

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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-24-01 Corporate Jets Limited (Formerly British Aerospace): Amendment 39-8750. Docket 93-NM-70-AD.

Applicability: Model BAe 125-1000A series airplanes, having serial numbers 258151, 258159, and 259003 through 259027 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing or other damage of the passenger oxygen pipe and a potential fire and/or loss of emergency oxygen for the passengers, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a visual inspection to detect chafing or other damage of the oxygen pipe located next to the nose wheel steering control chain within the left-hand cockpit console and to ensure that a minimum of 0.25 inch clearance exists between the oxygen pipe and the nose wheel steering

control chain, in accordance with Corporate Jets Limited Service Bulletin S.B. 35-36, dated January 7, 1993.

(1) If clearance of 0.25 inch or greater exists, accomplish the requirements of paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) If no chafing or other damage is detected: No further action is required by this AD.

(ii) If any chafing or other damage is detected: Prior to further flight, replace the currently-installed oxygen pipe with a new oxygen pipe, ensure that a minimum clearance of 0.25 inch or greater exists, and repeat the visual inspection in accordance with the service bulletin.

(2) If clearance of less than 0.25 inch exists, accomplish the requirements of paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) If no chafing or other damage is detected: Within 30 days after accomplishing the visual inspection, reposition the oxygen pipe to obtain minimum clearance of at least 0.25 inch and maximum ovality not to exceed 0.03 inch, in accordance with the service bulletin; and if a minimum clearance of 0.25 inch cannot be achieved utilizing the methods described in the service bulletin, reposition in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(ii) If any chafing or other damage is detected: Prior to further flight, replace the currently-installed oxygen pipe with a new oxygen pipe, ensure that minimum clearance of 0.25 inch or greater exists, and repeat the visual inspection 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, Standardization Branch, ANM-113, 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, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections, repositioning, and replacement shall be done in accordance with Corporate Jets Limited Service Bulletin S.B. 35-36, dated January 7, 1993. 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 Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. 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 January 20, 1994.

Issued in Renton, Washington, on November 24, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-29377 Filed 12-20-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-ANE-50; Amdt. 39-8704; AD 93-16-14]

Airworthiness Directives; Hartzell Propeller Inc. HC-(3Y)-(0) Series Three-Bladed Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 93-16-14 that was sent previously to all known U.S. owners and operators of Hartzell Propeller Inc. HC-(3Y)-(0) series three-bladed propellers by individual letters. This AD requires initial and repetitive visual inspections and eddy current inspections for cracks in the area of the grease fitting holes on the side of the propeller hub. This amendment is prompted by propeller hub failure on a propeller that had been visually inspected in accordance with priority letter AD 89-22-05. The actions specified by this AD are intended to prevent propeller hub failure and subsequent propeller blade separation and loss of the aircraft.

DATES: Effective January 5, 1994, to all persons except those persons to whom it was made immediately effective by priority letter AD 93-16-14, issued on August 18, 1993, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 5, 1994.

Comments for inclusion in the Rules Docket must be received on or before February 22, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93-ANE-50, 12 New England Executive Park, Burlington, MA 01803-5299.

The applicable service information may be obtained from Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356-2834; fax (513) 778-4391. This information may be examined at the FAA, New England Region, Office of the

Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, room 232, Des Plaines, IL 60018; telephone (708) 294-7130, fax (708) 294-7834.

SUPPLEMENTARY INFORMATION: On October 20, 1989, the Federal Aviation Administration (FAA) issued priority letter AD 89-22-05, applicable to Hartzell Propeller Inc. HC-(3Y)-() series three-bladed propellers, which requires visual inspection of the propeller hub surface in the area of the grease fittings at intervals of 50 hours time in service (TIS). That action was prompted by reports of propeller hub failures caused by cracks initiating in the grease fitting holes on the side of the hub. These cracks typically originate in the threads of the hub grease fitting, then propagate around the blade arm of the hub, resulting in failure of one hub half. That condition, if not corrected, could result in propeller hub failure and subsequent propeller blade separation and loss of the aircraft.

Since the issuance of that AD, the FAA has received a report from the Civil Aviation Authority (CAA) of Great Britain of a propeller hub failure on a propeller that had been visually inspected in accordance with the current AD. The CAA's investigation revealed that the propeller hub crack had corrosion on the fracture surface that was present for a considerable time but the crack was undetectable by visual inspection. The FAA, in conjunction with the CAA and the manufacturer, has determined that the visual inspection procedure alone is inadequate to reliably find cracks in the propeller hub. On August 18, 1993, the FAA issued priority letter AD 93-16-14, which requires initial and repetitive visual inspections (ECI) for cracks in the area of the grease fitting holes on the side of the propeller hub.

The FAA has reviewed and approved the technical contents of Hartzell Propeller Inc. Service Bulletin (SB) No. 165D, dated August 6, 1993, that describes procedures for visual inspections and ECI for cracks in the area of the grease fitting holes on the side of the propeller hub.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of this same type design, this AD supersedes priority

letter AD 89-22-05, and requires initial and repetitive visual inspections and ECI for cracks in the area of the grease fitting holes on the side of the propeller hub. If a propeller hub is found cracked, the hub must be replaced prior to further flight with a post-1983 later style propeller hub, or with a serviceable 1983 or earlier hub that has been inspected in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993. Affected propeller installations that have experienced failures in service are required to have a repetitive visual inspection and ECI every 25 hours TIS. Other aircraft models utilizing the affected propellers which have not had a failure in service but have similar installation designs and operational characteristics are required to have a repetitive visual inspection and ECI every 50 hours TIS. The FAA has determined that those propeller hubs removed from service in accordance with this AD which are not cracked may not be reinstalled on any aircraft exempt from this AD. Cumulative fatigue damage may have occurred that is not yet detectable. The repetitive inspections required by this AD on affected aircraft installations provides for detecting fatigue damage that grows to a crack.

This AD is an interim action. The FAA may consider future rulemaking that requires installation of a post-1983, later style propeller hubs which have relocated the grease fitting holes near the hub parting line.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on August 18, 1993, to all known U.S. owners and operators of Hartzell Propeller Inc. HC-(3Y)-() series three-bladed propellers. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted

in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-ANE-50." The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-16-14 Hartzell Propeller Inc.:

Amendment 39-8704. Docket 93-ANE-50.

