

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster—Physical Disaster and Economic Injury Loans

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to amend its regulations governing both physical and economic injury disaster assistance to make clear that businesses primarily engaged in agriculture are not eligible for such assistance and that such assistance may not be used to further the alleviation of physical or economic injury to property associated with agricultural enterprise caused by a disaster.

DATES: SBA will accept public comments on this proposal through July 13, 1995.

ADDRESSES: Comments should be submitted to Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street, SW., 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Office of Disaster Assistance, (202) 205-6734.

SUPPLEMENTARY INFORMATION: In 1986 section 7(b) of the Small Business Act (Act) (15 U.S.C. 636(b)) was amended to provide that physical and economic injury disaster loan assistance provided by the Small Business Administration (SBA) under that section should not be available to agricultural enterprises. The term agricultural enterprise is defined elsewhere in the Act to mean a business engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries. See section 18(b)(1) of the Act, 15 U.S.C. 647(b)(1). SBA has historically interpreted this provision in a manner that contemplates that this definition is intended to cover small businesses primarily engaged in the prescribed

activities. This position is consistent with SBA's size standards related definition of a small business for purpose of eligibility for disaster assistance. (See 13 CFR 121.802). However, the word "primarily" is absent from the present regulatory definition of agricultural enterprise in the SBA regulations governing disaster assistance. (See 13 CFR 123.17). This proposed rule, if adopted, would conform the definition of agricultural enterprise with existing policy and with regulations governing size standards by requiring that a concern be primarily engaged in the prescribed activities in order to be construed as an agricultural enterprise.

The effect of this change would be to make clear that a small business which is engaged in multiple activities, including those relevant to agricultural enterprise would be ineligible for disaster assistance under section 7(b) of the Act if its primary activity as judged under the criteria imposed by 13 CFR 123, *et seq.*, is agricultural enterprise. If its primary activity as judged under this standard is an eligible activity and is not agricultural activity, a business would be eligible for disaster assistance.

This proposed regulation, if adopted, would also amend 13 CFR §§ 123.3 and 123.41 to make clear that it is SBA's position that the proceeds of disaster assistance made to eligible small businesses may not be used in conjunction with repair or replacement or alleviation of economic injury relevant to real or personal property used in the production of food and fiber, ranching and raising of livestock, aquaculture and all other farming and agricultural related industries. This change would literally prohibit proceeds of SBA disaster assistance made to otherwise eligible businesses from being used for purposes associated with agricultural enterprise with which it might be secondarily engaged. Thus a business eligible for disaster assistance which is primarily engaged in eligible activity and secondarily engaged in agricultural enterprise would be prohibited under this regulation, if adopted, from using the proceeds of such assistance for purposes relevant to the agricultural enterprise.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act

For purposes of Executive Order 12866, SBA certifies that this rule will not have an annual economic effect in excess of \$100 million, result in a major increase in costs for individuals or governments, or have a significant adverse effect on competition and, therefore, would not constitute a major or significant rule.

For purposes of Executive Order 12612, SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic effect on a substantial number of small entities for the same reason that it is not a major or significant rule.

For purposes of the Paperwork Reduction Act, SBA certifies that this rule will not impose a new recordkeeping or reporting requirement. (Catalogue of Federal Domestic Assistance Programs, Nos. 59.002, 59.008)

Lists of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Small businesses.

For the reasons set out above, pursuant to sections 5(b)(6), 7(b)(1), and 7(c)(6) of the Small Business Act, Title 13, Part 123 of the Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 123 would continue to read as follows:

Authority: Sections 5(b)(6), 7(b), (c), (f) of the Small Business Act; Pub. L. 102-395, 106 Stat. 1828, 1864; and Pub. L. 103-75, 107 Stat. 739 (15 U.S.C. 634(b)(6), 636(b), (c), (f)).

2. Section 123.17 would be amended by inserting the term "primarily" before the term "engaged" in the first sentence.

3. Section 123.3 would be amended by adding a new paragraph (b)(8) in the definition of "eligible physical loss" to read as follows:

§ 123.3 Definitions.

* * * * *

Eligible Physical Loss:

* * * * *

(b) * * *

(8) If the property damaged is property used in the production of food and fiber, ranching and raising livestock, aquaculture and all other farming and agricultural related industries.

* * * * *

4. Section 123.41 would be amended by adding the following sentence at the end of paragraph (g)(1) to read as follows:

§ 123.41 General provisions.

* * * * *

(g) **Use of Proceeds.** (1) * * *

Proceeds of loans under this subpart shall not be used for the purpose of alleviating economic injury or providing working capital in conjunction with real or personal property used in the production of food and fiber, ranching and raising livestock, aquaculture and all other farming and agricultural related industries.

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Dated: May 2, 1995.

Philip Lader,

Administrator.

[FR Doc. 95-14372 Filed 6-12-95; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 95-NM-55-AD]

Airworthiness Directives; Boeing Models 727, 737, and 747 Series Airplanes; McDonnell Douglas Model DC-8 and DC-9 Series Airplanes, Model MD-88 Airplanes, and Models MD-11 and MD-90-30 Series Airplanes; Lockheed Models L-1011-385 Series Airplanes; Fokker Models F28 Mark 1000, 2000, 3000, 4000, and 0100 Series Airplanes; and British Aerospace Model Avro 146-RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of two existing airworthiness directives (AD), that are applicable to certain transport category airplanes equipped with certain Honeywell Standard Windshear Detection Systems (WSS). Those AD's currently require a revision to the FAA-

approved Airplane Flight Manual (AFM) to alert the flight crew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. Those AD's were prompted by a report of an accident during which an airplane encountered severe windshear during a missed approach. This action would require that the currently-installed line replaceable unit (LRU) be replaced with a modified LRU having new software that eliminates delays in the WSS detecting windshear when the flaps of the airplane are in transition. The actions specified by the proposed AD are intended to prevent significant delays in the WSS detecting hazardous windshear, which could lead to the loss of flight path control.

DATES: Comments must be received by August 8, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-55-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712.

FOR FURTHER INFORMATION CONTACT: J. Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5345; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION:**Comments Invited**

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

Comments are specifically invited on the overall regulatory, economic,

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-55-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-55-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On February 14, 1995, the FAA issued AD 95-04-01, amendment 39-9153 (60 FR 9619, February 2, 1995), which is applicable to various transport category airplanes equipped with certain Honeywell Standard Windshear Detection and Recovery Guidance Systems (WSS). Additionally, on April 21, 1995, the FAA issued AD 95-09-05, amendment 39-9208 (60 FR 20887, April 28, 1995), which is applicable to British Aerospace Model Avro 146-RJ70A, -RJ85A, and -RJ100A airplanes, equipped with a similar Honeywell WSS. [A correction of AD 95-09-05 was published in the **Federal Register** on May 19, 1995 (60 FR 26824).]

Those AD's require a revision to the FAA-approved airplane flight manual (AFM) to alert the flightcrew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. Those actions were prompted by a report of an accident during which an airplane encountered severe windshear during a missed approach. The requirements of those AD's are intended to ensure that the flightcrew is aware that there may be significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

In the preambles to those AD's, the FAA stated that the requirements of each of the AD's were considered to be interim action, and that additional rulemaking action was being considered to permit removal of the AFM limitation.