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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2006-25642; Directorate Identifier 2006-NM-121-AD; Amendment 39-14912; AD 2007-03-01]

**RIN 2120-AA64**

#### **Airworthiness Directives; Boeing Model 757 Airplanes**

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

**ACTION:** Final rule.

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**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 757 airplanes. This AD requires inspecting certain power feeder wire bundles for damage, inspecting the support clamps for these wire bundles to determine whether the clamps are properly installed, and performing corrective actions if necessary. This AD results from a report that a power feeder wire bundle chafed against the number six auxiliary slat track, causing electrical wires in the bundle to arc, which damaged both the auxiliary slat track and power feeder wires. We are issuing this AD to prevent arcing that could be a possible ignition source for leaked flammable fluids, which could result in a fire. Arcing could also result in a loss of power from the generator connected to the power feeder wire bundle, and consequent loss of systems, which could reduce controllability of the airplane.

**DATES:** This AD becomes effective March 5, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 5, 2007.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for the service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Philip Sheridan, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6441; fax (425) 917-6590.

## **SUPPLEMENTARY INFORMATION:**

### **Examining the Docket**

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the ADDRESSES section.

### **Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 757 airplanes. That NPRM was published in the Federal Register on August 21, 2006 (71 FR 48493). That NPRM proposed to require inspecting certain power feeder wire bundles for damage, inspecting the support clamps for these wire bundles to determine whether the clamps are properly installed, and performing corrective actions if necessary.

### **Comments**

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

### **Request To Clarify Scope of Service Information**

Northwest Airlines (NWA) states that the service bulletins referred to in the NPRM indicate that Boeing technical publication revisions are not required to support the referenced modification. NWA adds that, typically, wire bundle installations are not detailed in Boeing technical publications; wire bundles are installed and maintained in accordance with the Boeing standard wiring practices manual (SWPM). NWA notes that the addition of spacers and rivets to wire bundle support brackets is not supported by Boeing technical publications. NWA adds that this burdens operators with the cost of developing their own system of maintaining the required configuration for continued compliance with the AD.

We infer that the commenter is asking for clarification of the scope of the referenced service information regarding related technical publications. Regarding the comment on adding spacers and rivets, the spacers should already have been installed, and the purpose of the rivets is to ensure that the clamp cannot be bolted into the incorrect hole; the rivets and spacers are not used to support the wire bundle bracket. After the rivets and spacers are installed there should be no further maintenance necessary; therefore, compliance with the actions specified in the service information meets the requirements of this AD. We have not changed the AD in this regard.

### **Request To Use Minimum Equipment List (MEL) in Lieu of Repair**

NWA asks that paragraph (g) of the NPRM be changed to allow flight using the MEL of the system rather than require repair prior to further flight. NWA states that the compliance time specified in paragraph (g) of the NPRM, and the referenced service bulletins, requires that the wire bundles be repaired as necessary per Boeing SWPM, Chapter 20-10-13, before further flight. NWA adds that the integrated drive generator (IDG) MEL and deviation dispatch guide (DDG), which disconnects the IDG, could be safely applied if the conditions found required significant repairs. NWA notes that operators could use the limited MEL time for repair planning and scheduling.

We do not agree with the commenter. Disabling an essential system and then dispatching under the MEL is not an acceptable alternative method of compliance. The MEL is provided for unexpected failures of systems, and is not a substitute for proper planning to ensure timely compliance with ADs.

### **Request To Publish Service Information/Incorporate by Reference in NPRM**

The Modification and Replacement Parts Association (MARPA) states that ADs are based on service information that originates from the type certificate holder or its suppliers. MARPA adds that manufacturer's service documents are privately authored instruments, generally having copyright protection against duplication and distribution. MARPA states that when a service document is incorporated by reference into a public document, such as an AD, pursuant to 5 U.S.C. 552(a) and 1 CFR part 51, it loses its private, protected status and becomes a public document. MARPA notes that if a service document is used as a mandatory element of compliance it should not simply be referenced, but should be incorporated by reference. MARPA believes that public laws, by definition, should be public, which means they cannot rely upon private writings for compliance. MARPA adds that the legal interpretation of a document is a question of law, not of fact; therefore, unless the service document is incorporated by reference it cannot be considered. MARPA is concerned that failure to incorporate essential service information could result in a court decision invalidating the AD.

MARPA also states that service documents incorporated by reference should be made available to the public by publication in the Docket Management System (DMS), keyed to the action that incorporates those documents. MARPA notes that the stated purpose of the incorporation by reference method is brevity, to keep from expanding the Federal Register needlessly by publishing documents already in the hands of the affected individuals. MARPA adds that, traditionally, "affected individuals" means aircraft owners and operators, who are generally provided service information by the manufacturer. MARPA adds that a new class of affected individuals has emerged, since the majority of aircraft maintenance is now performed by specialty shops instead of aircraft owners and operators. MARPA notes that this new class includes maintenance and repair organizations, component servicing, and/or servicing alternatively certified parts under section 21.303 ("Replacement and modification parts") of the Federal Aviation Regulations (14 CFR 21.303). MARPA notes that distribution to owners may, when the owner is a financing or leasing institution, not actually reach the people responsible for accomplishing the AD. Therefore, MARPA asks that the service documents deemed essential to the accomplishment of the NPRM be incorporated by reference into the regulatory instrument and published in DMS.