Applicability: Hartzell Propeller Inc. HC-(J)3Y(-) series three-bladed propellers with model designations and serial number ranges listed as follows:

Propeller basic hub model	Propeller serial number range
PHC-C3YF-1R0	EE1 through EE1461.
PHC-J3YF-1R0	FP1 through FP37.
PHC-L3YF-1R0	FD1 through FD7.
HC-C3YF-1R0	EC1 through EC1020.
HC-C3YK-1R0 or HC-C3YR-1R0.	DY1 through DY1897.
HC-C3YK-10	CT1 through CT101.
HC-C3YK-20 or HC-C3YR-20.	CK1 through CK3510.
HC-C3YK-40 or HC-C3YR-40.	EL1 through EL67.
HC-E3YK-10 or HC-E3YR-10.	FM1 through FM487.
HC-E3YK-20 or HC-E3YR-20.	DF1 through DF79.
HC-E3YK-2A0 or HC-E3YR-2A0.	DJ1 through DJ7787.
HC-F3YK-20 or HC-F3YR-20.	DA1 through DA1586.
HC-F3YK-10 or HC-F3YR-10.	DB1 through DB137.
HC-I3YK-20 OR HC-I3YR-20.	FS1 through FS32.

This AD applies to the above affected propellers when installed on any agricultural aircraft with any engine, or installed on any aircraft utilizing Textron Lycoming (L)TIO-540 series piston engines, or IO-540 series piston engines that have a turbocharger added by the airframe manufacturer or have been modified by a Supplemental Type Certificate (STC) to incorporate a turbocharger. The known affected propellers are installed on, but not limited to the following aircraft:

Agricultural Aircraft

Fletcher FU24-950

Cessna A188 Agwagon modified by STC SA895SO

Piper PA-36-300 Pawnee

PA-36 Pawnee modified by STC SA3952WE

Transavia Airtruk Models and PL-12/T-300 Skyfarmer

Aircraft With Textron Lycoming (L)TIO-540 and Turbocharged IO-540 Series Engines

Cessna 310 and 320 modified by Riley STC SA2082WE

Gulfstream 700 (formerly Rockwell 700, Fuji FA-300-12)

Helio H-700

Piper PA-23-250 and PA-E23-250 (with TIO-540 only)

Piper PA-31 Navajo (with TIO-540 only)

Piper PA-31-325 Navajo C/R

Piper PA-31-350 Navajo "Chieftain"

Piper PA-31P-350 Mohave

Piper T-1020 (same as PA-31-350)

Piper PA-32(R)-301T Turbo Saratoga

Piper PA-60-600, PA-60-601, and PA-60-602 Aerostar's all modified by Machen STC (turbocharged)

Piper PA-60-700P Aerostar 700P

Propellers with model designations and serial number ranges listed above and installed on non-agricultural aircraft, which do NOT utilize Textron Lycoming (L)TIO-540 or turbocharged IO-540 series engines are exempt from this AD.

Propellers with post-1983 hub configurations, i.e., which have the relocated grease fitting holes near the hub parting line as shown in Figure 1, page 8, of Hartzell Propeller, Inc., Service Bulletin (SB) No. 165D, dated August 6, 1993, even though the propeller model and serial number are listed above, are exempt from this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller hub failure due to cracks that originate in the grease fitting holes on the side of the hub, which could result in propeller blade separation and loss of the aircraft, accomplish the following:

(a) For propellers installed on Textron Lycoming (L)TIO-540 series piston engines or turbocharged IO-540 series piston engines which are installed on Piper PA-31-325 Navajo C/R, PA-31-350 Navajo "Chieftain," T-1020 (same as PA-31-350), PA-60-700P, Aerostar 700P aircraft, or propellers installed on any agricultural aircraft with any engine, accomplish the following:

(1) Within 25 hours time in service (TIS) after the effective date of this AD, and thereafter at intervals of 25 hours TIS, perform a visual inspection and eddy current inspection (ECI) for cracks in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993.

(2) If a crack is found in a propeller hub during the inspections required in paragraph (a)(1) of this AD, replace the hub prior to further flight with a post-1983 later style propeller hub, or with a serviceable 1983 or earlier hub that has been inspected in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993. Thereafter, perform a visual inspection and ECI for cracks in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993, at

intervals not to exceed 25 hours TIS since the last inspection, unless a post-1983 later style propeller hub is installed, per paragraph (d) of this AD.

(b) For propellers installed on all other aircraft models, except for the four non-agricultural models listed in paragraph (a) of this AD, and that utilize Textron Lycoming (L)TIO-540 or turbocharged IO-540 series piston engines accomplish the following:

(1) Within 50 hours TIS after the effective date of this AD, and thereafter at intervals of 50 hours TIS, perform a visual inspection and ECI for cracks in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993.

(2) If a crack is found in a propeller hub during the inspections required in paragraph (b)(1) of this AD, replace the hub prior to further flight with a post-1983 later style propeller hub, or with a serviceable 1983 or earlier hub that has been inspected in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993. Thereafter, perform a visual inspection and ECI for cracks in accordance with Hartzell Propeller Inc. SB No. 165D, dated August 6, 1993, at intervals not to exceed 50 hours TIS since the last inspection, unless a post-1983 later style propeller hub is installed, per paragraph (d) of this AD.

(c) Propeller hubs that are 1983 or earlier, with the grease fitting holes located on the side of the hub, that have been removed from service cannot be returned to service on aircraft that are exempt from this AD.

(d) Installation of post-1983 later style propeller hubs that have relocated grease fitting holes near the hub parting line constitutes terminating action to the inspection requirements of this AD.

(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, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The inspections, and replacement, if necessary, shall be done in accordance with the following Hartzell Propeller Inc. service bulletin:

Document No.	Pages	Date
165D	1-8	August 6, 1993.
Total pages: 8..		

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 Hartzell Propeller Inc., One Propeller Place, Piqua, OH 45356-2834; fax (513) 778-

4391. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This action supersedes priority letter AD 89-22-05, issued October 20, 1989.

(i) This amendment becomes effective January 5, 1994, to all persons except those persons to whom it was made immediately effective by priority letter AD 93-16-14, issued August 18, 1993, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on November 22, 1993.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-29374 Filed 12-20-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-NM-101-AD; Amdt. 39-8754; AD 93-24-05]

Airworthiness Directives; British Aerospace Model BAe 146-100A, -200A, and -300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes, that requires replacing the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves. This amendment is prompted by a fire resistance test of the hydraulic EDP, associated hoses, and couplings installed on the number 2 and number 3 engines, which revealed that the pump case drain line quick release couplings leaked hydraulic fluid. The actions specified by this AD are intended to prevent hydraulic fluid leaking from the pump case drain line quick release coupling, which could fuel the flames in the event of an engine fire.

