

**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 2003–NM–48–AD.

**Applicability:** Model 727–200 series airplanes, certificated in any category, as listed in Boeing Special Attention Service Bulletin 727–25–0298, dated February 13, 2003.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent the forward ceiling access panel/door from falling down and blocking the aisle, which would impede evacuation in an emergency, accomplish the following:

**Lanyard Installation**

(a) Within 18 months after the effective date of this AD, install 4 lanyards on the forward access panel/door, in accordance with Boeing Special Attention Service Bulletin 727–25–0298, dated February 13, 2003.

**Alternative Methods of Compliance**

(b) 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 Aircraft Certification Office (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 2:** 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**

(c) Special flight permits may be issued in accordance with §§ 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.

Issued in Renton, Washington, on April 8, 2003.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 03–9303 Filed 4–15–03; 8:45 am]

**BILLING CODE 4910–13–P**

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

**[Docket No. 2000–CE–64–AD]**

**RIN 2120–AA64**

**Airworthiness Directives; Robert E. Rust Models DeHavilland DH.C1 Chipmunk 21, 22, and 22A Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

**SUMMARY:** This document proposes to revise an earlier proposed airworthiness directive (AD) that would apply to certain Robert E. Rust (R.E. Rust) Models DeHavilland DH.C1 Chipmunk 21, 22, and 22A airplanes. The earlier NPRM would have required you to repetitively inspect the tailplane attachment brackets and replace each bracket. The earlier NPRM would have also required you to repetitively inspect each joint of the port and starboard engine mount frame and the rear upper mount frame tubes for cracks and/or damage and repair any cracks and/or damage found. The earlier NPRM resulted from reports of stress corrosion cracking found on the tailplane attachment brackets and fatigue cracking and chaffing of the engine mount frame. We incorrectly referenced replacing the tailplane attachment brackets (part number C1.TP.167) upon accumulating 9,984 hours time-in-service (TIS). The hour limitation should be 9,984 fatigue hours. Fatigue hours are hours TIS multiplied by the role factor (operational use) as defined in the manufacturer's service information. This proposed supplemental NPRM also adds an hour limitation for performing the repetitive inspection of the tailplane 1 attachment brackets. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

**DATES:** The Federal Aviation Administration (FAA) must receive any

comments on this proposed rule on or before June 23, 2003.

**ADDRESSES:** Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–64–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: 9-ACE-7-Docket@faa.gov. Comments sent electronically must contain “Docket No. 2000–CE–64–AD” in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Work 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from DeHavilland Support Limited, Duxford Airfield, Bldg. 213, Cambridgeshire, CB2 4QR, United Kingdom, telephone: +44 1223 830090, facsimile: +44 1223 830085, e-mail: info@dhsupport.com. You may also view this information at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; telephone: (770) 703–6078; facsimile: (770) 703–6097.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

*How Do I Comment on This Proposed AD?*

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

*Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that

summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

#### *How Can I Be Sure FAA Receives My Comment?*

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000-CE-64-AD." We will date stamp and mail the postcard back to you.

#### **Discussion**

##### *What Events Have Caused Us To Issue the Earlier NPRM?*

We received reports that an unsafe condition exists on certain R.E. Rust Models DeHavilland DH.C1 Chipmunk 21, 22, and 22A airplanes. After reviewing several of these airplanes, stress corrosion cracking was found on the tailplane attachment brackets and fatigue cracks and chaffing were found on the engine mount frame.

Cracks in the engine mount frame were found in the area of the junction of the front and rear top tube and engine mounting foot support brackets and in the front of the frame. We have determined that fatigue is the cause of the cracks. The upper aft mount frame tubes were also found to have damage caused by chaffing by the cowl support rod.

##### *What Are the Consequences if the Condition Is Not Corrected?*

These conditions, if not corrected, could result in failure of the tailplane attachment brackets and failure of the engine mount. Such failures could lead to loss of control of the airplane.

##### *Has FAA Taken Any Action to This Point?*

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain R.E. Rust Models DeHavilland DH.C1 Chipmunk 21, 22, and 22A airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 12, 2002 (67 FR 68536). The NPRM proposed to require you to repetitively inspect the tailplane attachment brackets and replace each bracket. The NPRM also proposed to require you to repetitively inspect each joint of the port and starboard engine mount frame and the rear upper mount frame tubes for cracks and/or damage and repair any cracks and/or damage found.

##### *Was the Public Invited To Comment?*

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

#### **Comment Issue No. 1: Change the Compliance Time for Replacing the Tailplane Attachment Brackets**

##### *What Is the Commenter's Concern?*

The commenter states that replacement parts for the tailplane attachment brackets may not be available from the manufacturer within 90 days after the effective date of this AD. Therefore, the commenter suggests allowing more time to acquire parts by changing the compliance time for replacing the tailplane attachment brackets if cracks are found during the initial inspection from 90 days to 12 months after the effective date of this AD.

##### *What Is FAA's Response to the Concern?*

The commenter does not offer any solution to ensure the airworthiness of the airplanes until the parts become available. We cannot increase the compliance time unless other means to ensure the continued airworthiness of these airplanes are substantiated.

We will consider an alternative method of compliance if the alternative provides an equivalent level of safety as outlined in paragraph (e) of this AD.

We are not changing the final rule AD action based on this comment.

#### **Comment Issue No. 2: Change the Compliance Time for the Repetitive Inspections of the Tailplane Attachment Brackets**

##### *What Is the Commenter's Concern?*

The commenter suggests that the repetitive inspections of the tailplane attachment brackets should be changed to every 150 fatigue hour or 6 months, whichever comes first, in order to ensure the airworthiness of these airplanes. The NPRM only proposed inspections every 6 months.

##### *What Is FAA's Response to the Concern?*

We concur with the commenter. Requiring repetitive inspections at every 150 fatigue hours or 6 months, whichever comes first, will ensure that the unsafe condition will not go undetected on high usage airplanes for a long period of time and will ensure the airworthiness of the affected airplanes.

We will make this change. Fatigue hours are hours TIS multiplied by the role factor (operational use) as specified in British Aerospace Mandatory

Technical News Sheet Series: Chipmunk (C1), No. 138, Issue: 5, dated August 1, 1985. Because adding the fatigue hours requirement to the repetitive inspection compliance time could increase the burden upon the public, we will reopen the comment period and issue a supplemental NPRM.

#### **Comment Issue No. 3: Remove the Grace Period Allowed Beyond the Safe Life Limit for Replacing the Tailplane Attachment Brackets**

##### *What Is the Commenter's Concern?*

The commenter states that the ultimate safe life limit of 9,984 fatigue hours for part number C1.TP.167 is a never exceed life and cannot be extended. Once an airplane has reached this safe life limit, the tailplane attachment bracket must be replaced before further flight.

##### *What Is FAA's Response to the Concern?*

We concur that a life limit is a never exceed limit. However, the safe life limit for the tailplane attachment bracket has not previously been established and enforced for the owners/operators of the affected airplanes. The life limit was not part of the type certificate data and was not previously mandated by an AD. Part of this proposed AD is establishing the safe life limit for this part. Removing the 90 day grace period for these airplanes already over or nearing 9,984 fatigue hours on the tailplane attachment bracket could inadvertently ground these airplanes when the AD becomes effective.

We are not changing the final rule AD action based on this comment.

#### **The Supplemental NPRM**

##### *What Events Have Caused FAA To Issue a Supplemental NPRM?*

In addition to adding the fatigue hour requirement to the repetitive inspection compliance time, we are correcting reference to the life limit as 9,984 fatigue hours instead of 9,984 hours TIS. Fatigue hours are hours TIS multiplied by the role factor (operational use).

##### *How Will the Changes to the NPRM Impact the Public?*

Proposing to change the intervals for performing the repetitive inspections of the tailplane attachment brackets to include an hour limitation and changing hours TIS to fatigue hours go beyond the scope of what was already proposed. Therefore, we are issuing a supplemental NPRM and reopening the comment period to allow the public additional time to comment on the proposed AD.

*How Does the Revision to 14 CFR Part 39 Affect This Proposed AD?*

On July 10, 2002, FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relate to special flight permits, alternative methods of compliance, and altered products. This material previously was included in

each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

**Cost Impact**

*How Many Airplanes Would This Proposed AD Impact?*

We estimate that this proposed AD affects 54 airplanes in the U.S. registry.

*What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?*

We estimate the following costs to accomplish the proposed inspections of the tailplane attachment brackets:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
32 workhours × \$60 per hour = \$1,920 .....	No parts required .....	\$1,920	\$1,920 × 54 = \$103,680.

We estimate the following costs to accomplish any necessary replacements that would be required based on the

results of the proposed inspection. We have no way of determining the number

of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
3 workhours × \$60 per hour = \$180 per bracket .....	\$600 per bracket (2 brackets per airplane).	\$180 + \$600 = \$780.

