

# Proposed Rules

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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 TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-18678; Directorate Identifier 2001-NM-312-AD]

RIN 2120-AA64

#### Airworthiness Directives; All BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series airplanes. This proposed AD would require repetitive detailed inspections of the rear fuselage upper skin to detect cracking due to fatigue, and repair if necessary. This proposed AD is prompted by evidence of cracking due to fatigue along the edges of certain chemi-etched pockets in the rear fuselage upper skin. We are proposing this AD to prevent a possible sudden loss of cabin pressure and consequent injury to passengers and flightcrew.

**DATES:** We must receive comments on this proposed AD by August 25, 2004.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC 20590.
- By fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearn Road, Herndon, Virginia 20171.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer; International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA-2004-99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004-NM-999-AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

##### Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2004-18678; Directorate Identifier 2001-NM-312-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal

information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

##### Examining the Docket

You can examine the AD docket in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

##### Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series airplanes. The CAA advises that operators have reported evidence of cracking due to fatigue along the edges of the chemi-etched pockets in the rear fuselage upper skin adjacent to the lap joint at stringer 2 between frames 34 and 35, and adjacent to the lap joint at stringer 10 between frames 38 and 37. This condition, if not corrected, could result in joining of those cracks and lead to possible sudden loss of cabin pressure with consequent injury to passengers and flightcrew.

## Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.53-164, dated July 10, 2001. The ISB describes procedures for repetitive detailed inspections to detect cracking of certain upper skin panels of the rear fuselage, and repair if necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA approved the service information.

## FAA's Determination and Requirements of the Proposed AD

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. We have examined the CAA's findings, evaluated all pertinent information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require repetitive detailed inspections of the rear fuselage upper skin to detect cracking due to fatigue, and related corrective actions if necessary. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under "Differences Between the Proposed AD and Referenced Service Bulletin."

## Difference Between Proposed Rule and Referenced Service Bulletin

Operators should note that, although the referenced service bulletin describes procedures for submitting Appendix 1 of the service bulletin with inspection results to the manufacturer, this proposed AD would not require that action. We do not need this information from operators.

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the CAA approve would

be acceptable for compliance with this proposed AD.

## Cost Impact

This proposed AD would affect about 55 airplanes of U.S. registry. The proposed actions would take about 4 work hours per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$14,300, or \$260 per airplane, per inspection cycle.

## Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft):** Docket No. FAA-2004-18678; Directorate Identifier 2001-NM-312-AD.

## Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by August 25, 2004.

## Affected ADs

(b) None.

## Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series airplanes, certificated in any category.

## Unsafe Condition

(d) This AD was prompted by evidence of cracking due to fatigue along the edges of certain chemi-etched pockets in the rear fuselage upper skin. We are issuing this AD to prevent a possible sudden loss of cabin pressure and consequent injury to passengers and flightcrew.

## Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

## Inspection and Repair

(f) Within the applicable compliance times specified in paragraph (f)(1) or (f)(2) of this AD, perform a detailed inspection of the rear fuselage upper skin to detect cracking, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-164, dated July 10, 2001.

**Note 1:** For the purposes of this AD, a detailed inspection is: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.*, may be used. Surface cleaning and elaborate access procedures may be required."

(1) For Model Avro 146-RJ series airplanes: Inspect before the accumulation of 10,000 total landings, or within 2,000 landings after the effective date of this AD, whichever is later.

(i) For areas where no crack is found, repeat the inspection at intervals not to exceed 4,000 landings.

(ii) For areas where any crack is found, before further flight, perform repairs in accordance with a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent). No further inspection of any repaired area is required by this AD.

(2) For Model BAe 146 series airplanes: Inspect before the accumulation of 16,000 total landings, or within 4,000 landings after the effective date of this AD, whichever is later.

(i) For areas where no crack is found, repeat the inspection at intervals not to exceed 8,000 landings.

(ii) For areas where any crack is found, before further flight, perform repairs in

accordance with a method approved by the Manager, International Branch, ANM-116; or the CAA (or its delegated agent). No further inspection of any repaired area is required by this AD.

