

environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-225-AD." The postcard will be date stamped and returned to the commenter.

### Regulatory Impact

The regulations adopted herein will 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

**97-23-03 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited, British Aerospace (Commercial Aircraft) Limited]:** Amendment 39-10191. Docket 97-NM-225-AD.

**Applicability:** Jetstream Model HS 748 series airplanes on which Modification 7513 has been accomplished; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 failure of the bearing cap attachment bolts, which could result in detachment of the bearing caps and consequent collapse of the nose landing gear on landing, accomplish the following:

(a) Within 100 landings after the effective date of this AD, perform a one-time visual inspection of the retraction jack mounting brackets in the nose landing gear bay to determine the type of attachment bolts installed on the bracket bearing caps, in accordance with Jetstream Service Bulletin HS748-53-59-INSP, dated May 4, 1994. If any series A111 bolt or any other hexagonal head bolt is found, prior to further flight, replace that bolt with a new 12-point, star-shaped bolt having part number A228E18H or MS21250H04018, and washer having part number 8D14776; in accordance with the service bulletin.

(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, International Branch, ANM-116, FAA, Transport Airplane Directorate. 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.

(c) 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.

(d) The actions shall be accomplished in accordance with Jetstream Service Bulletin HS748-53-59-INSP, dated May 4, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., 13850 McLearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 19, 1997.

**Note 3:** The subject of this AD is addressed in British airworthiness directive 007-05-94.

Issued in Renton, Washington, on October 29, 1997.

**Darrell M. Pederson,**

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

[FR Doc. 97-29113 Filed 11-3-97; 8:45 am]

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## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

### 29 CFR Part 2204

#### Amendment of the Commission's Equal Access to Justice Rules

**AGENCY:** Occupational Safety and Health Review Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Occupational Safety and Health Review Commission's procedural rules on eligibility under the equal Access to Justice Act by adding a paragraph requiring that the net worth and number of employees of an applicant shall be aggregated with those of its affiliates, unless to do so would be unfair and contrary to the purposes of the Equal Access to Justice Act. This amendment will minimize extra unnecessary collateral litigation and bring the Commission into conformity with the corresponding rule adopted by most other federal agencies. This document also changes the shortened reference to the Equal Access to Justice Act used in this Part to read, as it is commonly referred to, "EAJA."

**DATES:** Effective November 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Earl R. Ohman, Jr., General Counsel, (202) 606-5410, Occupational Safety and Health Review Commission, 1120 20th Street, N.W., Ninth Floor, Washington, DC 20036-3419.

**SUPPLEMENTARY INFORMATION:** On August 11, 1997, the Commission published in

the **Federal Register** a proposed new paragraph (f) to add to 29 CFR 2204.105 containing its Rules of Procedure concerning eligibility under the Equal Access to Justice Act, 62 FR 42957 (August 11, 1997). The new paragraph is based on the model rule of the (former) Administrative Conference of the United States, adopted in large part by most federal agencies, concerning aggregation of the net worth and number of employees of the applicant with those of its affiliates. At the same time, the Commission also proposed to change all references to the "EAJ Act" in 29 CFR Part 2204 to read "EAJA" to conform to the common shortened reference term for the Equal Access to Justice Act. The only comments that the Commission received were from the Office of the Solicitor, U.S. Department of Labor, which supports the changes as proposed. The Commission thanks that office for its time and interest.

**List of Subjects in 29 CFR Part 2204**

Claims, Equal access to justice, Lawyers.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission amends Title 29, Chapter XX, Part 2204 of the Code of Federal Regulations to read as follows:

**PART 2204—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN PROCEEDINGS BEFORE THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

1. The authority citation for Part 2204 continues to read as follows:

**Authority:** Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99-80, 99 Stat. 183.

**PART 2204—[AMENDED]**

2. All references in Part 2204 to "EAJ Act" are revised to read "EAJA" wherever they appear.

3. A new paragraph (f) is added to § 2204.105 to read as follows:

**§ 2204.105 Eligibility of applicants.**

\* \* \* \* \*

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless such

treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, financial relationships of the applicant other than those described in this paragraph may constitute special circumstances that would make an award unjust.

Dated: October 29, 1997.

**Stuart E. Weisberg,**

*Chairman.*

**Daniel Guttman,**

*Commissioner.*

[FR Doc. 97-29101 Filed 11-3-97; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 914**

[SPATS No. IN-134-FOR; State Program Amendment No. 95-12]

**Indiana Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving with certain exceptions a proposed amendment to the Indiana regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to the Indiana Surface Coal Mining and Reclamation Act (ISM CRA) as enacted by the Indiana General Assembly (1995) in Senator Enrolled Act 125 (SEA 125). The proposed amendment, concerning the submittal of affected area status reports and performance bonding, is intended to revise the Indiana program to be consistent with SMCRA and incorporate State initiatives.

**EFFECTIVE DATE:** November 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204-1521, Telephone (317) 226-6166.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Indiana Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

**I. Background on the Indiana Program**

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

**II. Submission of the Proposed Amendment**

By letter dated September 11, 1995 (Administrative Record No. IND-1510), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment as its own initiative. SEA 125 amends ISMCRA by adding new sections and revising existing sections, concerning affected area status reports and performance bonding, to recodified Indiana Code (IC) 14-8. The provisions of the ISMCRA that Indiana proposes to add at recodified IC 14-8 are: IC 14-8-42.5, definition of "collateral"; IC 14-8-2-49.5, definition of "comparative balance sheet"; IC 14-8-2-49.6, definition of "comparative income statement"; IC 14-8-2-274.5, definition of "Surface Mining Control and Reclamation Act." The provisions of the ISMCRA that Indiana proposes to revise or add at recodified IC 14-34 are: IC 14-34-5-10, affected area status reports; IC 14-34-6-14.3 and IC 14-34-14.6, general requirements of performance bonding; IC 14-34-7-0.5, definition of "collateral"; IC 14-34-7-0.6, definition of "comparative balance sheet"; IC 14-34-7-0.7, definition of "comparative income statement"; IC 14-34-7-2.5, definition of "Surface Mining Control and Reclamation Act"; IC 14-34-7-1, definition of "liabilities"; IC-14-34-7-4(b), definition of "current liabilities"; IC 14-34-7-4(d), conditions for self-bonding; IC 14-34-7-4(e), (f) and (g), additional conditions for self-bonding; IC 14-34-7-4.1, replacement of self-bonds; IC 14-34-7-5, corporate guarantee; IC 14-34-7-7, indemnity agreement conditions; IC 14-34-7-7.1, use of collateral to support a self-bond; IC 14-34-7-8, information requirements for self-bonding; IC 14-34-7-9, requirements for a change in financial conditions; IC 14-34-7-10, self-bonding report requirements; IC 14-34-7-11, self-bond coverage requirements; IC 14-34-7-12, self-bond Phase I grading