

# Rules and Regulations

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 5 CFR Part 3601

RINS DoD 0790-AH74; OGE 3209-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the Department of Defense

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Interim rule; amendments.

**SUMMARY:** The Department of Defense, with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Ethical Conduct for Employees of the Department of Defense to reflect certain administrative changes as a result of DoD reorganizations, as well as to add a component.

**EFFECTIVE DATE:** These amendments are effective November 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Gail Mason, Standards of Conduct Office, DoD; Telephone: 703-697-5305; Facsimile: 703-697-1640.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 10, 1993, with the concurrence and co-signature of OGE, DoD published an interim rule (part 3601 of title 5, CFR) establishing supplemental standards of ethical conduct for employees of DoD (58 FR 47622). The Armed Services Board of Contract Appeals (ASBCA) was not included on the list of separate DoD components at § 3601.102 at that time. On March 25, 1996, DoD added the ASBCA to paragraph 2-203.a. of DoD 5500.7-R, the Joint Ethics Regulation (JER). This amendatory rulemaking adds the ASBCA to the list of components. In the interim, the name of the Defense Investigative Service was changed to the Defense Security Service; the Defense

Mapping Agency was reconstituted into the National Imagery and Mapping Agency; and the Defense Nuclear Agency was reorganized as the Defense Threat Reduction Agency. Therefore, DoD is updating the listing of these components in this amendatory rulemaking.

#### II. Matters of Regulatory Procedure

##### Administrative Procedure Act

As Deputy Secretary of Defense, I have found good cause, pursuant to 5 U.S.C. 553(a)(2), (b) and (d), for waiving the notice of proposed rulemaking, opportunity for public comment, and 30-day delayed effective date as to these interim rule amendments. The notice, comment and delayed effective date are being waived because it is in the public interest that this amendatory rule, which concerns matters of agency organization, management, and personnel, become effective as soon as possible.

##### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that these amendments to 5 CFR part 3601 do not constitute a significant regulatory action. The amendatory rule does not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

##### Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

It has been certified that these amendments to 5 CFR part 3601 do not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

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#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been determined that this amendatory rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule does not economically impact Federal Government relations with the private sector.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that these amendments to 5 CFR part 3601 do not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

#### Federalism (Executive Order 13132)

It has been certified that 5 CFR part 3601 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on: (1) The States; (2) The relationship between the National Government and the States; or (3) The distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 5 CFR Part 3601

Conflict of interests; Executive Branch Standards of Conduct; Government employees.

Dated: October 29, 2003.

**Paul D. Wolfowitz,**

*Deputy Secretary of Defense, Department of Defense.*

Approved: November 4, 2003.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

■ Accordingly, for the reasons set forth in the preamble, the Department of Defense, with the concurrence of the Office of Government Ethics, is amending 5 CFR part 3601 as follows:

#### PART 3601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE

■ 1. The authority citation for 5 CFR part 3601 continues to read as follows:

**Authority:** 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR

2635.105, 2635.203(a), 2635.204(k), 2635.803.

- 2. Section 3601.102 is amended by:
  - a. Redesignating paragraphs (a)(1) through (a)(15) as paragraphs (a)(2) through (a)(16).
  - b. Adding a new paragraph (a)(1); and
  - c. Revising newly redesignated paragraphs (a)(10), (a)(11), (a)(12), and (a)(13).
- The addition and revisions read as follows:

**§ 3601.102 Designation of separate agency components.**

- (a) \* \* \*
- (1) Armed Services Board of Contract Appeals;
- \* \* \* \* \*
- (10) Defense Logistics Agency;
- (11) Defense Security Service;
- (12) Defense Threat Reduction Agency;
- (13) National Imagery and Mapping Agency;
- \* \* \* \* \*

[FR Doc. 03-28690 Filed 11-17-03; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2002-NM-150-AD; Amendment 39-13367; AD 2003-23-03]**

**RIN 2120-AA64**

**Airworthiness Directives: Boeing Model 737-100, -200, and -200C Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737-100, -200, and -200C series airplanes, that currently requires repetitive inspections to detect discrepancies in the upper and lower skins of the fuselage lap joint, and repair if necessary. This amendment adds new inspections, reduces the repetitive inspection intervals for certain airplanes, and mandates a terminating modification. The actions specified by this AD are intended to detect and correct discrepancies in the upper and lower skins of the fuselage lap joint and circumferential joint, which could result in sudden fracture and failure of a lap joint or circumferential joint and rapid decompression of the airplane fuselage. This action is intended to address the identified unsafe condition.

**DATES:** Effective December 23, 2003.

The incorporation by reference of Boeing Alert Service Bulletin 737-53A1224, Revision 1, dated March 14, 2002, as listed in the regulations, is approved by the Director of the Federal Register as of December 23, 2003.

The incorporation by reference of Boeing Alert Service Bulletin 737-53A1224, dated August 17, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of September 11, 2000 (65 FR 51750, August 25, 2000).

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Suzanne Lucier, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6438; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000-17-04, amendment 39-11878 (65 FR 51750, August 25, 2000), which is applicable to certain Boeing Model 737-100, -200, and -200C series airplanes, was published in the **Federal Register** on July 21, 2003 (68 FR 43045). The action proposed to require repetitive inspections to detect discrepancies in the upper and lower skins of the fuselage lap joint, and repair if necessary. The action proposed adding new inspections, reducing the repetitive inspection intervals for certain airplanes, and mandating a terminating modification.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

**Conclusion**

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Change to Labor Rate Estimate**

We have reviewed the figures we have used over the past several years to

calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from \$60 per work hour to \$65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

**Cost Impact**

There are approximately 291 airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD.

The inspections that are currently required by AD 2000-17-04 take approximately 575 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be \$2,242,500, or \$37,375 per airplane.

The new inspections that are required by this new AD will take approximately 341 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the new inspections of this AD on U.S. operators is estimated to be \$1,329,900, or \$22,165 per airplane.

The terminating modification that is required by this new AD will take approximately 15,000 work hours per airplane to accomplish, at an average labor rate of \$65 per work hour. Based on these figures, the cost impact of the modification of this AD on U.S. operators is estimated to be \$58,500,000, or \$975,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this 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 adopted herein 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. Therefore, it is determined that this final rule does not