualifying ewe if the ewe were to have offspring, irrespective of whether the ewe actually produces offspring.

(2) Upon request by an AMS agent, allow the AMS agent to verify that the ewe lambs meet qualifying characteristics.

(3) Maintain documentation of any death loss of qualifying ewe lambs.

(4) Agree to refund any payments made with respect to any ewe lamb or offspring that has died before

completing the full program requirements where said deaths for the operation exceed 10 percent.

(5) Be in compliance with all requirements relating to scrapie, as described in 9 CFR parts 54 and 79.

(d) To be eligible for any payments addressed under this section, a sheep and lamb operation must be engaged in the business of producing and marketing agricultural products at the time of filing the application.

(e) In addition, to be eligible for payment, a sheep and lamb operation must submit a timely application during the application period for benefits and comply with all other terms and conditions of this part or that are contained in the application to be eligible for such benefits.

§ 784.6 Rate of payment and limitations on funding.

(a) Subject to the availability of funds and to the proration provisions of § 784.7, payments for qualifying operations shall be \$18 for each qualifying ewe lamb retained or purchased for breeding purposes.

§ 784.7 Availability of funds.

Total payments under this part, unless otherwise determined by the FSA, cannot exceed \$18 million. In the event that approval of all eligible applications would result in expenditures in excess of the amount available, FSA shall prorate the available funds by a national factor to reduce the expected payments to be made to the amount available. The payment shall be made based on the national factored rate as determined by FSA. FSA shall prorate the payments in such manner as it, in its sole discretion, finds fair and reasonable.

§ 784.8 Appeals.

Any sheep and lamb operation that is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at parts 11 and 780 of this title.

§ 784.9 Misrepresentation and scheme or device.

(a) A sheep and lamb operation shall be ineligible to receive assistance under this program or any other USDA program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, shall be refunded with interest together with such other sums as may become due. Any sheep and lamb operation or person engaged in acts prohibited by this section and any sheep and lamb operation or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies that may apply.

§ 784.10 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for assistance under this part must, also:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 784.11 Death, incompetence, or disappearance.

In the case of death, incompetence, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

§ 784.12 Maintaining records.

Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein. Such records and accounts must be retained for 3 years after the date of payment to the sheep and lamb operations under this program. Destruction of the records after such date shall be at the risk of the party undertaking the destruction.

§ 784.13 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or

condition for payment arising under the application, or this part, and if any refund of a payment to FSA shall otherwise become due in connection with the application, or this part, all payments made under this part to any sheep and lamb operation shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing a sheep and lamb operation's application for payment as having an interest in the operation shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

(c) Interest shall be applicable to refunds required of any person under this part if FSA determines that payments or other assistance was provided to a person who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the Commodity Credit Corporation for funds, from the date FSA made such benefits available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the person.

(d) Interest determined in accordance with paragraph (c) of this section may be waived at the discretion of FSA alone for refunds resulting from those violations determined by FSA to have been beyond the control of the person committing the violation.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in 7 CFR part 792.

(f) Any excess payments made by FSA with respect to any application under this part must be refunded.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

§ 784.14 Offsets and withholdings.

FSA may offset or withhold any amounts due FSA under this subpart in accordance with the provisions of 7 CFR part 792, or successor regulations, as designated by the Department.

§ 784.15 Assignments.

Any person who may be entitled to a payment may assign his rights to such

payment in accordance with 7 CFR part 1404 or successor regulations as designated by the Department.

§ 784.16 Termination of program.

This program will be terminated after payment has been made to those applications certified as eligible pursuant to the application period established in § 784.4.

Signed at Washington, DC, August 31, 2004.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 04-20186 Filed 9-3-04; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19022; Directorate Identifier 2004-NM-122-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes. This proposed AD would require repetitive detailed, low frequency eddy current, and high frequency eddy current inspections of the webs of the aft pressure bulkhead at body station 1016 for cracks, and corrective action if necessary. This proposed AD is prompted by a report of cracks found, during fatigue testing, at several of the fastener rows in the web lap splices at the dome apex of the aft pressure bulkhead. We are proposing this AD to detect and correct fatigue cracks in the webs of the aft pressure bulkhead, which could result in rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by October 22, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov>