

**§ 16.1 Purpose and applicability.**

(a) The purpose of this part is to set forth USDA policy regarding equal participation of religious organizations in USDA assistance programs for which non-profit organizations are eligible.

(b) Except as otherwise specifically provided in this part, the policy outlined in this part applies to all recipients and subrecipients of USDA assistance to which 7 CFR parts 3015, 3016, or 3019 apply, and recipients and subrecipients of Commodity Credit Corporation assistance that is administered by agencies of USDA.

**§ 16.2 Rights of religious organizations.**

(a) A religious organization is eligible, on the same basis as any other eligible non-profit organization, to access and participate in USDA assistance programs. Neither the Federal government nor a State or local government receiving USDA assistance shall, in the selection of service providers, discriminate for or against a religious organization on the basis of the organization's religious character or affiliation.

(b) A religious organization that participates in USDA programs will retain its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use USDA direct assistance to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, a religious organization may:

(1) Use space in its facilities to provide services and programs without removing religious art, icons, scriptures, or other religious symbols,

(2) Retain religious terms in its organization's name,

(3) Select its board members and otherwise govern itself on a religious basis, and

(4) Include religious references in its organizations' mission statements and other governing documents.

(c) In addition, a religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when an organization receives USDA assistance.

**§ 16.3 Responsibilities of religious organizations.**

(a) An organization that participates in programs and activities supported by USDA direct assistance programs shall not discriminate against a program beneficiary or prospective program

beneficiary on the basis of religion or religious belief.

(b) Nothing in paragraph (a) shall be construed to prevent religious organizations that receive USDA assistance under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 *et seq.*, the Child Nutrition Act of 1966, 42 U.S.C. 1771 *et seq.*, or USDA international school feeding programs from considering religion in their admissions practices.

(c) Organizations that receive direct assistance funds from USDA under any USDA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services supported with direct assistance from USDA. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with direct assistance from USDA, and participation must be voluntary for beneficiaries of the programs or services supported with such direct assistance. These restrictions on inherently religious activities do not apply where USDA funds or benefits are provided to religious organizations as a result of a genuine and independent private choice of a beneficiary or through other indirect funding mechanisms, provided the religious organizations otherwise satisfy the requirements of the program.

(d)(1) USDA direct assistance funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used by the USDA funding recipients for inherently religious activities. USDA direct assistance funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting activities and only to the extent authorized by the applicable program statutes and regulations. Where a structure is used for both eligible and inherently religious activities, USDA direct assistance funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to USDA funds. Sanctuaries, chapels, or other rooms that an organization receiving direct assistance funds from USDA uses as its principal place of worship, however, are ineligible for USDA-funded improvements. Disposition of real property after the term of the grant or any change in use of the property during the term of the grant is subject to government-wide

regulations governing real property disposition (*see* 7 CFR parts 3016 and 3019).

(2) Any use of USDA assistance funds for equipment, supplies, labor, indirect costs and the like shall be prorated between the USDA program or activity and any use for other purposes by the religious organization in accordance with applicable laws, regulations, and guidance.

(3) Nothing in this section shall be construed to prevent the residents of housing receiving USDA assistance funds from engaging in religious exercise within such housing.

**§ 16.4 Effect on State and local funds.**

If a State or local government voluntarily contributes its own funds to supplement activities carried out under programs governed by this part, the State or local government has the option to separate out the USDA assistance funds or commingle them. If the funds are commingled, the provisions of this part shall apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the USDA assistance funds.

**§ 16.5 Compliance.**

USDA agencies will monitor compliance with this part in the course of regular oversight of USDA programs.

**Ann M. Veneman,**

*Secretary of Agriculture.*

[FR Doc. 04-5092 Filed 3-4-04; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 2002-NM-323-AD]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 737-600, 737-700, 737-700C, 737-800, and 737-900 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 737-600, 737-700, 737-700C, 737-800, and 737-900 series airplanes. For certain airplanes, this proposal would require installation of screws and spacers to secure the wire bundles for the aft fuel boost pumps of the main fuel tanks. For certain other

airplanes, this proposal would require a general visual inspection of the wire bundles to determine if the wire bundles are clamped, and/or if they are damaged; further investigation, as applicable; repair of any damage; and installation of applicable brackets, clamps, and spacers to secure the wire bundles. This action is necessary to prevent electrical arcing in a fuel leakage zone, which could result in an uncontrolled fire. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by April 19, 2004.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-323-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. 2002-NM-323-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 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, 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:** Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 917-6504; fax (425) 917-6590.

