

Bulletin 737–28A1263, dated February 19, 2007, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### New Requirements of This AD

##### *Previously Required Inspection at New Compliance Times*

(i) For Model 737–100, –200, –300, –400, and –500 series airplanes having line numbers 1 through 3072 inclusive: Within 120 days after the effective date of this AD, or within 5,000 flight hours after the last inspection or repair done in accordance with any service bulletin listed in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, whichever occurs later, do the actions specified in paragraph (f) of this AD.

(1) Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998.

(2) Boeing Alert Service Bulletin 737–28A1120, Revision 1, dated May 28, 1998.

(3) Boeing Alert Service Bulletin 737–28A1120, Revision 2, dated November 26, 1998.

(4) Boeing Service Bulletin 737–28A1120, Revision 3, dated April 26, 2001.

(j) For Model 737–100, –200, –300, –400, and –500 series airplanes having line numbers 3073 and subsequent: At the applicable time specified in paragraph (j)(1) or (j)(2) of this AD, do the actions specified in paragraph (f) of this AD.

(1) For airplanes on which the inspection or repair specified in any service bulletin

listed in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, has been done as of the effective date of this AD: Within 120 days after the effective date of this AD or 5,000 flight hours after the last inspection done in accordance with any service bulletin listed in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, whichever occurs later.

(2) For airplanes on which the inspection or repair specified in any service bulletin listed in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD, has not been done as of the effective date of this AD: Before the accumulation of 5,000 total flight hours, or within 120 days after the effective date of this AD, whichever occurs later.

##### *Inspection Report and Disposition of Damaged Parts*

(k) For Model 737–100, –200, –300, –400, and –500 series airplanes: At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, submit a report of the findings (both positive and negative) of any inspection required by paragraph (i) or (j) of this AD and send any damaged parts to the manufacturer, as described in Boeing Service Bulletin 737–28A1263, Revision 2, dated August 10, 2007. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD

and has assigned OMB Control Number 2120–0056.

(1) For any inspection done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) For any inspection done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

#### Alternative Methods of Compliance (AMOCs)

(l)(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) 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 appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) AMOCs approved previously in accordance with AD 99–21–15, amendment 39–11360, and AD 2007–11–07 are approved as AMOCs for the corresponding provisions of this AD.

#### Material Incorporated by Reference

(m) You must use applicable Boeing service bulletins specified in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 1.—ALL MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Boeing Alert Service Bulletin 737–28A1263 .....	1	March 19, 2007.
Boeing Service Bulletin 737–28A1263 .....	2	August 10, 2007.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 737–28A1263, Revision 2, dated August 10, 2007, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On June 6, 2007 (72 FR 28597, May 22, 2007), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 737–28A1263, Revision 1, dated March 19, 2007.

(3) 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 FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on November 8, 2007.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E7–22724 Filed 11–20–07; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 77

**[Docket No. FAA–2004–16982; Notice No. 07–16]**

#### **Colo Void Clause Coalition; Antenna Systems Co-Location; Voluntary Best Practices**

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

**ACTION:** Notice of amended policy.

**SUMMARY:** On April 27, 2004, the FAA revised its policy regarding the co-location of antenna systems on existing structures previously studied by the FAA. Based on various additional comments from industry regarding the initial policy, the FAA finds that further modifications to this policy are necessary.

**DATES:** This policy is effective on November 21, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

René J. Balanga, ATC Spectrum Engineering Services, Spectrum Assignment and Engineering Office, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, Telephone (202) 267–3819 or (202) 267–9710.

#### **SUPPLEMENTARY INFORMATION:**

## Availability of Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the notice number or docket number of this rulemaking.

## Background

Prior to April 2004, when the FAA issued a Determination of No Hazard for proposed construction or alteration of an antenna structure, the Determination included the following condition: "This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, frequency(ies) or use of greater power will void this determination. Any future construction or alteration, including an increase in heights, power, or the addition of other transmitters requires separate notice to the FAA." As a result of this condition, a proponent seeking only to add frequencies to a previously studied structure for which the FAA had issued a Determination of No Hazard must file notice with the FAA. They must file the notice on FAA Form 7460-1 in accordance with the previous discussed condition.

