

FEDERAL ELECTION COMMISSION**11 CFR Chapter I****[Notice 1998—4]****Composition of the Commission****AGENCY:** Federal Election Commission.**ACTION:** Notice of disposition of petition for rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking filed on December 4, 1997, by John J. Wheeling, Treasurer of the National Reform Party Organizing Committee. The petition asked the Commission to amend its rules to require either that two members of the current six-member Commission be affiliated with minor political parties, or to expand the Commission from six to nine members, with the three new members required to be affiliated with minor political parties. Further information is provided in the supplementary information that follows.

DATES: March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: On December 4, 1997, the Commission received a Petition for Rulemaking from John J. Wheeling, Treasurer of the National Reform Party Organizing Committee. The Petition asked the Commission to amend its rules to require either that two members of the current six-member Commission be affiliated with minor political parties; or to expand the Commission from six to nine members, with the three new members required to be affiliated with minor political parties. The Petition states that this action is necessary to protect the rights of minor political parties which, it argues, are infringed by what it claims is a statutory requirement at 2 U.S.C. 437c(a)(1) that the six-member Commission be composed of three Commissioners affiliated with the Democratic Party, and three affiliated with the Republican Party.

The Petition does not identify the specific section(s) of the regulations to be affected by these changes, as required by the Commission's rules governing rulemaking petitions at 11 CFR 200.2(b)(3), because the Commission's rules do not address this situation. Nor could they, because the requested actions are outside the scope of the Commission's rulemaking authority. For this reason the Commission did not

publish a Notice of Availability in the **Federal Register** seeking comments on the Petition's merits, which action is normally taken pursuant to 11 CFR 200.3(a)(1) for petitions that meet the requirements of paragraph 200.2(b).

The Constitution at Art. II, section 2, cl. 2 provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * [all] Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law." Congress has by law established a six-member Federal Election Commission, 2 U.S.C. 437c(a)(1); and Congress, not the Commission, has the sole authority to alter its size, either by adding three additional Commissioners or in any other way.

Under the Appointments Clause, the President is entitled to choose the individuals to nominate as Commissioners. However, it has been long recognized that "it is entirely proper for Congress to specify the qualifications for an office that it has created." *Bowsher v. Synar*, 478 U.S. 714, 740 (1986) (Stevens, J., concurring). The provision in section 437c(a)(1) that "no more than 3 [of the six] members of the Commission" appointed by the President "may be affiliated with the same political party" simply sets the necessary qualifications for the members of the Commission. Again, it is for Congress, and not the Commission, to determine how, if at all, these qualifications should be changed.

The Commission notes that there is nothing in the text of the law to require that the Commission be made up of three Democrats and three Republicans. The President can comply with this provision by choosing from among millions of persons affiliated with political parties, and millions more not affiliated with any party. The fact that Presidents to date have appointed only Democrats and Republicans as Commissioners does not mean that this will continue in the future, when they may choose to appoint a member of another political party, or an independent affiliated with no political party.

Moreover, contrary to the petitioner's claim, the statutory requirement that no more than three Commissioners be affiliated with the same political party does not discriminate against minor parties. In fact, the reverse is true: By ensuring that no more than three Commissioners be affiliated with the same political party, and at the same time requiring an absolute majority of four votes for the Commission to take formal action, 2 U.S.C. 437c(c), Congress

has acted to insure that no political party will be able to single-handedly dictate Commission action. These considerations, however, are secondary to the Constitutional and statutory provisions, discussed above, under which the Commission is powerless to take the requested action.

The Commission's rules governing rulemaking petitions state 11 CFR 200.5 (a) and (d) that the Commission's decision on whether to initiate a rulemaking in response to a rulemaking petition may include, *inter alia*, consideration of the Commission's statutory authority and the necessity of statutory revision to accomplish the requested result. The Commission believe these factors are controlling and, therefore, at its open meeting of January 22, 1998, voted not to initiate a rulemaking to reconstitute the Commission as requested in this Petition.

Dated: January 23, 1998.

Joan D. Aikens,*Chairman, Federal Election Commission.*

[FR Doc. 98-2098 Filed 1-28-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39****[Docket No. 97-NM-163-AD]****RIN 2120-AA64****Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A and Model Avro 146-RJ Series Airplanes****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A and Model Avro 146-RJ series airplanes. This proposal would require repetitive inspections of the attachment brackets between the horizontal and vertical stabilizers to detect intergranular corrosion, and follow-on actions. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct reduced structural integrity of the stabilizer brackets due to corrosion, which could

result in reduced controllability of the airplane.

