

### Revision of the Airplane Flight Manual (AFM)—Airspeed Limitations

(a) Within 10 days after the effective date of this AD, revise the Limitations section of the FAA-approved AFM to include the following procedures (this may be accomplished by inserting a copy of this AD into the AFM):

“After any ground deicing/anti-icing of the horizontal stabilizer, airspeed must be limited to 270 KIAS until the crew has been informed that applicable maintenance procedures have been accomplished that would allow exceedance of 270 KIAS. Once the applicable maintenance procedures have been accomplished, exceeding 270 KIAS is permissible only until the next deicing/anti-icing.”

### Optional Post-Deicing/Anti-Icing Cleaning

(b) Accomplishment of the applicable cleaning procedures specified by paragraphs (b)(1) and (b)(2) of this AD allows the temporary operation of the airplane at airspeeds exceeding 270 KIAS—until the next deicing/anti-icing of the horizontal stabilizer.

(1) For all airplanes: Clean the external aerodynamic surfaces of the elevator tab to remove accumulated deicing/anti-icing fluid, residue, or other foreign substances, in accordance with the procedures for Airplane Cleaning in Section 12–40–00 (G) of Boeing 737–600/700/800/900 Maintenance Manual Document D633A101.

(2) For airplanes having line numbers 1 through 1091 inclusive: Until the actions required by paragraph (f) of this AD have been accomplished, clean the elevator balance bays in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. For a cleaning method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

### AFM Revision—Non-Normal Procedures

(c) Within 10 days after the effective date of this AD, revise the Non-Normal Procedures section of the FAA-approved AFM (Boeing Document D631A001) to include the following procedures (this may be accomplished by inserting a copy of this AD into the AFM):

#### *Elevator Tab Limit Cycle Oscillation*

An Elevator Tab Limit Cycle Oscillation (LCO) will be characterized by a high frequency, possibly severe vibration, originating in the tail of the airplane, and emanating forward through the airframe structure. LCO events have previously occurred at airspeeds greater than 275 KIAS, and in an altitude range between 10,000 and 25,000 feet following ground deicing/anti-icing of the horizontal stabilizer. This vibration may, or may not, be felt in the control column. Cabin crew may be able to confirm the source of any airframe vibrations. If LCO is suspected in flight, immediately reduce airspeed (WITHOUT use of speed brakes, or changing aircraft configuration) to 270 KIAS, or until the vibration ceases, whichever indicated airspeed is lower.

### DO NOT USE SPEED BRAKES FOR THE REMAINDER OF THE FLIGHT.

Use of the speed brakes in other emergencies is at the discretion of the flight crew. Remain at or below the indicated airspeed at which the vibration ceased for the remainder of the flight, but do not exceed 270 KIAS. Evaluate the need to land at the nearest practicable airport. Landing airport selection should be based upon consideration of all pertinent factors such as: weather, distance to destination, range available at the reduced airspeed, maximum landing weight, and possible airframe damage. Use of ground spoilers during landing rollout is permitted.”

### Elevator Tab Cleaning

(d) Within 250 flight cycles or 90 days after the effective date of this AD, whichever occurs first: Clean the external aerodynamic surfaces of the elevator tab to detect accumulated deicing/anti-icing fluid, residue, or other foreign substances, in accordance with the procedures for Airplane Cleaning in Section 12–40–00 (G) of Boeing 737–600/700/800/900 Maintenance Manual Document D633A101. Thereafter, repeat the tab cleaning procedure at least every 250 flight cycles or 90 days, whichever occurs first.

### Balance Bay Cleaning

(e) For airplanes having line numbers 1 through 1091 inclusive: Prior to or concurrently with the accomplishment of the seal trim required by paragraph (f) of this AD, clean the elevator balance bays in accordance with Boeing Service Letter 737-SL–12–017, dated April 10, 2002. If the balance bays have been cleaned at least one time in accordance with paragraph (b)(2) of this AD, and if the seal trim has been accomplished in accordance with paragraph (f) of this AD, it is not necessary to repeat this procedure.

### Seal Trim

(f) For airplanes having line numbers 1 through 1091 inclusive: Within 90 days after the effective date of this AD, trim the elevator balance bay seals in accordance with Boeing Alert Service Bulletin 737–55A1084, dated March 7, 2002. Following accomplishment of the seal trim required by this paragraph and the balance bay cleaning required by paragraph (e) of this AD, the optional repetitive cleaning procedures specified by paragraph (b)(2) of this AD are no longer necessary.

### Post-LCO Inspection

(g) Before the next revenue flight following any suspected limit cycle oscillation (LCO) of the elevator tab: Inspect the airplane in accordance with a method approved by the Manager, Seattle ACO, FAA. For an inspection method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

### Spare Parts

(h) As of the effective date of this AD, no person may install on any airplane an elevator balance panel bay seal having part number 183A9140–1, –5, or –9.

### Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

### Special Flight Permits

(j) 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 the maximum operating airspeed is 270 knots indicated airspeed (KIAS) during the ferry flight.