On April 27, 2004, the FAA revised its policy regarding the notification requirements for co-locating antenna systems on existing structures previously studied by the FAA. (See Notice No. 04-03; FAA-2004-16982; 69 FR 22732; April 27, 2004.) The FAA adopted this new policy, which was based on a Best Practices Agreement recommended by the CVCC.<sup>1</sup> Under this policy, a proponent is not required to

file notice for an aeronautical study when adding certain frequencies to an existing structure that has a current Determination of No Hazard on file with the FAA. The policy applies only to antenna systems operating on the following frequencies and service types, as dictated by various parts of Title 47 of the Code of Federal Regulations (47 CFR),

- 806–821 MHz and 851–866 MHz (Industrial/Business/Specialized Mobile Radio Pool—Part 90).
- 821–824 MHz and 866–869 MHz (Public Safety Mobile Radio Pool—Part 90).
- 816–820 MHz and 861–865 MHz (Basic Exchange Telephone Radio—Parts 1 and 22).
- 824–849 MHz and 869–894 MHz (Cellular Radiotelephone—Parts 1 and 22).
- 849–851 MHz and 894–896 MHz (Air-Ground Radiotelephone—Parts 1 and 22).
- 896–901 MHz and 935–940 MHz (900 MHz SMR—Part 90).
- 901–902 MHz and 930–931 MHz (Narrowband PCS—Part 24).
- 929–930 MHz, 931–932 MHz, and 940–941 MHz (Paging—Parts 1, 22, and 90).
- 1850–1990 MHz (Broadband PCS—Part 24, Point-to-Point Microwave—Part 101).
- 2305–2320 MHz and 2345–2360 MHz (Wireless Communications Service (WCS)—Part 27).

On February 1, 2006, the CVCC requested that the agency consider amending the April 27, 2004 policy by adding additional frequency bands to the policy. The following frequency bands and wireless services, as prescribed in 47 CFR, were submitted by the CVCC:

- 698–806 MHz (Advanced Wireless Service—Part 27).
- 1710–1755 MHz, 2020–2025 MHz, and 2110–2180 MHz (Advanced Wireless Service—Part 27).
- 1670–1675 MHz (Wireless Communications Service—Part 27).
- 1990–2000 MHz (Broadband PCS—Part 24).
- 2000–2020 MHz and 2180–2200 MHz (Mobile Satellite Service—Part 25).
- 2320–2345 MHz (Satellite Digital Audio Radio Service—Part 27).
- 2496–2690 MHz (Broadband Radio Service—Part 27).
- 6.0–7.0 GHz, 10.0–11.7 GHz, 17.7–19.7 GHz, and 21.2–23.6 GHz (Fixed Microwave Service—Part 101).

In reviewing the above list, the FAA notes that two frequency bands (1710–1755 MHz [Advanced Wireless Service] and 21.2–23.6 GHz [Fixed Microwave

Service])<sup>2</sup> overlap a portion or in its entirety, frequency bands the FAA currently uses to support aviation. These services may include, but are not limited to, critical situational data regarding aircraft positioning to air traffic controllers or essential voice or data communication links for air traffic control operations. If harmful electro magnetic interference (EMI) occurs to these FAA services, the services may be interrupted or degraded to a level at which pilots or air traffic controllers miss vital flight transmissions, thus potentially reducing aviation safety in the National Airspace System.

On June 13, 2006, the FAA published a Notice of Proposed Rulemaking that, in part, sought to require notice for wireless services and fixed microwave services operating in the 21.2–23.6 GHz (71 FR 34028; June 13, 2006). These frequencies are now included under this amended policy. Even though the agency has not adopted a final rule in this matter and the rule is pending, the FAA announces its intention to exclude the 21.2–23.6 GHz frequencies from the final rule. When the final rule is issued, those frequencies will be withdrawn.