We understand the commenter's concern. The Office of the Federal Register (OFR) requires that documents that are necessary to accomplish the requirements of the AD be incorporated by reference during the final rule phase of rulemaking. This AD incorporates by reference the document necessary for the accomplishment of the requirements mandated by this AD. Further, we point out that while documents that are incorporated by reference do become public information, as noted by the commenter, they do not lose their copyright protection. For that reason, we advise the public to contact the manufacturer to obtain copies of the referenced service information.

In regard to MARPA's request to post service bulletins on the Department of Transportation's DMS, we are currently in the process of reviewing issues surrounding the posting of service bulletins on the DMS as part of an AD docket. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our current practice needs to be revised. No change to the AD is necessary in response to this comment.

### **Request To Change Costs of Compliance Section**

NWA asks that we change the Costs of Compliance section of the NPRM. NWA states that the NPRM specifies that the proposed actions would require 2 work hours per airplane. NWA adds that this is inconsistent with the work hours given in Boeing Service Bulletin 757-24-0105, Revision 2,

dated April 20, 2006 (referred to in the NPRM as one source of service information for accomplishing the specified actions). The service bulletin specifies 8 work hours for Group 1 airplanes and 7.5 work hours for Group 2 airplanes.

We do not agree to increase the work hours required to do the inspections. The costs of compliance that are discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. In this case, the only actions required by the AD for all airplanes are the inspections. The costs of compliance also 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. We have made no change to the AD in this regard.

## **Conclusion**

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

## **Costs of Compliance**

There are about 902 airplanes of the affected design in the worldwide fleet. This AD affects about 631 airplanes of U.S. registry. The actions 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 AD for U.S. operators is \$100,960, or \$160 per airplane.

## **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 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;
- (2) Is not a "significant rule" under 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 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.

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

SUPERSEDED



**2007-03-01 Boeing:** Amendment 39-14912. Docket No. FAA-2006-25642; Directorate Identifier 2006-NM-121-AD.

**Effective Date**

- (a) This AD becomes effective March 5, 2007.

**Affected ADs**

- (b) None.

**Applicability**

- (c) This AD applies to Boeing Model 757-200, -200PF, -200CB, and -300 series airplanes; certificated in any category; as identified in the service bulletins listed in Table 1 of this AD.

**Table 1.—Applicability**

<b>Airplane Model</b>	<b>Boeing Special Attention Service Bulletin</b>	<b>Revision Level</b>	<b>Date</b>
757-200, -200PF, -200CB series	757-24-0105	2	April 20, 2006
757-300 series	757-24-0106	2	April 20, 2006

**Unsafe Condition**

- (d) This AD results from a report that a power feeder wire bundle chafed against the number six auxiliary slat track, causing electrical wires in the bundle to arc, which damaged both the auxiliary slat track and power feeder wires. We are issuing this AD to prevent arcing that could be a possible ignition source for leaked flammable fluids, which could result in a fire. Arcing could also result in a loss of power from the generator connected to the power feeder wire bundle, and consequent loss of systems, which could reduce controllability of the airplane.

**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.

**Service Bulletin Reference**

- (f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:



(1) For Model 757-200, -200PF, and -200CB series airplanes: Boeing Special Attention Service Bulletin 757-24-0105, Revision 2, dated April 20, 2006; and

(2) For Model 757-300 series airplanes: Boeing Special Attention Service Bulletin 757-24-0106, Revision 2, dated April 20, 2006.

### One-Time Inspections and Corrective Actions

(g) Within 24 months after the effective date of this AD, perform a general visual inspection for damage (including but not limited to chafing) of power feeder wire bundles W3312 and W3412 at front spar station 148.90 in the left and right wings, and a general visual inspection of the support clamps for those power feeder wire bundles to determine whether the clamps are properly installed, and, before further flight, do all applicable corrective actions. Do these actions by doing all of the applicable actions in the applicable service bulletin.

### Actions Accomplished Previously

(h) Inspections and corrective actions done before the effective date of this AD in accordance with the service information listed in Table 2 of this AD are acceptable for compliance with the corresponding actions required by this AD.

**Table 2.—Other Acceptable Service Bulletin Revisions**

Boeing Special Attention Service Bulletin	Revision Level	Date
757-24-0105	Original	September 30, 2004
757-24-0105	1	June 23, 2005
757-24-0106	Original	September 30, 2004
757-24-0106	1	June 23, 2005

### Special Flight Permit

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided that the generator served by the power feeder wire bundles specified in paragraph (g) of this AD is disconnected.

### Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

### Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 757-24-0105, Revision 2, dated April 20, 2006; and Boeing Special Attention Service Bulletin 757-24-0106, Revision 2, dated April 20, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies

otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on January 18, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-1203 Filed 1-26-07; 8:45 am]

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