

# Proposed Rules

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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 TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0795; Directorate Identifier 2009-NM-083-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 757 Airplanes

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 757 airplanes. This proposed AD would require inspecting to verify the part number of the low-pressure flex-hoses of the flightcrew and supernumerary oxygen system installed under the oxygen mask stowage box at a flightcrew and supernumerary oxygen mask location, and replacing with a new non-conductive low-pressure flex-hose of the oxygen system if necessary. This proposed AD results from reports of a low-pressure flex-hose of a flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit in an adjacent audio select panel. We are proposing this AD to prevent inadvertent electrical current which can cause the low-pressure flex-hose of a flightcrew or supernumerary oxygen system to melt or burn, resulting in oxygen system leakage and smoke or fire.

**DATES:** We must receive comments on this proposed AD by November 13, 2009.

**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 proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail [me.boecom@boeing.com](mailto:me.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### 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:** Robert Hettman, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6457; 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-2009-0795; Directorate Identifier 2009-NM-083-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 a low-pressure flex-hose of a flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit in an adjacent audio select panel. An electrical current went through the support structure to a flightcrew mask stowage box. This caused the spring inside the low-pressure oxygen hose to act as an electrical conductor and heat up, causing the hose to burn through. This condition, if not corrected, could cause the low-pressure flex-hose of the flightcrew or supernumerary oxygen system to melt or burn, resulting in oxygen system leakage and smoke or fire.

#### Relevant Service Information

We have reviewed Boeing Service Bulletins 757-35A0015, Revision 2; and 757-35A0016, Revision 1; both dated June 15, 2000. The service bulletins describe procedures for replacing the existing low-pressure flex-hoses of the flightcrew and supernumerary oxygen system installed under the oxygen mask stowage box at the flightcrew and supernumerary oxygen mask location with new non-conductive low-pressure flex-hoses of the oxygen system.

#### 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 these same type designs. 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 the Service Bulletins."

Differences Between the Proposed AD and the Service Bulletins

Although Boeing Service Bulletins 757–35A0015, Revision 2; and 757–35A0016, Revision 1; both dated June 15, 2000; recommend accomplishing the replacement “at the earliest opportunity when manpower, material and facilities are available,” we have determined that this imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer’s recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modifications. In light of all of these factors, we find a compliance time of 36 months for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with Boeing.

Boeing Service Bulletin 757–35A0015, Revision 2, dated June 15, 2000, lists Boeing Model 757–200C in the Effectivity paragraph; however, we have confirmed with Boeing that its intent was to list Boeing Model 757–200CB. We have included Model 757–200CB in the Applicability paragraph of this proposed AD.

Other Rulemaking

The oxygen mask installations on certain Boeing Model 737, 747, and 767 airplanes are almost identical to those on the affected 757 airplanes. Therefore, all of these airplanes may be subject to the identified unsafe condition. We are considering similar rulemaking related to the identified unsafe condition for certain Boeing Model 737, 747, and 767 airplanes.

Costs of Compliance

We estimate that this proposed AD would affect 485 airplanes of U.S. registry. We also estimate that it would take 1 work-hour per product to comply with this proposed AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be \$38,800, or \$80 per product.

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, Incorporation by reference, 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–2009–0795; Directorate Identifier 2009–NM–083–AD.

Comments Due Date

- (a) We must receive comments by November 13, 2009.

Affected ADs

- (b) None.

Applicability

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

TABLE 1—APPLICABILITY

Boeing service bulletin—	Revision—	Dated—	Applicable model/series—
757–35A0015 .....	2	June 15, 2000 .....	757–200, 757–200CB, 757–200PF 757–300
757–35A0016 .....	1	June 15, 2000 .....	

Subject

- (d) Air Transport Association (ATA) of America Code 35: Oxygen.