DATES: Effective January 20, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 20, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport,

Washington, DC 20041-0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146-100A, -200A, and -300A series airplanes was published in the Federal Register on August 9, 1993 (58 FR 42259). That action proposed to require replacing the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 46 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is \$55 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$7,590, or \$165 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-24-05 British Aerospace: Amendment 39-8754. Docket 93-NM-101-AD.

Applicability: Model BAe 146-100A, -200A, and -300A series airplanes; serial numbers E3001 through E3207 inclusive, E3209 through E3220 inclusive, and E3222; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent hydraulic fluid leaking from the pump case drain line quick release couplings, which could fuel the flames in the event of an engine fire, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace the quick release coupling halves on each end of the pump case drain line on the hydraulic engine driven pump (EDP) on the number 2 and number 3 engines with improved fire resistant coupling halves, in accordance with British Aerospace Service Bulletin SB.29-31-01339A, dated May 24, 1993.

(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, Standardization Branch, ANM-113, 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, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with British Aerospace Service Bulletin SB.29-31-01339A, dated May 24, 1993. (Note: The issue date of British Aerospace Service Bulletin SB.29-31-01339A is indicated only on "page 1 of 11"; no other page of this document is dated.) 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. 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 January 20, 1994.

Issued in Renton, Washington, on November 29, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-29581 Filed 12-20-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-NM-100-AD; Amdt. 39-8753; AD 93-24-04]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Fokker Model F28 Mark 0100 series airplanes, that requires installation of a doubler assembly on the forward partial pressure bulkhead. This amendment is prompted by fatigue testing in which cracking was found in the area of the avionics cooling outlet valve fitting. The actions specified by this AD are intended to prevent cracking and subsequent reduced structural capability of the partial pressure

bulkhead, which could result in decompression of the airplane.

DATES: Effective January 20, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 20, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Fokker Model F28 Mark 0100 series airplanes was published in the *Federal Register* on August 18, 1993 (58 FR 43303). That action proposed to require installation of a doubler assembly on the forward partial pressure bulkhead.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

All commenters support the proposal. Since issuance of the notice, the FAA has been advised that Fokker has issued Revision 1 to Service Bulletin SBF100-53-052, dated June 7, 1993. This revision was issued to correctly identify which installation procedures are applicable to the different configurations of affected airplanes. The FAA has revised the final rule to refer to this corrected version of the applicable service bulletin.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 17 airplanes of U.S. registry will be affected by this proposed AD, that it will take

approximately 13 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Required parts will cost approximately \$2,000 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$46,155, or \$2,715 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD action.

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 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-24-04 Fokker: Amendment 39-8753. Docket 93-NM-100-AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 to 11286 inclusive, 11289, 11291, 11292, 11293, 11295, 11297, 11300, 11303, 11306, and 11308; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking and reduced structural capability of the forward partial pressure bulkhead and subsequent decompression of the airplane, accomplish the following:

(a) Prior to the accumulation of 15,000 total flight cycles, or within 3 months after the effective date of this AD, whichever occurs later, install a doubler assembly on the forward partial pressure bulkhead in accordance with Fokker 100 Service Bulletin SBF100-53-052, Revision 1, dated June 7, 1993.

Note: Operators who have accomplished the appropriate installation in accordance with the originally issued Fokker Service Bulletin SBF100-53-052, dated January 17, 1992, are considered to be in compliance with this paragraph.

(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, Standardization Branch, ANM-113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The installation shall be done in accordance with Fokker Service Bulletin SBF100-53-052, Revision 1, dated June 7, 1993, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1-2, 8, 11-13.	1	June 7, 1993.
3-7, 9-10.	Original	Jan. 17, 1992.

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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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 January 20, 1994.

Issued in Renton, Washington, on November 29, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-29580 Filed 12-20-93; 8:45 am]

BILLING CODE 4910-13-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-7035]

RIN 3235-AC65

Method of Determining Holding Period of Restricted Securities Under Rule 144; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final rules adopted in Release No. 33-6862 (April 23, 1990), which were published in the *Federal Register* on Monday, April 30, 1990 (55 FR 17933). The rules relate to the determination of the holding period prior to sale of restricted securities pursuant to Rule 144.

EFFECTIVE DATE: December 21, 1993.

FOR FURTHER INFORMATION CONTACT: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance at (202) 272-2589.

SUPPLEMENTARY INFORMATION: In connection with the adoption of rules and amendments relating to the resale of restricted securities, on April 23, 1990, the Commission adopted amendments to Rule 144(d),¹ which defines the holding period for restricted securities.² Because of inaccuracy in the amendatory language within the adopting release, three paragraphs that were to be retained in the final rule inadvertently were removed and do not now appear in the Code of Federal Regulations. This correction restores paragraphs (2)(i), (2)(ii) and (2)(iii) to paragraph (d) of Rule 144, to read as originally intended.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

¹ 17 CFR 230.144(d).

² See Release No. 33-6862.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Accordingly, 17 CFR part 230 is corrected by making the following correcting amendments:

1. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78l, 78m, 78n, 78o, 78w, 78j(d), 79t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

2. In § 230.144, add paragraphs (2)(i), (2)(ii), and (2)(iii) following the colon in the introductory text of paragraph (d)(2), to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

Preliminary Note

- (d) * * *
- (1) * * *
- (2) *Promissory notes, other obligations or installment contracts.* * * *
- (i) Provides for full recourse against the purchaser of the securities;
- (ii) Is secured by collateral, other than the securities purchased, having a fair market value at least equal to the purchase price of the securities purchased; and
- (iii) Shall have been discharged by payment in full prior to the sale of the securities.

* * *

Dated: December 15, 1993.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-31016 Filed 12-20-93; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 123

RIN 1515-AB31

[T.D. 93-86]

Reporting Requirements for Vessels, Vehicles, and Individuals

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement certain provisions of the Customs Enforcement Act of 1986, a part of the Anti-Drug Abuse Act of 1986, designed to strengthen Federal efforts to improve the enforcement of Federal drug laws

and enhance the interdiction of illicit drug shipments. These regulatory changes pertain to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals, and inform the public regarding applicable penalty, seizure, and forfeiture provisions for violation of these requirements.

EFFECTIVE DATE: January 20, 1994.