### Incorporation by Reference

(k) The modification required by paragraph (f) of this AD must be done in accordance with Boeing Alert Service Bulletin 737–55A1084, dated March 7, 2002; and Boeing Service Letter 737–SL–12–017, dated April 10, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

### Effective Date

(l) This amendment becomes effective on May 13, 2002.

Issued in Renton, Washington, on April 19, 2002.

### Lirio Liu-Nelson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 02–10244 Filed 4–25–02; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Chapter VII

[Docket No. 020417087–2087–01]

RIN 0694–XX21

### Industry and Security Programs; Change of Agency Name

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule; Nomenclature change.

**SUMMARY:** On April 18, 2002, the Department of Commerce, through an internal organizational order, changed the name of the "Bureau of Export Administration" to the "Bureau of Industry and Security." Consistent with this action, this rule makes appropriate conforming changes in chapter VII of title 15 of the Code of Federal Regulations. The rule also sets forth a Savings Provision in **SUPPLEMENTARY INFORMATION** that preserves, under the new name, all actions taken under the name of the Bureau of Export Administration and provides that any references to the Bureau of Export Administration in any document or other communication shall be deemed to be references to the Bureau of Industry and Security.

**DATES:** This rule is effective on April 18, 2002.

**FOR FURTHER INFORMATION CONTACT:** Miriam Cohen, Director of Administration, Bureau of Industry and Security, Telephone: (202) 482-1900.

**SUPPLEMENTARY INFORMATION:**

**Background**

This rule implements the decision by the Department of Commerce, through an internal organizational order (Amendment 3 to DOO 50-1, dated April 18, 2002), to change the name of the Bureau of Export Administration to the "Bureau of Industry and Security." The new name more accurately reflects the breadth of the Bureau's activities in the spheres of national, homeland, economic, and cyber security. Consistent with this name change, this rule makes a number of changes in chapter VII of title 15 of the Code of Federal Regulations. Specifically, this rule changes all references to "Bureau of Export Administration" and "BXA," wherever they appear in chapter VII, to "Bureau of Industry and Security" and "BIS," respectively. In addition, this rule changes the appropriate definitions sections to conform to the new name of the bureau, and to reflect that the Under Secretary for Export Administration concurrently holds the title of Under Secretary for Industry and Security.

**Savings Provision**

This rule shall constitute notice that all references to the Bureau of Export Administration or BXA in any documents, statements, or other communications, in any form or media, and whether made before, on, or after the effective date of this rule, shall be deemed to be references to the Bureau of Industry and Security. Any actions undertaken in the name of or on behalf of the Bureau of Export Administration,

whether taken before, on, or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the Bureau of Industry and Security.

**Rulemaking Requirements**

1. This final rule has been determined to be exempt from review for purposes of Executive Order 12866.

2. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable.

Accordingly, this rule is issued in final form. Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to Miriam Cohen, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**List of Subjects**

15 CFR Part 710

Chemicals, Exports, Foreign trade, Imports, Treaties.

15 CFR Part 719

Administrative proceedings, Exports, Imports, Penalties, Violations.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Foreign trade, Law enforcement, Penalties.

For the reasons set forth in the preamble, 15 CFR chapter VII is amended as set forth below:

1. Revise the heading for 15 CFR chapter VII to read as follows:

**CHAPTER VII—BUREAU OF INDUSTRY AND SECURITY, DEPARTMENT OF COMMERCE**

**PART 710—GENERAL INFORMATION AND OVERVIEW OF THE CHEMICAL WEAPONS CONVENTION REGULATIONS (CWCR)**

2. The authority citation for part 710 continues to read as follows:

**Authority:** 22 U.S.C. 6701 *et seq.*; E.O. 13128, 64 FR 36703.

3. In § 710.1, remove the definition of "Bureau of Export Administration (BXA)" and add in alphabetical order the definition of "Bureau of Industry and Security (BIS)" to read as follows:

**§ 710.1 Definitions of terms used in the Chemical Weapons Convention Regulations (CWCR).**

\* \* \* \* \*

*Bureau of Industry and Security (BIS).* Means the Bureau of Industry and Security of the United States Department of Commerce (formerly the Bureau of Export Administration).

\* \* \* \* \*

**PART 719—ENFORCEMENT**

4. The authority citation for part 719 continues to read as follows:

**Authority:** 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13128, 64 FR 36703.

5. In § 719.1(b), remove the definition of "Under Secretary for Export Administration," and add in alphabetical order a definition of "Under Secretary for Industry and Security" to read as follows:

**§ 719.1 Scope and definitions.**

\* \* \* \* \*

(b) \* \* \*  
*Under Secretary for Industry and Security.* The Under Secretary for Industry and Security, U.S. Department of Commerce, who shall concurrently hold the title of Under Secretary for Export Administration.

**PART 766—ADMINISTRATIVE ENFORCEMENT PROCEEDINGS**

6. The authority citation for part 766 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

7. In § 766.2, remove the definition of "Bureau of Export Administration (BXA)" and add in alphabetical order the definition of "Bureau of Industry and Security (BIS)" and revise the definition of "Under Secretary" to read as follows:

**§ 766.2 Definitions.**

\* \* \* \* \*

*Bureau of Industry and Security (BIS).* Bureau of Industry and Security, U.S. Department of Commerce (formerly the Bureau of Export Administration) and all of its component units, including, in particular for purposes of this part, the Office of Antiboycott Compliance, the Office of Export Enforcement, and the Office of Exporter Services.