FAA's review of prior case studies of co-located antenna systems and extensive engineering evaluations showed minimal EMI effects on FAA facilities from wireless services propagating on a majority of the identified frequency bands above, if operating under typical specifications. In addition, existing frequency coordination policies set forth by the National Telecommunications and Information Administration and the Federal Communications Commission, facilitate the evaluation of potential EMI in frequency bands that are joint-use by industry and the FAA. Therefore, the FAA concludes that the current policy can be amended to include the proposed frequencies.

Lastly, the April 27, 2004, policy stated several conditions that would facilitate the assurance of aviation safety from the potential of EMI. One condition is for proponents to provide the FAA with an electronic copy of its antenna system location databases. Since the inception of the policy, the FAA has received several requests for clarification by CVCC members with respect to that condition 1.

Condition 1 provides that,

The proponent must provide the FAA Regional Spectrum Offices with an electronic copy of its antenna system location databases quarterly or as specified in a Letter of

<sup>1</sup> The CVCC is a coalition of wireless cellular phone and Personal Communication Services (PCS) service providers, tower companies, and trade associations, including the Personal Communications Industry Association (PCIA) and the Cellular Telecommunications and Internet Association (CTIA). CVCC members currently own or manage most of the radio towers throughout the United States. Major wireless service providers primarily make up the coalition, but all other wireless service providers in the cellular phone and PCS industries are represented by the CVCC through membership with PCIA and CTIA.

<sup>2</sup> In 2006, the FCC conducted an auction of the 2GHz (1.7 GHz and 2.1GHz) frequency band (Auction 66).

Agreement with the FAA Regional Spectrum Offices.

*CVCC members seek clarification with respect to:* (1) The type of information necessary for the electronic database; (2) the sites that need to be included during each quarterly database submittal to the FAA; and (3) how to submit the database file(s). We have reconsidered the condition and find that any unintentional EMI resulting under this policy can be mitigated by condition 2 of the policy.<sup>3</sup> Therefore, condition 1 can be withdrawn and it will no longer be necessary to provide that information.

The amended policy is restated in its entirety below.

### Policy

The FAA recognizes the telecommunications industry's need and commitment to provide wireless services to the public. Also, the FAA recognizes that it is essential for these companies to speed up the time frame for build-out and deployment of their networks. However, the FAA's first commitment is to aviation safety. Thus the FAA finds that it can amend its policy to accommodate certain issues raised by the CVCC's Best Practices Agreement. Notwithstanding this new policy, the requirements under 14 CFR part 77 about notice to the FAA of proposed construction or alteration of man-made structures under existing FAA policy and regulations are not altered or modified. If the addition of frequencies, under this policy, to a previously studied structure increases the height of that structure, notice must be filed with the FAA under 14 CFR 77.13. Physical structures located on or near public use landing facilities raise concerns about possible obstruction to aircraft, and the FAA will handle these issues pursuant to current regulations and procedures.

Under this new policy, a proponent is not required to file notice with the FAA for an aeronautical study to add frequencies to an existing structure that has a current No Hazard Determination on file with the FAA. If an additional

antenna system must be used to add frequencies, the antenna system must not be located on Federal or public use landing facilities property. Also, the antenna system must not be co-located or mounted on an FAA antenna structure without prior coordination with the FAA's ATC Spectrum Engineering Services.