FOR FURTHER INFORMATION CONTACT: (Operational matters) Joe O'Gorman, Office of Passenger Enforcement and Facilitation (202) 927-0530; (Legal matters) Larry L. Burton, Carrier Rulings Branch (202) 482-6940, or (Penalty matters) Jeremy Baskin, Penalties Branch (202) 482-6950.

SUPPLEMENTARY INFORMATION:

Background

In 1986, Congress enacted the Anti-Drug Abuse Act of 1986 (21 U.S.C. 801 note) to, among other things, strengthen Federal efforts to improve the enforcement of Federal drug laws and enhance the interdiction of illicit drug shipments. Comprising part of this legislation was the Customs Enforcement Act of 1986 (19 U.S.C. 1654 note) (the Act), which amended certain provisions of the Tariff Act of 1930, codified in title 19 of the U.S. Code, relating to arrival, entry, and departure reporting requirements applicable to individuals, vessels, and vehicles, and the penalty, seizure and forfeiture provisions applicable for violation of these requirements.

Section 433, Tariff Act of 1930, as amended (19 U.S.C. 1433), relating to the reporting requirements applicable to conveyances, was amended to provide that masters of vessels, operators of vehicles, and pilots of aircraft must immediately report their arrival at a designated Customs facility and remain there until granted permission to depart from the arrival point. It was also amended regarding the discharge of passengers and/or merchandise (including baggage) and provides that these activities can only be accomplished in accordance with regulations prescribed by the Secretary of the Treasury. Further regarding conveyance reporting requirements, the Act amended section 401(k), Tariff Act of 1930, as amended (19 U.S.C. 1401(k)), to clarify that a vessel arriving in the U.S. after having visited a hovering vessel or receiving any merchandise from outside the territorial waters of the United States will be treated as if it is arriving from a foreign port or place, and added section 401(m) (19 U.S.C. 1401(m)), which provides, in general, that controlled substances imported into

the United States are considered prohibited merchandise.

Section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), also relating to reporting requirements, was amended to provide that individuals arriving in the U.S. by whatever means must immediately report their arrival at a designated Customs facility and remain there until granted permission to depart from the arrival point. This change extends the reporting requirements applicable to individuals; formerly only persons importing or bringing merchandise into the country from a contiguous country were required to report to the port of entry or customs house nearest the point where they crossed the border. It also places a reporting obligation on individuals arriving by conveyances in addition to the reporting obligation imposed on a ship's master, vehicle operator, or aircraft pilot.

Sections 436, 454, and 459, Tariff Act of 1930, as amended (19 U.S.C. 1436, 1454, and 1459), relating to the penalty provisions applicable for violations of the reporting requirements, were amended to provide for greater penalties.

The regulations implementing border-crossing reporting requirements and applicable penalty provisions are primarily found at part 4, Customs Regulations (19 CFR part 4), however, certain reporting requirements and penalty provisions are also contained in part 123, Customs Regulations (19 CFR part 123).

On November 3, 1988, Customs published a Proposed Rule in the *Federal Register* (53 FR 44459) that proposed certain amendments and revisions to sections in parts 4, 101, 123 and 148 of the Customs Regulations and solicited comments in this regard. To effect the regulatory amendments regarding the reporting requirements applicable to conveyances, it was proposed to amend or revise §§ 4.0, 4.2, 4.2a, 4.3, 4.6, 4.9, 4.30, 4.50, 4.81, 4.84, 4.85, 4.87, 4.91, and 4.94, Customs Regulations (19 CFR 4.0, 4.2, 4.2a, 4.3, 4.6, 4.9, 4.30, 4.50, 4.81, 4.84, 4.85, 4.87, 4.91, and 4.94) and to revise § 123.1 (19 CFR 123.1) to make clear the vessel master's obligation to report arrival immediately and to present such documentation to Customs officers as may be required to establish the obligation to report arrival and/or the fact of reported arrival into the United States of the vessel and any cargo, passengers, and/or crew from foreign ports and/or places.

To effect the regulatory amendments regarding reporting requirements applicable to individuals, it was

proposed to add a new § 4.51 and to revise § 123.1 (19 CFR 123.1) to make clear an individual's separate obligation to report arrival immediately, no matter how the individual arrived in the United States.

To effect the regulatory amendments regarding the penalty provisions, it was proposed to amend or revise §§ 4.6 and 4.9 (19 CFR 4.6 and 4.9), to add new §§ 4.3a and 4.52, and to amend or revise §§ 123.1, 123.2, and 123.9 (19 CFR 123.1, 123.2, and 123.9) to reflect the greater penalty provisions for violations of these reporting requirements.

Fourteen comments were received. The comments received, and Customs responses to them, are set forth below.

Comment Analysis

The fourteen comments received raised four areas of concern: (1) Whether district directors would be provided with additional discretionary authority to establish border-crossing points at places other than designated Customs ports of entry or stations; (2) the severity of the imprisonment penalties for violation of reporting requirements; (3) the imposition of advance reporting requirements concerning aircraft on short flights; and (4) the time-frame embraced by the term "immediately" in reporting to designated border-crossing points. We address these concerns in turn.

Comment: Most of the comments concerned the changes to § 123.1, Customs Regulations (19 CFR 123.1), relating to the reporting requirements at designated border-crossing points on the Canadian and Mexican borders. These commenters suggested that, in order to avoid needless hardships in the form of adversely affecting the daily operations of remote border-crossing enterprises, discretionary authority should be given to district directors to designate authorized border-crossing points in addition to designated ports of entry and border stations. In this regard, some commenters referenced a 1949 fire control compact between several northeastern states and the Canadian province of Quebec that provides for firefighters from both countries to combat border fires, and they suggested that such mutually beneficial arrangements should be allowed to continue without regard to reporting requirements.

Customs Response: These comments appear to relate to the statutory and proposed regulatory use of the phrase "border-crossing points" and seem to be premised on the assumption that because the statute employed the phrase "border-crossing points" to describe where the reporting must occur, instead

of using the more familiar terms "ports of entry" and "customs stations", Congress must have intended to create a third category of customs facility or location, namely "border-crossing points," that are distinguishable from ports of entry and Customs stations.