#### No Reporting Requirement

(g) Although the referenced service bulletin specifies to submit Appendix 1 of the service bulletin with certain information to the manufacturer, this AD does not require that action.

#### Alternative Methods of Compliance (AMOCs)

(h) The Manager, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Related Information

(i) None.

Issued in Renton, Washington, on July 19, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-16917 Filed 7-23-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Parts 30, 37, 39, 42, 44, and 47

**RIN 1076-AE49**

#### Implementation of the No Child Left Behind Act of 2001

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule; reopening of comment period; correction.

**SUMMARY:** This document corrects the heading of a document that reopened the comment period for a proposed rule published in the **Federal Register** of Wednesday, July 21, 2004, at 69 FR 43547. This document corrects the title to read as set forth above.

**FOR FURTHER INFORMATION CONTACT:** Catherine Freels, Designated Federal Official, P.O. Box 1430, Albuquerque, NM 87103-1430; phone: (505) 248-7240; e-mail: [cfreels@bia.edu](mailto:cfreels@bia.edu).

#### Correction

The document published Wednesday July 21, 2004, was incorrectly titled, "Home-living Programs and School Closure and Consolidation." The title is corrected to read "Implementation of the No Child Left Behind Act of 2001".

Dated: July 21, 2004.

**Theresa Rosier,**

*Counselor to the Assistant Secretary—Indian Affairs.*

[FR Doc. 04-17071 Filed 7-23-04; 8:45 am]

**BILLING CODE 4310-6W-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 25

**[REG-163679-02]**

**RIN 1545-BB72**

#### Qualified Interests

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** These proposed regulations amend the regulations under the gift tax special valuation rules to provide that a unitrust amount or annuity payable for a specified term of years to the grantor, or to the grantor's estate if the grantor dies prior to the expiration of the term, is a qualified interest for the specified term. The proposed regulations also clarify that the exception treating a spouse's revocable successor interest as a retained qualified interest applies only if the spouse's annuity or unitrust interest, standing alone, would constitute a qualified interest that meets the requirements of § 25.2702-3(d)(3), but for the grantor's revocation power. This document also provides a notice of a public hearing on these proposed regulations.

**DATES:** Written and electronic comments must be received by October 21, 2004. Outlines of topics to be discussed at the public hearing scheduled for October 28, 2004, must be received by October 7, 2004.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-163679-02), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-163679-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG-163679-02). The public hearing will be held in the auditorium, Internal

Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Juli Ro Kim, (202) 622-3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 2702 provides special rules for valuing gifts in trust when the donor or an applicable family member retains an interest in the trust. If the retained interest is not a qualified interest, the retained interest is valued at zero, and the amount of the gift is the entire value of the transferred property. If the retained interest is a qualified interest, the retained interest is valued under section 7520 using prescribed actuarial tables and interest rates, and the amount of the gift is the value of the transferred property reduced by the value of the retained interest. Under section 2702(b), a qualified interest is: (1) An interest that consists of a right to receive fixed amounts payable not less frequently than annually (a qualified annuity interest); (2) an interest that consists of a right to receive amounts that are payable at least annually and are a fixed percentage of the net fair market value of the trust assets determined annually (a qualified unitrust interest); and (3) a right to receive a noncontingent remainder interest if all other interests in the trust are qualified annuity or unitrust interests (a qualified remainder interest). Under § 25.2702-3(d)(3) of the Gift Tax Regulations, the qualified annuity or unitrust interest must be payable, "for the life of the term holder, for a specified term of years, or for the shorter (but not longer) of those periods." Under § 25.2702-2(a)(5) the retention of a power to revoke a qualified annuity interest (or unitrust interest) of the transferor's spouse is treated as the retention of a qualified annuity interest (or unitrust interest).

These qualified interest requirements were the subject of litigation in two cases (described more fully below) before the United States Tax Court and, on appeal in one case, the Ninth Circuit Court of Appeals. These proposed regulations are being issued to clarify the existing regulations with respect to the issues raised in the cases and to revise an example in the regulations that the Tax Court held to be invalid.