\* \* \* \* \*

*Under Secretary.* The Under Secretary for Export Administration, United States Department of Commerce, who shall concurrently hold the title of Under Secretary for Industry and Security.

**CHAPTER VII—[AMENDED]**

8. In addition to the previous amendments, in 15 CFR chapter VII, revise all references to “Bureau of Export Administration” to read “Bureau of Industry and Security”; revise all references to “Bureau of Export Administration’s” to read “Bureau of Industry and Security’s”; revise all references to “BXA” to read “BIS”; and revise all references to “BXA’s” to read “BIS’s”.

Dated: April 19, 2002.

**Kenneth I. Juster,**

*Under Secretary for Industry and Security.*

[FR Doc. 02–10166 Filed 4–25–02; 8:45 am]

BILLING CODE 3510–33–P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 8988]

RIN 1545–BA55

**Guidance Under Section 355(e);  
Recognition of Gain on Certain  
Distributions of Stock or Securities in  
Connection With an Acquisition**

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

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations relating to recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition. Changes to the applicable law were made by the Taxpayer Relief Act of 1997. These temporary regulations affect corporations and are necessary to provide them with guidance needed to comply with these changes. The text of these temporary regulations also serves as the text of the proposed regulations

set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These temporary regulations are effective April 26, 2002.

*Applicability Date:* These temporary regulations apply to distributions occurring after April 26, 2002. For rules applicable to distributions occurring after August 3, 2001, and on or before April 26, 2002, see § 1.355–7T as in effect prior to April 26, 2002 (see 26 CFR part 1 revised April 1, 2002). Taxpayers, however, may apply these regulations in whole, but not in part, to a distribution occurring on or before April 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** Amber R. Cook of the Office of Associate Chief Counsel (Corporate), (202) 622–7530 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

Section 355(e) of the Internal Revenue Code of 1986 provides that the stock of a controlled corporation will not be qualified property under section 355(c)(2) or 361(c)(2) if the stock is distributed as “part of a plan (or series of related transactions) pursuant to which 1 or more persons acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation.” For this purpose, a 50-percent or greater interest means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock. See I.R.C. § 355(e)(4)(A) (referring to section 355(d)(4) for the definition of 50-percent or greater interest).

On January 2, 2001, the IRS and Treasury published in the **Federal Register** (REG–107566–00, 66 FR 66 (2001–3 I.R.B. 346)) a notice of proposed rulemaking (the 2001 proposed regulations) under section 355(e). The 2001 proposed regulations provide guidance concerning the interpretation of the phrase “plan (or series of related transactions).” The 2001 proposed regulations generally provide that whether a distribution and an acquisition are part of a plan is determined based on all the facts and circumstances. The 2001 proposed regulations list a number of factors that tend to show that an acquisition and a distribution are part of a plan and a number of factors that tend to show that an acquisition and a distribution are not part of a plan. In addition, they set forth six safe harbors, the satisfaction of

which confirms that a distribution and an acquisition are not part of a plan.

A public hearing regarding the 2001 proposed regulations was held on May 15, 2001. In addition, written comments were received. In response to comments that immediate guidance under section 355(e) was needed, on August 3, 2001, the IRS and Treasury published in the **Federal Register** (REG–107566–00, 66 FR 40590 (2001–34 I.R.B. 176)) the 2001 proposed regulations as temporary regulations (the original temporary regulations). The original temporary regulations were identical to the 2001 proposed regulations, except that, pending further study of the comments received regarding the 2001 proposed regulations, they reserved § 1.355–7(e)(6) (suspending the running of any time period prescribed in the 2001 proposed regulations during which there is a substantial diminution of risk of loss under the principles of section 355(d)(6)(B)) and *Example 7* of the 2001 proposed regulations (interpreting the term *similar acquisition* in the context of a situation involving multiple acquisitions).

**Explanation of Provisions**

The IRS and Treasury have studied the comments received regarding the 2001 proposed regulations and have concluded that it is desirable to revise various aspects of the original temporary regulations. Accordingly, the IRS and Treasury are promulgating these regulations (the revised temporary regulations) as temporary to amend the original temporary regulations. The following sections describe a number of the most significant comments and the extent to which they have been incorporated in the revised temporary regulations. Further changes to the revised temporary regulations, however, are possible before these regulations are finalized.

*A. Facts and Circumstances Generally*

The 2001 proposed regulations identify a number of facts and circumstances that tend to show whether a distribution and an acquisition are part of a plan. While some of those facts and circumstances relating to a post-distribution acquisition focus on discussions before the distribution between the acquired corporation and the acquirer regarding the acquisition or a similar acquisition, others are unrelated to whether there were such discussions before the distribution. A number of comments suggested that the relevant facts and circumstances that evidence whether a distribution and a post-distribution acquisition are part of a plan for