Customs does not agree with this reading of the statutory language, but rather believes that, by employing the term "border-crossing points", Congress was merely referring to the types of designated Customs locations and facilities that already exist under part 101, Customs Regulations (19 CFR part 101); there is no evidence to suggest that the phrase is used to connote or imply that a new type of Customs facility was intended to be created. Moreover, as regards the underlying concern motivating these comments, § 101.4(d) of the Customs Regulations specifically authorizes designation of Customs stations for a temporary time to provide Customs facilities where needed, which allows Customs to establish such other border-crossing points as may be required. Accordingly, such temporary operations as are provided for under the referenced fire control compact will not be adversely affected by implementation of these reporting requirements, as local district directors presently have the authority to allow border crossings for such activities. As the concern expressed is adequately provided for in the Customs Regulations already, it appears unnecessary to cede additional discretionary authority to the district director.

Comment: A few comments expressed concern over the severity of the increased penalties provided for by the amendments. One commenter stated that the addition of § 4.3a to the Customs Regulations, relating to vessel entry violation penalties and providing for imprisonment—in addition to financial penalties—in cases where prohibited merchandise is discovered on board the ship, leaves masters without means of protection because modern cargo loading practices do not leave the master with total control over what is taken aboard his/her ship. Accordingly, it was recommended that the imprisonment penalty should not be imposed in cases where intent cannot be proved.

Customs Response: The proposed penalty provisions are those as set forth by Congress in the Act. Customs cannot change the fine amounts or imprisonment sanctions prescribed by Congress where enforcement is by criminal prosecution. Where enforcement is by civil penalty, however, situations warranting consideration of mitigating (or

aggravating) circumstances will be handled on a case-by-case basis, pursuant to the provisions of 19 U.S.C. 1618 and 19 CFR part 171.

It should be noted that, notwithstanding the specific civil and criminal penalty provisions provided for by the Act, other civil and criminal penalty provisions may be applicable. Thus, to eliminate the need to amend the regulations should the statutory penalty amounts be increased or decreased, the regulatory text has been revised by replacing specific civil and criminal penalty amounts with references to the applicable underlying statutory provision.

Comment: One commenter expressed concern about the imposition of a "one-hour passenger rule" advance reporting requirement on aircraft engaged in short flights from remote places in Canada that do not have available reliable means for the giving of advance notice.

Customs Response: This comment addresses reporting requirements contained in the air commerce regulations, part 122 of the Customs Regulations, 19 CFR part 122, which are not the subject matter of this final rule.

Comment: Several commenters voiced concern over how the term "immediate" would be interpreted regarding the reporting obligations for vehicles, vessels and/or individuals. It was suggested that the word should not be interpreted to mean the instant a vessel came to rest, as an overly strict requirement would be untenable.

Customs Response: The Act requires that reports of arrival be made to Customs "immediately." Thus, bearing in mind the purpose of the Anti-Drug Abuse Act of 1986, a reasonable interpretation of the term "immediately", within the context of reporting arrival into the U.S., would mean that such reporting should be accomplished as soon as possible and without undue delay, especially in the case of individual reporting obligations. This interpretation is based, in part, on the provision in Section 433 pertaining to time extensions for vessel reporting: Although the Secretary of the Treasury may, by regulation, extend the time in which reports of arrival must be made for vessel reporting, no extension of time greater than 24 hours after arrival is authorized. No such time extension provisions are provided for vehicles or individuals. Thus, an as-soon-as-possible/without-undue-delay standard is deemed reasonable for purposes of interpreting this statutory requirement.

Conclusion

Accordingly, as no material issues were raised that are not adequately

addressed by existing regulations or by reasonable interpretations of the proposed regulations, Customs has decided to finalize the amendments as proposed, with minor editorial changes, such as substituting the word "phrase" in this Final Rule for the word "term" where more than one word was referenced. Also certain superseded legal requirements have been deleted, such as references to vessels of less than 5 net tons. In part 4, the editorial changes include the removal of certain footnotes that merely set forth statutory text implemented by the regulation, and end-of-section references to statutory authority already denoted in the general authority table at the beginning of the part, e.g., the statutory authority reference at the end of § 4.94(e). Also in part 4, footnotes that merely cross reference other Customs Regulation provisions are deleted, but the text of the section is revised to include the cross reference, e.g., footnote 16b to § 4.7(d)(1)(ii) merely cross references § 4.14(a)(1), thus, the footnote is deleted and the text is revised to carry the cross reference. Lastly concerning part 4, we are taking this opportunity to revise certain authority citations, incorrectly citing to 46 U.S.C., and to add authority citations for new section provisions, i.e., §§ 4.3a, 4.51, and 4.52. In part 123, there is no longer an arrival reporting difference based upon whether vessels are less than or over 5 net tons or arrive otherwise than by sea. This is because 19 U.S.C. 1433 embodies the report of arrival requirements for all vessels and makes no distinction as to size. In regard to the proposed general authority citation changes to parts 101 and 148, they are no longer necessary, as they were accomplished in other published documents.

The Regulatory Flexibility Act and Executive Order 12866

For the reasons set forth in the preamble and because the main reporting imposition falls on individuals and vessels and vehicles operated by individuals, rather than on small entities as defined at 5 U.S.C. 601(6), pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant impact on a substantial number of small entities. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 604. Further, this document is not a "significant regulatory action," as defined in E.O. 12866.

Paperwork Reduction Act

The collection of information in this final regulation, as provided for under § 24.5(f), has been reviewed by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act, 44 U.S.C. 3507, and approved, through November of 1996, under control number 1515-0203. The estimated annual burden per respondent/recordkeeper is 1 minute. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Drafting Information

The principal author of this document was Gregory R. Vilders, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects**19 CFR Part 4**

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Harbors, Imports, Maritime carriers, Merchandise, Passenger Vessels, Reporting and recordkeeping requirements, Seamen, Vessels, Yachts.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, Imports, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

For the reasons stated above, title 19, chapter I, parts 4 and 123 of the Customs Regulations (19 CFR parts 4 and 123) are amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 is amended by adding citations for §§ 4.3a, 4.51, and 4.52 and revising the other citations listed below as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3.