We estimate the following costs to accomplish the proposed inspections of the engine mount frame:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
16 workhours × \$60 per hour = \$960 .....	No parts required .....	\$960	\$960 × 54 = \$51,840.

The FAA has no method of determining the number of repairs or replacements each owner/operator would incur over the life of each of the affected airplanes based on the results of the proposed inspections. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

**Compliance Time of This Proposed AD**

*What Would Be the Compliance Time of This Proposed AD?*

The compliance time for the initial inspection proposed in this AD is "within the next 90 days after the effective date of this AD."

*Why Is the Proposed Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?*

An unsafe condition specified by this proposed AD is caused by corrosion. Corrosion can occur regardless of whether the aircraft is in operation or is

in storage. Therefore, to assure that the unsafe condition specified in the proposed AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of TIS.

**Regulatory Impact**

*Would This Proposed AD Impact Various Entities?*

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 proposed rule would not have federalism implications under Executive Order 13132.

*Would This Proposed AD Involve a Significant Rule or Regulatory Action?*

For the reasons discussed above, I certify that this proposed action (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) 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 has been placed 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, under 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. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

**Robert E. Rust:** Docket No. 2000–CE–64–AD

(a) *What airplanes are affected by this AD?*  
This AD affects R.E. Rust Models DeHavilland DH.C1 Chipmunk 21, 22, and 22A airplanes, serial numbers C1–001 through C1–1014, that are type certificated in any category.

**Note 1:** We recommend all owners/operators of DeHavilland DH.C1 Chipmunk 21, 22, and 22A airplanes, serial numbers C1–001 through C1–1014, with experimental airworthiness certificates comply with the actions required in this AD.

(b) *Who must comply with this AD?*  
Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?*  
The actions specified by this AD are intended to prevent failure of the tailplane attachment brackets caused by stress corrosion cracking and failure of the engine mount, which could result in loss of the tail section and separation of the engine from the airplane respectively. Such failures could lead to loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

- (1) Tailplane Attachment Brackets

Compliance	Actions	Procedures
(i) Initially inspect within the next 90 days after the effective date of this AD. (A) Inspect thereafter at intervals not to exceed 6 months or 150 fatigue hours, whichever occurs first, until the modification required by paragraph (d)(1)(ii) of this AD is incorporated. (B) When the modification required by paragraph (d)(1)(ii) is incorporated, you may terminate the repetitive inspections of the tailplane attachment brackets.	Inspect, using dye penetrant, the tailplane attachment brackets, part-number (P/N) C1.TP.167 (or FAA-approved equivalent part) for cracks.	In accordance with British Aerospace Military Aircraft and Aerostructures (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 176, Issue 2, dated November 1, 1997; and Civil Modification Mandatory Modification No. Chipmunk H357, dated March 12, 1984. Calculate fatigue hours by multiplying the TIS by the role factor in accordance with British Aerospace Mandatory Technical News Sheet Series: Chipmunk (C1), No. 138, Issue: 5, dated August 1, 1985.
(ii) At whichever of the following that occurs first: (A) Prior to further flight after the inspection where any crack is found; or (B) Upon accumulating 9,984 fatigue hours or within the next 90 days after the effective date of this AD, whichever occurs later	Replace the tailplane attachment bracket by incorporating Modification H357 (P/N C1.TP.313) or FAA-approved equivalent part number. Installing P/N C1.TP.313 (or FAA-approved equivalent part number) terminates the repetitive inspection requirement of the tailplane attachment brackets.	In accordance with British Aerospace Military Aircraft and Aerostructures (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 176, Issue 2, dated November 1, 1997; and Civil Modification Mandatory Modification No. Chipmunk H357, dated March 12, 1984. Calculate fatigue hours by multiplying the TIS by the role factor in accordance with British Aerospace Mandatory Technical News Sheet Series: Chipmunk (C1), No. 138, Issue: 5, dated August 1, 1985.
(iii) As of the effective date of this AD (iv) As of the effective date of this AD	Only install a tailplane attachment bracket that is P/N C1.TP.313. or FAA-approved equivalent part number. Incorporate the following into the Aircraft Logbook: "In accordance with AD **-*-*", the tailplane attachment bracket is life limited to 9,984 fatigue hours."	Not applicable.
		In accordance with British Aerospace Military Aircraft and Aerostructures (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 176, Issue 2, dated November 1, 1997.

(2) Engine Mount Frames

Actions	Compliance	Procedures
(i) Inspect each joint of the port and starboard engine mount frame and the rear upper mount frame tubes for cracks and/or damage.	Initially inspect within the next 90 days after the effective date of this AD. Repeatedly inspect thereafter at intervals not to exceed 600 hours TIS.	In accordance with British Aerospace Aerostructures Limited (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 190, Issue 2, dated April 1, 1995.

