

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

8 CFR Ch. I, 21 CFR Ch. II, 28 CFR Ch. I

Regulatory Flexibility Act Plan for the Periodic Review of Rules

AGENCY: Department of Justice.

ACTION: Notice of regulatory review.

SUMMARY: In accordance with the requirements of section 610(a) of the Regulatory Flexibility Act, the Department of Justice is publishing this revised Regulatory Flexibility Act Review Plan. The Act provides for agencies to conduct a periodic review of rules having a significant economic impact on a substantial number of small entities. This plan supersedes the prior Review Plan published by the Department.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, Main Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530, telephone (202) 514-8059.

SUPPLEMENTARY INFORMATION:

What Does Section 610 of the Regulatory Flexibility Act Require?

Section 610(a) of the Regulatory Flexibility Act, 5 U.S.C. 610(a), requires that each agency publish in the **Federal Register** a plan for the periodic review of the rules issued by that agency which have a significant economic impact on a substantial number of small entities. Section 610(a) required each agency to conduct its review within ten years with respect to rules in effect when the Regulatory Flexibility Act was enacted, or within ten years after promulgation with respect to rules adopted since then, if the rules meet the standard for review under section 610(a). The purpose of this review is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic

impact of the rules on a substantial number of small entities.

What Has the Department Done Pursuant to Section 610?

Pursuant to section 610, the Department of Justice published an initial Regulatory Flexibility Act Plan for the Periodic Review of Rules in the **Federal Register** on November 28, 1984 at 49 FR 46820.

This initial Department of Justice Review Plan, however, inadvertently contained a list of all regulations of the Department existing at that time (other than the organizational rules in 28 CFR part 0) without regard to whether the rules listed in the plan met the test for review under section 610, *i.e.*, having a "significant economic impact on a substantial number of small entities."

The only rule in effect at the time of enactment of the Regulatory Flexibility Act that would have had a significant impact on a substantial number of small entities was the Drug Enforcement Administration (DEA) diversion control regulation for controlled substances. As discussed below, the DEA conducted a comprehensive rulemaking proceeding and revised its existing regulation in response to public comments several years ago.

Section 610(a) also provides that a review plan may be amended at any time by the agency publishing a revision in the **Federal Register**. Accordingly, by this Notice the Department of Justice is amending its Regulatory Flexibility Act Review Plan.

What Other Reviews of Its Rules Has the Department Undertaken?

Subsequent to publication of the initial Review Plan, the Department's regulatory components conducted thorough reviews of their rules, both in 1992 and as part of President Clinton's Regulatory Reinvention Initiative in 1995.

During the 1995 initiative, each regulatory component reviewed their existing rules and identified those regulatory provisions that required reinvention or elimination. This wide-ranging reinvention effort examined all of the Department's regulations, not merely those few rules that fall within the statutory scope of section 610. As a result of that review process, many of the Department's regulatory components have eliminated unnecessary regulations and reinvented other

provisions to carry out the Department's goals during the Regulatory Reinvention Initiative. The Department's entries in past issues of the semi-annual *Unified Agenda of Federal Regulatory and Deregulatory Actions* identify the Department's reinvention initiatives.

For example, though DEA did not specifically publish a separate notice under section 610(c), it did engage in a full notice-and-comment rulemaking in 1996 and 1997, as part of the President's Regulatory Reinvention initiative, resulting in a substantial revision and clarification of its entire diversion control regulations pertaining to controlled substances and listed chemicals. The DEA Final Rule was published at 62 FR 13938 (March 24, 1997).

In addition, as discussed below, the Immigration and Naturalization Service (INS) has proposed a comprehensive rewriting of its regulations concerning the employment verification process and the use of the Form I-9, which have been a source of public confusion and dissatisfaction in the past.

What Regulations of the Department Are Still Subject To Review Under the Ten-Year Review Requirement?

No further actions under section 610 are necessary with respect to the Department's regulations that were in effect at the time the Regulatory Flexibility Act was enacted. Based upon a review of the Department's regulations adopted since the enactment of the Regulatory Flexibility Act, the following final rules may have a "significant economic impact upon a substantial number of small entities":

- The Immigration and Naturalization Services (INS) employment authorization and employer sanctions rules implementing the Immigration Reform and Control Act (IRCA), 8 CFR part 274a (published at 52 FR 16216, May 1, 1987);
- The Civil Rights Division's anti-discrimination rules under Title III of the Americans with Disabilities Act (ADA) with respect to commercial facilities, 28 CFR part 36 (published at 56 FR 35592, July 26, 1991);
- The DEA rules implementing the Domestic Chemical Diversion Control Act of 1993 (DCDCA), 21 CFR part 1309 (published at 60 FR 32447, June 22, 1995); and
- The Federal Bureau of Investigation (FBI) rules implementing section 109 of

the Communications Assistance for Law Enforcement Act (CALEA), 28 CFR part 100 (published at 62 FR 13307, March 20, 1997).

As such, these rules are appropriately the subject of the periodic review under section 610(a), within ten years of the publication of the Final Rule.

The INS has already conducted the review required by section 610 with respect to 8 CFR part 274a, "Control of Employment of Aliens," in conjunction with a comprehensive restructuring of that rule. The INS Notice of Proposed Rulemaking, which was published on February 2, 1998, at 63 FR 5287, would completely rewrite and clarify the regulations according to Plain Language principles; would amend the existing standards to reduce instances of fraud or confusion in the employment verification process; and would implement amendments made by the Illegal Immigration and Immigration Reform Act (IIRIRA), Pub. L. 104-208, Division C. The proposed rule also announced the section 610 review. Once a Final Rule is published, the section 610 review of these regulations will be complete.

Accordingly, the schedule for periodic review of regulations of the Department of Justice, as required by section 610(a) of the Regulatory Flexibility Act, is as follows:

| Regulation | Year scheduled for review |
|---|--|
| 8 CFR part 274a, Control of Employment of Aliens (INS). | Pending (proposed rule published in 1998). |
| 28 CFR part 36, Title III of the Americans with Disabilities Act (ADA) with respect to commercial facilities (Civil Rights Division). | 2000. |
| 21 CFR part 1309, Domestic Chemical Diversion Control Act of 1993 (DEA). | 2004. |
| 28 CFR part 100, Section 109 of the Communications Assistance for Law Enforcement Act (FBI). | 2006. |

Dated: August 12, 1999.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-296-AD]

RIN 2120-AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 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 (Jetstream) Model 4101 airplanes. This proposal would require a one-time inspection of the bottom aft roller of the main baggage-bay door structure for cracking or damage to the sub-frame; repetitive operational tests to determine if the counter-balance motor functions properly; and corrective actions, if necessary. 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 prevent sub-frame damage, which, if left undetected, could cause rapid decompression of the airplane and consequent injury to passengers and crew.

DATES: Comments must be received by November 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-296-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 British Aerospace Regional Aircraft American Support, 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 98-NM-296-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. 98-NM-296-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 (Jetstream) Model 4101 airplanes. The CAA advises that it has received reports of damage to a sub-frame that supports the bottom aft roller of the main baggage bay door due to failure of the spring in the counter-balance motor. The damage to the sub-frame was caused by high uncontrolled loads applied to the bottom aft roller bracket each time the baggage bay door was allowed to fall onto the stop in the aft track. Such damage, if not corrected, could result in failure of the door structure, which could cause rapid decompression of the airplane and consequent injury to passengers and crew.