Section 4.2 also issued under 19 U.S.C. 1433, 1441, 1486;

Section 4.3 also issued under 19 U.S.C. 288, 289, 1434-1436, 1441; 46 U.S.C. App. 91a; 110-112;

Section 4.3a also issued under 19 U.S.C. 1433, 1436;

Section 4.6 also issued under 19 U.S.C. 1585;

Section 4.7 also issued under 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583; 46 U.S.C. App. 883a, 883b;

Section 4.9 also issued under 19 U.S.C. 1434, 1435, 1438; 42 U.S.C. 269; 46 U.S.C. App. 677;

Section 4.30 also issued under 19 U.S.C. 288, 1433, 1446, 1448, 1450-1454, 1490;

Section 4.50 also issued under 19 U.S.C. 1431; 46 U.S.C. 3502;

Section 4.51 also issued under 19 U.S.C. 1433;

Section 4.52 also issued under 19 U.S.C. 1433;

Section 4.81 also issued under 19 U.S.C. 1433, 1439, 1442, 1443, 1444, 1486; 46 U.S.C. App. 251, 313, 314, 883;

Section 4.84 also issued under 19 U.S.C. 1433, 1435, 1437; 46 U.S.C. App. 91, 313, 314, 883-1;

Section 4.85 also issued under 19 U.S.C. 1439, 1442, 1443, 1444, 1623;

Section 4.94 also issued under 19 U.S.C. 1433, 1434, 1435, 1441; 46 U.S.C. App. 91, 104, 313, 314;

2. Part 4 is amended by removing and reserving footnotes 4, 5, 7, 8, 8a, 9, 10, 11, 13, 14, 15, 16a, 16b, 19, 20, 23, 65, 72, 79, 91, 95, and 98.

3. Section 4.0 is amended by adding paragraph headings to paragraphs (a)-(e) and by adding paragraphs (f) and (g) to read as follows:

§ 4.0 General definitions.

(a) *Vessel*. * * *

(b) *Vessel of the United States*. * * *

(c) *Documented*. * * *

(d) *Noncontiguous territory of the United States*. * * *

(e) *Citizen*. * * *

(f) *Arrival of a vessel*. The phrase "arrival of a vessel" means that time when the vessel first comes to rest, whether at anchor or at a dock, in any harbor within the Customs territory of the U.S.

(g) *Departure of a vessel*. The phrase "departure of a vessel" means that time when the vessel gets under way on its outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which it is going.

4. Section 4.2 is revised to read as follows:

§ 4.2 Reports of arrival of vessels.

(a) Upon arrival in any port or place within the U.S., including, for purposes

of this section, the U.S. Virgin Islands, of any vessel from a foreign port or place, any foreign vessel from a port or place within the U.S., or any vessel of the U.S. carrying bonded merchandise or foreign merchandise for which entry has not been made, the master of the vessel shall immediately report that arrival to the nearest Customs facility or other location designated by the district director. The report of arrival, except as prescribed in § 4.2a of this part, or as supplemented in local instructions issued by the district director and made available to interested parties by posting in Customs offices, publication in a newspaper of general circulation, and other appropriate means, shall be made by any means of communication to the district director or to a Customs officer assigned to board the vessel. The Customs officer may require the production of any documents or papers deemed necessary for the proper inspection/examination of the vessel, cargo, passenger, or crew.

(b) For purposes of this part, "foreign port or place" includes a hovering vessel, as defined in 19 U.S.C. 1401(k), and any point in Customs waters beyond the territorial sea or on the high seas at which a vessel arriving in a port or place in the U.S. has received merchandise.

(c) In the case of certain vessels arriving either in distress or for the limited purpose of taking on certain supplies and departing within a 24-hour time period without having landed or taken on any passengers or other merchandise (see section 441(4), Tariff Act of 1930, as amended), the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute, except that the report need not be under oath. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival.

(d) The report of baggage and merchandise required to be made by certain passenger vessels making three or more trips a week between U.S. and foreign ports and vessels used exclusively as ferryboats carrying passengers, baggage, or merchandise (see section 441(2), Tariff Act of 1930, as amended), is in addition to the required report of arrival, and shall be made within 24 hours of arrival.

5. Section 4.2a(b) is amended by removing paragraph (b)(1) and redesignating paragraphs (b) (2) and (3) as (b) (1) and (2) respectively.

6. Section 4.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 4.3 Vessels required to enter.

(a) Except as specified in section 441, Tariff Act of 1930, as amended, or as otherwise specified in this part, every American vessel arriving in the U.S. from a foreign port or place and every foreign vessel arriving at a port in the U.S. from another such port or from a foreign port or place shall make entry at the customs house within 48 hours after arrival of a vessel, in accordance with § 4.9.

(b) For the purposes of the vessel entry requirement in this section and § 4.9, a "foreign port or place" includes a hovering vessel, as defined in 19 U.S.C. 1401(k), and any point in the Customs waters beyond the territorial sea or on the high seas at which a vessel arriving in a port or place in the U.S. has received merchandise, or a vessel on the high seas when the vessel arriving in the U.S. is returning from that vessel on the high seas after having transported merchandise out of the U.S. to the vessel on the high seas and there transshipped the merchandise to that vessel.

* * * * *

7. Part 4 is amended by adding § 4.3a to read as follows:

§ 4.3a Penalties for violation of vessel reporting and entry requirements.

Violation of the arrival or entry reporting requirements provided for in this part may result in the master being liable for certain civil and criminal penalties, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law. The penalties include civil monetary penalties for failure to report arrival or make entry, and any conveyance used in connection with any such violation is subject to seizure and forfeiture. Further, if any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is involved in the failure to report arrival or entry, additional penalties equal to the value of merchandise may be imposed, and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. The criminal penalties, applicable upon conviction, include fines and imprisonment if the master intentionally commits any violation of these reporting and entry requirements or if prohibited merchandise is involved in the failure to report arrival or make entry.

8. Section 4.6 is revised to read as follows:

§ 4.6 Departure or unloading before report or entry.

(a) No vessel which has arrived within the limits of any Customs district from a foreign port or place shall depart or attempt to depart, except from stress of weather or other necessity, without reporting and making entry as required in this part. These requirements shall not apply to vessels merely passing through waters within the limits of a Customs district in the ordinary course of a voyage.

(b) The "limits of any Customs district" as used herein are those defined in §§ 101.1(b) and 101.3(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries.

(c) Violation of this provision may result in the master being liable for certain civil penalties and the vessel to arrest and forfeiture, as provided under 19 U.S.C. 1585, in addition to other penalties applicable under other provisions of law.

9. Section 4.9 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 4.9 Formal entry.

(a) Section 4.3 provides which vessels are subject to formal entry and which are exempt from formal entry requirements. The formal entry of an American vessel from a foreign port or place (see § 4.3(b) of this part) shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434). The term "American vessel" means a vessel of the United States (see § 4.0(b)), as well as, when arriving by sea, a vessel entitled to be documented except for its size (see § 4.0(c) of this part). The formal entry of a foreign vessel arriving within the limits of any Customs district shall be in accordance with section 435, Tariff Act of 1930 (19 U.S.C. 1435). The required oath on entry shall be executed on Customs Form 1300.