Actions	Compliance	Procedures
<p>(ii) If cracks and/or damage is found during any inspection required in paragraph (d)(2)(i) of this AD.</p> <p>(A) obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (f) of this AD and incorporate this repair scheme, or repair in accordance with FAA Advisory Circular (AC) 43.13-1B, Change 1, dated September 27, 2001, Chapter 4, Paragraph 4-99; or.</p> <p>(B) replace with a new or serviceable part .....</p>	<p>Prior to further flight after the inspection in which any crack and/or damage is found. Repetitively inspect as required in paragraph (d)(2)(i) of this AD.</p>	<p>Repair in accordance with AC 43.13-1B, Change 1, dated September 27, 2001, Chapter 4, Paragraph 4-99 or in accordance with the repair scheme obtained from DeHavilland Support Limited, Duxford Airfield, Bldg. 213, Cambridgeshire, CB2 4QR, United Kingdom. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD. Replace in accordance with British Aerospace Aerostructures Limited (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 190, Issue 2, dated April 1, 1995, or AC 43.13-1B, Change 1, dated September 27, 2001, Chapter 4, Paragraph 4-99.</p>
<p>(iii) Bind the rear upper mount frame tubes with a high density polythene tape at the location where the cowl-ing support rod clip is secured.</p>	<p>Prior to further flight after the initial inspection required in paragraph (d)(1) of this AD.</p>	<p>In accordance with British Aerospace Aerostructures Limited (BAe Aircraft) Mandatory Technical News Sheet CT (C1) No. 190, Issue 2, dated April 1, 1995.</p>

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.13. Send these requests to the Manager, Atlanta Aircraft Certification Office (ACO). Contact Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; telephone: (770) 703-6078; facsimile: (770) 703-6097.

(f) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from DeHavilland Support Limited, Duxford Airfield, Bldg. 213, Cambridgeshire, CB2 4QR, United Kingdom, telephone: +44 1223 830090, facsimile: +44 1223 830085, e-mail: [info@dhsupport.com](mailto:info@dhsupport.com). You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 10, 2003.

**Dorenda D. Baker,**

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

[FR Doc. 03-9304 Filed 4-15-03; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

RIN 0720-AA77

#### **TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2002, (NDAA-02), and a Technical Correction Included in the NDAA-03**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes several changes to the TRICARE program that were enacted by Congress in the NDAA-02 (December 28, 2001). Specifically, revisions to the definition of durable medical equipment (DME); adoption of the same pricing methods for durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) as are in effect for the Medicare program; clarification that rehabilitative therapy is a TRICARE benefit; addition of augmentative communication devices (ACD)/speech generating devices (SGD) as a TRICARE benefit; addition of hearing aids for family members of active duty members as a TRICARE benefit; revisions to the definition of prosthetics; permanent authority for transitional health care for certain members separated from active duty; and revisions to the time period of eligibility for transitional health care.

This proposed rule also addresses a technical correction found in section 706 of the NDAA-03 relating to transitional health care for dependents of certain members separated from active duty.

Public comments are invited and will be considered for possible revisions to the final rule.

**DATES:** Written comments will be accepted until June 16, 2003.

**ADDRESSES:** Forward comments to Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretch Parkway, Aurora, Colorado 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Ann N. Fazzini, Medical Benefits and

Reimbursement Systems, TRICARE Management Activity, telephone, (303) 676-3803. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Durable Medical Equipment (DME)**

Section 703 of the NDAA-02, Pub. L. 107-107, provides authority for any durable medical equipment that can improve, restore, or maintain the function of a malformed, diseased, or injured body part, or can otherwise minimize or prevent the deterioration of the patient's function or condition. It also provides authority for any durable medical equipment that can maximize the patient's function consistent with the patient's physiological or medical needs. Although the wording is not identical, TRICARE's policies and definitions in place at this time currently provide coverage within these criteria. Nonetheless, we are revising the current DME definition by adding the phrases found in the NDAA-02 to the regulatory definition of DME in order to ensure consistency between the law and the regulation.

Section 703 also makes available coverage to customize or accessorize durable medical equipment if it is essential for achieving therapeutic benefit for the patient; making the equipment serviceable; or otherwise assuring the proper functioning of the equipment. Our policies in place at this time provide coverage within these criteria. Specifically, TRICARE's current policy regarding Durable Medical Equipment includes a provision to allow customization, accessories, and