

# Rules and Regulations

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## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1201

#### Practices and Procedures

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Final rule.

**SUMMARY:** The Merit Systems Protection Board (MSPB or the Board) is amending its rules of practice and procedure with respect to attorney fee proceedings to permit reimbursement to a prevailing appellant's attorney at his customary billing rate if that rate is consistent with the prevailing community rate where the attorney ordinarily practices. The intent of the amendment is to provide a more equitable scheme for reimbursement of a prevailing appellant's attorney fees.

**EFFECTIVE DATE:** April 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** Robert E. Taylor, Clerk of the Board, (202) 653-7200.

**SUPPLEMENTARY INFORMATION:** The Merit Systems Protection Board previously published a proposal to amend its rule at 5 CFR § 1201.203, which governs attorney fee proceedings, to permit reimbursement of a prevailing appellant's attorney fees at the attorney's customary billing rate if that rate is consistent with the prevailing community rate for similar services where the attorney ordinarily practices. (64 FR 72040, December 23, 1999) The Board requested comments on the proposal and suggestions as to alternatives that might carry out the Board's intent of establishing a more equitable scheme for reimbursement of a prevailing appellant's attorney fees. The due date for comments was February 7, 2000.

Comments were received from three practitioners, all with experience representing appellants before the

Board. Each of these practitioners supports the Board's proposal. No comments were received in opposition to the proposal.

One practitioner suggested that the Board also amend 5 CFR § 1201.203 to provide that "reasonable" attorney fees will be determined using the attorney's current, rather than historic, rates. The practitioner argued that such a rule would provide fairer compensation where a case takes years to resolve. The Board concludes that this suggestion is beyond the scope of the proposed rule and that any such change would more appropriately be developed through case law.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

#### List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 as follows:

#### PART 1201—PRACTICES AND PROCEDURES

1. The authority citation for part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 1204 and 7701, unless otherwise noted.

2. Amend § 1201.203 by revising paragraph (a)(3) to read as follows:

#### § 1201.203 Proceedings for attorney fees.

(a) \* \* \*

(3) A statement of the attorney's customary billing rate for similar work, with evidence that that rate is consistent with the prevailing community rate for similar services in the community in which the attorney ordinarily practices; and

\* \* \* \* \*

Dated: April 19, 2000.

**Robert E. Taylor,**

*Clerk of the Board.*

[FR Doc. 00-10232 Filed 4-25-00; 8:45 am]

**BILLING CODE 7400-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-NM-13-AD; Amendment 39-11693; AD 2000-08-07]

RIN 2120-AA64

#### Airworthiness Directives; Raytheon Model BAe 125-800A and BAe 125-800B, Model Hawker 800, and Model Hawker 800XP Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Raytheon Model BAe 125-800A and BAe 125-800B, Model Hawker 800, and Model Hawker 800XP series airplanes, that currently requires the filling of two tooling holes on the firewalls of the left and right engine pylons with firewall sealant. This amendment requires the sealing of all unused (open) tooling holes on the firewalls of the left and right engine pylons, and expands the applicability to include additional airplanes. This amendment is prompted by reports of additional unused (open) tooling holes, found at locations other than those currently addressed. The actions specified by this AD are intended to prevent an engine fire from moving to the fuselage and to the lines that carry flammable fluid that are located inboard of the firewall.

**DATES:** Effective May 31, 2000.

The incorporation by reference of Raytheon Service Bulletin SB.54-1-3815B, Revision 1, dated May 1998, as listed in the regulations, is approved by the Director of the Federal Register of May 31, 2000.

The incorporation by reference of Raytheon Service Bulletin SB.54-1-3815B, dated March 26, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 27, 1997 (61 FR 66878, December 19, 1996).

**ADDRESSES:** The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas, 67201-0085. This information may be examined at the