* * * * *

(f) Any master who fails to make entry as required by this section or who presents any document required by this section which is forged, altered, or false, may be liable for certain civil penalties, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law. Further, any vessel used in connection with any such violation is subject to seizure and forfeiture.

10. Section 4.30(a) is revised to read as follows:

§ 4.30 Permits and special licenses for unloading and lading.

(a) Except as prescribed in paragraph (f), (g), or (k) of this section or in § 123.8 of this chapter, and except in the case of a vessel exempt from entry or clearance under 19 U.S.C. 288, no passengers, cargo, baggage, or other article shall be unladen from a vessel which arrives directly or indirectly from any port or place outside the Customs territory of the U.S., including the adjacent waters (see § 4.6 of this part), or from a vessel which transits the Panama Canal and no cargo, baggage, or other article shall be laden on a vessel destined to a port or place outside the Customs territory of the U.S., including the adjacent waters (see § 4.6 of this part) if Customs supervision of such lading is required, until the district director shall have issued a permit or special license therefore on Customs Form 3171.

* * * * *

11. Section 4.50(a) is revised to read as follows:

§ 4.50 Passenger lists.

(a) The master of every vessel arriving at a port of the United States from a port or place outside the Customs territory, (see § 4.6 of this part) and required to make entry, except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connections or tributary waters, shall submit passenger and crew lists, as required by § 4.7(a) of this part. If the vessel is arriving from noncontiguous foreign territory and is carrying steerage passengers, the additional information respecting such passengers required by Customs and Immigration Form I-418 shall be included therein.

* * * * *

12. Part 4 is amended by adding § 4.51 under the heading "Passengers on Vessels" to read as follows:

§ 4.51 Reporting requirements for individuals arriving by vessel.

(a) *Arrival of vessel reported.* Individuals on vessels, which have reported their arrival to Customs in accordance with 19 U.S.C. 1433 and § 4.2 of this part, shall remain on board until authorized by Customs to depart. Upon departing the vessel, such individuals shall immediately report to a designated Customs location together with all of their accompanying articles.

(b) *Arrival of vessel not reported.* Individuals on vessels, which have not reported their arrival to Customs in accordance with 19 U.S.C. 1433 and § 4.2 of this part, shall immediately notify Customs and report their arrival together with appropriate information

regarding the vessel, and shall present themselves and their accompanying articles at a designated Customs location.

(c) *Departure from designated Customs location.* Individuals required to report to designated Customs locations under this section shall not depart from such locations until authorized to do so by any appropriate Customs officer.

13. Part 4 is amended by adding § 4.52 under the heading "Passengers on Vessels" to read as follows:

§ 4.52 Penalties applicable to individuals.

Individuals violating any of the reporting requirements of § 4.51 of this part or who present any forged, altered, or false document or paper to Customs in connection with this section, may be liable for certain civil penalties, as provided under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law. Further, if the violation of these reporting requirements is intentional, upon conviction, additional criminal penalties may be applicable, as provided by under 18 U.S.C. 1459, in addition to other penalties applicable under other provisions of law.

§ 4.81 [Amended]

14. Section 4.81 is amended by removing the phrase "within 24 hours" wherever it appears in paragraphs (e), (g)(1), and (g)(2) and adding, in its place, the phrase "immediately upon arrival".

§ 4.84 [Amended]

15. Section 4.84 is amended by removing the phrase "report its arrival within 24 hours" wherever it appears in paragraphs (b) and (d) and adding, in its place, the phrase "immediately report its arrival".

§ 4.85 [Amended]

16. Section 4.85 is amended by removing the phrase "report arrival and make entry within 24 hours" wherever it appears in paragraph (c) and adding, in its place, the phrase "immediately report its arrival and make entry within 48 hours".

§ 4.87 [Amended]

17. Section 4.87 is amended by removing the phrase "shall report arrival within 24 hours" in paragraph (d) and adding, in its place, the phrase "shall immediately report arrival".

§ 4.91 [Amended]

18. Section 4.91 is amended by removing the phrase "report arrival within 24 hours" wherever it appears in paragraph (b) and adding, in its place, the phrase "immediately report arrival".

19.-20. Section 4.94(a) and the last sentence of § 4.94(c) are revised to read as follows:

§ 4.94 Yacht privileges and obligations.

(a) Any documented vessel with a pleasure license endorsement, as well as any undocumented American pleasure vessel, shall be used exclusively for pleasure and shall not transport merchandise nor carry passengers for pay. Such a vessel which is not engaged in any trade nor in any way violating the Customs or navigation laws of the U.S. may proceed from port to port in the U.S. or to foreign ports without clearing and is not subject to entry upon its arrival in a port of the U.S., provided it has not visited a hovering vessel, received merchandise while in the customs waters beyond the territorial sea, or received merchandise while on the high seas. Such a vessel shall immediately report arrival to Customs when arriving in any port or place within the U.S., including the U.S. Virgin Islands, from a foreign port or place.

(c) * * * Upon the vessel's arrival at any port or place within the U.S. or the U.S. Virgin Islands, the master shall comply with 19 U.S.C. 1433 by immediately reporting arrival at the nearest Customs facility or other place designated by the district director. Individuals shall remain on board until directed otherwise by the appropriate Customs officer, as provided in 19 U.S.C. 1459.

21. Section 4.94(d) is amended by removing the words "made within 24 hours, exclusive of any day on which the customhouse is not open for marine business," in the last sentence of the second paragraph of the cruising license form and substituting the words "immediately made."

22. The statutory citations in parenthesis following § 4.94(e) are removed.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The authority citation for part 123 is amended, in part, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1433, 1624, unless otherwise noted.

2. Section 123.0 is amended by revising the last sentence to read as follows:

§ 123.0 Scope.

* * * The arrival of all vessels from, and clearance of all vessels departing

for, Canada or Mexico are governed by the provisions of part 4 of this chapter.

3. Section 123.1 is revised to read as follows:

§ 123.1 Report of arrival from Canada or Mexico and permission to proceed.

(a) *Individuals.* Individuals arriving in the United States must report their arrival to Customs, and failure to report arrival may result in the individual being liable for certain civil and criminal penalties, as provided under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law. The specific reporting requirements are as follows:

(1) *Individuals not arriving by conveyance.* Persons arriving otherwise than by conveyance may enter the U.S. only at those locations specified by the appropriate district director, and shall then immediately report their arrival to Customs. Such persons shall not depart from the Customs port or station until authorized to do so by the appropriate Customs officer.