**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.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 2002-NM-323-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. 2002-NM-323-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The FAA has received several reports of chafing of the insulation on the wire bundles that supply power to the aft boost pumps on the main fuel tanks of certain Boeing Model 737 series airplanes. The chafing occurred during deployment of the main landing gear (MLG), when an unsupported length of the wire bundle was buffeted by airflow and chafed rapidly against the adjacent rear spar stiffeners. The chafed wires arced when they came in contact with the rear spar stiffener, which shut down the number 1 or 2 main tank aft boost pump. This chafing was noted on airplanes that had accumulated as few as two and as many as 3,987 total flight

hours. This condition, if not corrected, could result in electrical arcing in a fuel leakage zone, which could result in an uncontrolled fire.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-28A1148, Revision 2, dated December 18, 2003. For certain airplanes, this service bulletin describes procedures for installing screws and spacers to secure the applicable wire bundles for the aft fuel boost pumps of the main fuel tanks.

For certain other airplanes, this service bulletin describes procedures for performing an inspection for chafing or other damage; corrective actions (repair of the wire bundle), if necessary; and installation of a new, bracket, clamp, and spacers.

For certain other airplanes, this service bulletin describes procedures for performing an inspection to determine if a clamp secures the wire bundles. If the wire bundle is not clamped, this service bulletin describes procedures for a related investigative action (for chafing or damage of the wire bundle); and for corrective actions. For these airplanes, the corrective actions include repair of any chafed or damaged wire bundles; and installation of a bracket, clamp, and spacers, as applicable, to secure the wire bundles.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**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 actions specified in the service bulletin described previously.

**Cost Impact**

There are approximately 1,284 airplanes of the affected design in the worldwide fleet. The FAA estimates that 527 airplanes of U.S. registry would be affected by this proposed AD. The work hours and required parts per airplane vary according to the configuration group to which the affected airplane belongs.

The following table shows the estimated cost impact for airplanes affected by this proposed AD:

TABLE—COST IMPACT

Airplane configuration group	Work hours per airplane	Labor cost per airplane	Parts cost per airplane	Total cost per airplane
1, 2, 3 and 4 on which the actions described in the initial Service Bulletin have not been accomplished .....	3	\$195	\$292	\$485
1, 2, 3 and 4 on which the actions described in the initial Service Bulletin have been accomplished; 5, 6, and 7 .....	2	\$130	\$3	\$133

The cost impact figures discussed above are 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 proposed 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 2002–NM–323–AD.

**Applicability:** Model 737–600, 737–700, 737–700C, 737–800, and 737–900 series airplanes, as listed in Boeing Alert Service Bulletin 737–28A1148, Revision 2, dated December 18, 2003; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent electrical arcing in a fuel leakage zone, which could result in an uncontrolled fire, accomplish the following:

##### Service Bulletin References

(a) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1148, Revision 2, dated December 18, 2003.

##### Inspection, Installation, and Corrective Actions

(b) For airplanes listed in the service bulletin as Groups 1, 2, 3, and 4 on which Boeing Alert Service Bulletin 737–28A1148, dated September 14, 2000, has been accomplished; or for airplanes listed in the service bulletin as Groups 5, 6 and 7: Within six months after the effective date of this AD, install screws and spacers to secure the applicable wire bundles for the aft fuel boost pumps of the main fuel tanks. Perform all actions per the service bulletin.

(c) For airplanes listed in the service bulletin as Groups 1 and 2 on which Boeing Alert Service Bulletin 737–28A1148, dated September 14, 2000, has not been accomplished: Within six months after the effective date of this AD, perform a general visual inspection of the applicable wire bundles for the aft fuel boost pumps of the main fuel tanks for chafing or other damage. Perform any applicable corrective action; and install a new bracket clamp, and spacers to secure the wire bundles; prior to further flight. Perform all actions per the service bulletin.

(d) For airplanes listed in the service bulletin as Groups 3 and 4 on which Boeing Alert Service Bulletin 737–28A1148, dated September 14, 2000, has not been accomplished: Within six months after the

effective date of this AD, perform a general visual inspection of the applicable wire bundles for the aft fuel boost pumps of the main fuel tanks to determine if the wire bundle is secured with a clamp; and perform any related investigative action, and any applicable corrective actions, prior to further flight. Perform all actions per the service bulletin.

**Note 1:** 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 detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight 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."

##### Actions Accomplished Per Previous Issue of the Service Bulletin

(e) Action accomplished before the effective date of this AD per Boeing Alert Service Bulletin 737–28A1148, Revision 1, dated August 22, 2002, are considered acceptable for compliance with the corresponding action specified in this AD.

##### Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on February 25, 2004.

**Kalene C. Yanamura,**

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

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