DATES: Comments must be received by March 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-163-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2110; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-163-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 97-NM-163-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146-100A, -200A, and -300A and Model Avro 146-RJ series airplanes. The CAA advises that, during a routine inspection, intergranular corrosion was found on the attachment fittings between the horizontal and vertical stabilizers and on the adjoining vertical stabilizer lugs. Such corrosion may result from improper manufacturing techniques and, therefore, may exist on other airplanes of the same type design. This condition, if not detected and corrected in a timely manner, could reduce the structural integrity of the stabilizer attachment brackets, which could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

British Aerospace has issued Service Bulletin SB.55-15, dated April 14, 1997, which describes procedures for a visual or an ultrasonic inspection of the attachment brackets between the horizontal and vertical stabilizers to detect intergranular corrosion. For airplanes on which no corrosion is found, the service bulletin describes procedures for restoration of the original protective treatment and application of additional surface protection to the attachment brackets. For airplanes on which corrosion is found that is accessible, the service bulletin describes procedures for blending out the corrosion, re-protecting the blended areas, and applying additional surface protection to the attachment brackets. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 001-04-97 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral

airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Proposed Rule and Relevant Service Information

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Operators also should note that the service bulletin and the British airworthiness directive do not specify accomplishment of repetitive inspections after the one-time inspection described in the service bulletin because repetitive inspections are included in a revised Maintenance Review Board (MRB) Report. However, the FAA has determined that it is necessary to mandate the repetitive inspections in paragraph (a) of this AD to ensure continued operational safety of the fleet.

Cost Impact

The FAA estimates that 40 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$2,400, or \$60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that 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) 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 is contained 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, pursuant to 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. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited
[Formerly British Aerospace Regional Aircraft Limited, Avro International Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited];
Docket 97-NM-163-AD.

Applicability: Model BAe 146-100A, -200A, and -300A and Model Avro 146-RJ series airplanes, certificated in any category, having the following constructors numbers:

Model	Constructors Nos.
BAe 146-100A, -200A, and -300A.	All.
Avro 146-RJ70/70A ..	All up to and including E1267.
Avro 146-RJ85/85A ..	All up to and including E2300.

Model	Constructors Nos.
Avro 146-RJ100/100A.	All up to and including E3301.

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 (e) 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 detect and correct reduced structural integrity of the stabilizer attachment brackets due to corrosion, which could result in reduced controllability of the airplane, accomplish the following:

(a) Perform an inspection to detect corrosion of the attachment brackets between the horizontal and vertical stabilizers, in accordance with British Aerospace Service Bulletin SB.55-15, dated April 14, 1997, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Thereafter, repeat the inspection at intervals not to exceed 12,000 flight cycles or 4 years after the initial inspection, whichever occurs first.

(1) For Model BAe 146-100A, -200A, and -300A series airplanes having constructors numbers identified in paragraph D.(1)(a) of the Planning Information section of the service bulletin: Inspect within 20 months after the effective date of this AD.

(2) For Model BAe 146-100A, -200A, and -300A series airplanes having constructors numbers identified in paragraph D.(1)(b) of the Planning Information section of the service bulletin: Inspect within 32 months after the effective date of this AD.

(3) For Model BAe 146-100A, -200A, and -300A series airplanes and Avro 146-RJ70A, -85A, and -100A airplanes having constructors numbers identified in paragraph D.(1)(c) of the Planning Information section of the service bulletin: Inspect within 44 months after the effective date of this AD.

(b) If no corrosion is detected, prior to further flight, restore the original protective treatment and apply additional surface protection to the attachment brackets in accordance with British Aerospace Service Bulletin SB.55-15, dated April 14, 1997.

(c) If any corrosion is detected and it is accessible, prior to further flight, blend out the corrosion, re-protect the blended areas, and apply additional surface protection to the attachment brackets in accordance with British Aerospace Service Bulletin SB.55-15, dated April 14, 1997.

(d) If any corrosion is detected and it is not accessible or, if after blending, the damage to the attachment brackets is found to be outside the limits identified in British Aerospace Service Bulletin SB.55-15, dated

April 14, 1997, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

(e) 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, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(f) 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.

Note 3: The subject of this AD is addressed in British airworthiness directive 001-04-97.

Issued in Renton, Washington, on January 22, 1998.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 98-2138 Filed 1-28-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-278-AD]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F28 Mark 0070 and 0100 series airplanes. This proposal would require a one-time inspection of the torque links of the main landing gear (MLG) assemblies to determine if the lockwire is present on the apex bolt; and corrective action, if necessary. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the MLG due to loose connections between the