(2) *Persons arriving aboard a conveyance that reported its arrival.* Persons aboard a conveyance the arrival of which has been reported to Customs at locations specified by the appropriate district director in accordance with sections 1433 or 1644 of title 19, United States Code (19 U.S.C. 1433, 1644), or section 1509 of title 49, United States Code App. (49 U.S.C. App. 1509), shall remain on board until authorized by Customs to depart, and shall then immediately report to the designated Customs facility together with all articles accompanying them.

(3) *Persons arriving aboard a conveyance that has not reported its arrival.* Persons aboard a conveyance the arrival of which has not been reported in accordance with the laws referred to in paragraph (a)(2) of this section, shall immediately notify a Customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, at a location or locations specified by the appropriate district director and shall present themselves and their property for Customs inspection and examination.

(b) *Vehicles.* Vehicles may arrive in the U.S. only at a designated port of entry (see § 101.3 of this chapter) or Customs station if the district director of the district in which the station is located authorizes entry at that station (see § 101.4 of this chapter). The person in charge of any such vehicle shall, immediately upon arrival of the vehicle in the U.S., report the arrival to Customs. No vehicle shall, after arriving in the U.S., depart or discharge any

passenger or merchandise (including baggage) without authorization by the appropriate Customs officer.

(c) *Vessels.* For report of arrival requirements applicable to all vessels, regardless of tonnage, and arriving from any location, see §§ 4.2 and 4.2a of this chapter.

(d) *Method of reporting.* Report of arrival under paragraphs (a), (b), and (c) of this section shall be made in person unless the appropriate district director, by local instructions, requires that it be made by some other specific means. Such local instructions issued by the district director will be made available to interested parties by posting in Customs offices, publication in a newspaper of general circulation in the Customs district that supervises the location, and/or other appropriate means.

4. Section 123.2 is revised to read as follows:

§ 123.2 Penalty for failure to report arrival or for proceeding without a permit.

(a) *Persons.* Any person arriving otherwise than by conveyance who enters the U.S. at other than a designated port of entry, or Customs station if authorization exists for entry at that station, who fails to report arrival as required in § 123.1(a) of this part, or who departs from the port of entry or Customs station without authorization by the appropriate Customs officer, whether or not intentionally, shall be subject to such civil and criminal penalties as are prescribed under 19 U.S.C. 1459 and provided for in § 123.1 of this part.

(b) *Vessels.* The penalty provisions applicable to vessels for failure to report arrival or for proceeding without a permit are those as provided in § 4.3a.

(c) *Vehicles.* (1) *Civil penalties.* The person in charge of any vehicle who—

(i) Enters the vehicle into the U.S. at other than a designated port of entry, or Customs station if authorization exists for entry at that station;

(ii) Fails to report arrival and present the vehicle and all persons and merchandise (including baggage) on board for inspection as required in § 123.1(b) of this part;

(iii) Fails to file a manifest or any other document required to be filed in connection with arrival in the U.S. under this part; or

(iv) Without authorization by the appropriate Customs officer, removes such vehicle from the port of entry or Customs station or discharges any passenger or merchandise (including baggage) shall be subject to such civil penalties as are prescribed in section 436, Tariff Act of 1930, as amended (19

U.S.C. 1436), and any conveyance used in connection with any such violation shall be subject to seizure and forfeiture. The person also may be subject to an additional civil penalty equal to the value of the merchandise on the conveyance which was not entered or reported as required by § 123.1(b) of this part, and that merchandise may be subject to seizure and forfeiture unless properly entered by the importer or consignee. If the merchandise consists of any controlled substances, additional penalties may be assessed, as prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

(2) *Criminal penalties.* Upon conviction, any person in charge of a vehicle who intentionally commits any of the violations described in paragraph (c)(1) of this section shall, in addition to the penalties described therein, be subject to such additional criminal penalties as are prescribed in section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436). If the vehicle has or is discovered to have had on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the U.S. is prohibited, the person in charge of the vehicle is subject to such additional criminal penalties as are prescribed in section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436).

5. Section 123.9 is amended by revising paragraph (a) and paragraph (d)(2) to read as follows:

§ 123.9 Explanation of a discrepancy in a manifest.

(a) *Provisions applicable—(1) Overages.* If any merchandise (including sea stores or its equivalent) is found on board a vessel or vehicle arriving in the U.S. that is not listed on a manifest filed in accordance with § 123.5 of this part, or after having been unladen from such vessel or vehicle, is found not to have been included or described in the manifest or does not agree therewith (an overage), the master, person in charge, or owner of the vessel or vehicle or any person directly or indirectly responsible for the discrepancy is subject to such penalties as are prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), and any such merchandise belonging or consigned to the master, person in charge, or owner of the vehicle is subject to seizure and forfeiture.

(2) *Shortages.* If merchandise is manifested but not found on board a vessel or vehicle arriving in the U.S. (a shortage), the master, person in charge, or owner of the vessel or vehicle or any person directly or indirectly responsible for the discrepancy is subject to such

penalties as are prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

(3) *Failure to file a manifest.* The master or person in charge of a vessel or vehicle arriving in the U.S. or the U.S. Virgin Islands who fails to present a manifest to Customs is liable for civil penalties as are provided by law, and the conveyance used in connection with the failure to file is subject to seizure and forfeiture. A criminal conviction for intentional failure to file shall make the master or person in charge liable for criminal penalties, as provided by statute, and if any merchandise is found or determined to have been on board (other than sea stores or the equivalent for vehicles), the importation of which is prohibited, additional penalties may apply.

* * * * *

(d) *Action on the discrepancy report.*

* * * * *

(2) If the criteria in paragraph (d)(1) of this section are not met, applicable penalties under 19 U.S.C. 1584 shall be assessed.

* * * * *

6. Section 123.9 is further amended by removing the reference to "19 U.S.C. 1460 or" in paragraphs (d)(3), (e) and (f).

Michael H. Lane,
Acting Commissioner of Customs.

Approved: May 27, 1993.

Ronald K. Noble,
Assistant Secretary of the Treasury.
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket Nos. 80N-0428 and 82N-0342]

Colorants for Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; response to objections and petitions for reconsideration; denial of requests for a stay of regulation and for hearings.

SUMMARY: The Food and Drug Administration (FDA) is responding to objections and petitions for reconsideration, and is denying requests for a stay of the effective date and for hearings, on its final rule on colorants for polymers. The agency is also making certain amendments to its regulations in response to some of those objections