This policy only applies to antenna systems operating on the following frequencies and service types, as dictated by various parts of 47 CFR:

- 698–806 MHz (Advanced Wireless Service—Part 27).
- 806–821 MHz and 851–866 MHz (Industrial/Business/Specialized Mobile Radio Pool—Part 90).
- 821–824 MHz and 866–869 MHz (Public Safety Mobile Radio Pool—Part 90).
- 816–820 MHz and 861–865 MHz (Basic Exchange Telephone Radio—Parts 1 and 22).
- 824–849 MHz and 869–894 MHz (Cellular Radiotelephone—Parts 1 and 22).
- 849–851 MHz and 894–896 MHz (Air-Ground Radiotelephone—Parts 1 and 22).
- 896–901 MHz and 935–940 MHz (900 MHz SMR—Part 90).
- 901–902 MHz and 930–931 MHz (Narrowband PCS—Part 24).
- 929–930 MHz, 931–932 MHz, and 940–941 MHz (Paging—Parts 1, 22, and 90).
- 1710–1755 MHz, 2020–2025 MHz, and 2110–2180 MHz (Advanced Wireless Service—Part 27).
- 1670–1675 MHz (Wireless Communications Service—Part 27).
- 1850–1990 MHz (Broadband PCS—Part 24, Point-to-Point Microwave—Part 101).
- 1990–2000 MHz (Broadband PCS—Part 24).
- 2000–2020 MHz and 2180–2200 MHz (Mobile Satellite Service—Part 25).
- 2305–2320 MHz and (Wireless Communications Service (WCS)—Part 27).
- 2320–2345 MHz (Satellite Digital Audio Radio Service—Part 27).
- 2496–2690 MHz (Broadband Radio Service—Part 27).
- 6.0–7.0 GHz, 10.0–11.7 GHz, 17.7–19.7 GHz, and 21.2–23.6 GHz (Fixed Microwave Service—Part 101).

In addition, the following conditions also apply: (1) If an antenna system, operating in the designated frequency bands, causes EMI to one or more FAA facilities, the FAA will contact the proponent. The proponents must mitigate the EMI in a timely manner, as recommended by the FAA in each particular case. Depending on the severity of the interference, the

proponent must eliminate harmful EMI either by adjusting operating parameters (for example, employing extra filtering or reducing effective radiated power), or by ceasing transmissions, as may be required by the FCC and the FAA. Failure to provide successful EMI mitigation techniques will result in referral to the FCC's Enforcement Bureau for possible enforcement action. (2) This policy only applies to current technologies and modulation techniques (analog, TDMA, GSM, etc.) existing in the wireless radiotelephone environment on the date of issuance of this policy. Any future technologies placed into commercial service by wireless service providers, although operating on the frequencies mentioned above, must either coordinate the new technology with the FAA's ATC Spectrum Engineering Services or must provide notification to the FAA under 14 CFR part 77 procedures.

The FAA will revise the conditional language in future cases involving Determination of No Hazard to reflect this policy. Furthermore, this policy applies retroactively to any structure for which the FAA has issued a Determination of No Hazard.

Issued in Washington, DC on November 15, 2007.

**Steve Zaidman,**

*Vice President, Technical Operations Services.*

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**BILLING CODE 4910–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1245

[Notice: (07–083)]

**RIN 2700–AD35**

### Patents and Other Intellectual Property Rights

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** NASA is amending its regulations by removing NASA's Foreign Patent Licensing Regulations. NASA no longer follows these regulations, but issues licenses based on Government-wide licensing regulations promulgated by the Department of Commerce that take precedence over individual agency licensing regulations.

**EFFECTIVE DATE:** November 21, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Alan Kennedy, Commercial and Intellectual Property Law Practice

<sup>3</sup> Condition 2—If an antenna system, operating in the designated frequency bands, causes EMI to one or more FAA facilities, the FAA will contact the proponent. The proponent must mitigate the EMI in a timely manner, as recommended by the FAA in each particular case. Depending upon the severity of the interference, the proponent must eliminate harmful EMI either by adjusting operating parameters, (for example, employing extra filtering or reducing effective radiated power), or by ceasing transmissions, as may be required by the FCC and the FAA. Failure to provide successful EMI mitigation techniques will result in referral to the FCC's Enforcement Bureau for possible enforcement action. (69 FR 22732; April 27, 2004)