Unsafe Condition

- (e) This AD results from reports of a low-pressure flex-hose of a flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit in an adjacent audio select panel. We are issuing this AD to prevent inadvertent

electrical current which can cause the low-pressure flex-hoses used in the flightcrew and supernumerary oxygen system to melt or burn, resulting in oxygen system leakage and smoke or fire.

Compliance

- (f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection

- (g) Within 36 months after the effective date of this AD, do an inspection to determine whether any low-pressure flex-hose of the flightcrew and supernumerary oxygen systems installed under the oxygen mask stowage location has a part number identified in Table 2 of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of

the low-pressure flex-hoses of the flightcrew and supernumerary oxygen system can be conclusively determined from that review.

(1) For any hose having a part number identified in Table 2 of this AD, before further flight, replace the hose with a new or serviceable part, in accordance with the

Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD.

(2) For any hose not having a part number identified in Table 2 of this AD, no further action is required by this paragraph.

#### Parts Installation

(h) As of the effective date of this AD, no person may install a flightcrew or supernumerary oxygen hose with a part number identified in Table 2 of this AD on any airplane.

TABLE 2—APPLICABLE PART NUMBERS

Boeing specification part No.—	Equivalent Boeing supplier part Nos.—				
	Sierra Engineering	Spencer Fluid	Puritan Bennett	Hydraflow	AVOX (formerly Sierra Engineering)
60B50059–70 .....	835–01–70	9513–20S5–18.0	ZH784–20	38001–70	9513–835–01–70
60B50059–81 .....	835–01–81	9513–20S5–24.0	ZH784–81	38001–81	9513–835–01–81

#### Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 757–35A0015, dated September 2, 1999, or Revision 1, dated November 11, 1999; or Boeing Alert Service Bulletin 757–35A0016, dated November 11, 1999; are considered acceptable for compliance with the corresponding actions specified in this AD.

#### 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 using the procedures found in 14 CFR 39.19. Send information to ATTN: Robert Hettman, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6457; fax (425) 917–6590. Or, e-mail information to 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(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 principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on September 18, 2009.

**Ali Bahrami,**

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E9–23421 Filed 9–28–09; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–135005–07]

RIN 1545–BG94

#### Clarification of Controlled Group Qualification Rules

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains a proposed regulation to clarify which corporations are included in a controlled group of corporations. The regulation clarifies that a corporation that satisfies the controlled group rules for stock ownership and qualification is a member of such group, without regard to its status as a component member.

**DATES:** Written or electronic comments and request for a public hearing must be received by December 28, 2009.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–135005–07), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–135005–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG–135005–07).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Grid Glycer (202) 622–7930; concerning submissions of comments, Oluwafunmilayo Taylor (202) 622–7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 1563(a) defines four types of controlled groups of corporations. This definition is relevant for purposes of allocating certain tax benefits under section 1561, as well as other provisions of the Internal Revenue Code that incorporate the concept of a controlled group of corporations. In order for a corporation to be included in one of these controlled groups under section 1563(a), it must satisfy the stock ownership test for that type of group. In addition, other rules in section 1563 may also apply in order to determine whether a corporation satisfies the applicable stock ownership test. For example, section 1563(c) excludes certain stock of a corporation (for example, nonvoting stock that is limited and preferred as to dividends) from the definition of stock, section 1563(d) determines when to take into account the stock owned by a corporation, and section 1563(e) determines when stock of a corporation is constructively owned.

Section 1563(b) describes which corporations are “component members” of a section 1563(a) controlled group of corporations for purposes of section 1561 and section 1563, in part by excluding certain corporations under section 1563(b)(2). For example, certain special purpose corporations, such as tax-exempt corporations, are treated as excluded members and not as component members. See sections 1563(b)(2)(B) through 1563(b)(2)(E). Notwithstanding that a corporation is not a “component member,” however, the IRS has consistently taken the position that the determination of whether a corporation is included in a controlled group under section 1563(a) is determined without applying section 1563(b).

#### Explanation of Provisions

The Treasury Department and the IRS propose to amend § 1.1563–1 to clarify