Rules and Regulations

Federal Register

Vol. 67, No. 19

Tuesday, January 29, 2002

DEPARTMENT OF ENERGY

10 CFR Part 1008

RIN 1901–AA69

Privacy Act; Implementation

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Privacy Act regulation by adding three systems of records to the list of systems exempted from certain subsections of the Act. Exemptions for two systems of records are needed to enable the Office of Employee Concerns and the Office of Hearings and Appeals to perform their duties and responsibilities with regard to investigation and adjudication of employee and contractor employee concerns or complaints, pursuant to the whistleblower protection provisions and applicable laws. An exemption for a third system of records is needed to enable the Office of Intelligence to perform its duties and responsibilities.

EFFECTIVE DATE: This final rule is effective February 28, 2002.

FOR FURTHER INFORMATION CONTACT: Abel Lopez (Privacy Act Officer), (202) 586–5955; William Lewis (program contact for Office of Employee Concerns), (202) 586–6530; William Schwartz (program contact for Office of Hearings and Appeals), (202) 287–1522; or Caryl Butler Gross (program contact for Office of Intelligence), (202) 586–5172.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Privacy Act of 1974 (the Act), as amended (5 U.S.C. 552a(j) and (k)), the Secretary of Energy is authorized to promulgate rules, in accordance with the notice and comment requirements in 5 U.S.C. 553, to exempt any system of records within the agency from certain subsections of the Act. The Department of Energy (DOE) is adding three new systems of records to the list of systems of records exempted from certain subsections of the Act.

One of the exemptions will enable the Office of Employee Concerns to carry out its investigative duties and responsibilities. DOE and contractor employees have the right and responsibility to report concerns relating to the environment, safety, health, or management of Department operations. The Employee Concerns Program is designed to encourage open communication; inform employees of the proper forum for consideration of their concerns; ensure employees can raise issues without fearing reprisal; address employee concerns in a timely and objective manner; and provide employees an avenue for consideration of concerns that fall outside existing systems. Employee Concerns Program records include concerns or complaints brought to the attention of DOE Employee Concerns Program offices. These records include the receipt of complaints filed under 10 CFR part 708, the DOE Contractor Employee Protection Program.

A second exemption will enable the Office of Hearings and Appeals to carry out its investigative and adjudicatory responsibilities under 10 CFR part 708 and other whistleblower protection laws. These responsibilities include investigating allegations of acts of reprisal taken against a DOE contractor employee who claims to have made a protected disclosure, as defined in 10 CFR part 708, and subsequently processing such ''whistleblower'' claims, including hearings and appeals on such matters. These responsibilities also include investigating allegations of acts of reprisal taken against a DOE employee or DOE contractor employee who claims to have made a protected disclosure pursuant to section 3164 of the National Defense Authorization Act for FY 2000 (Pub. L. 106–65), codified in 42 U.S.C. 7239.

The third exemption will enable the Office of Intelligence to carry out its duties and responsibilities involving national security. More specifically, these include controlling access to and use of Sensitive Compartmented Information (SCI) and other classified intelligence information bearing the Director, Central Intelligence (DCI) authorized control markings; approving access to SCI in compliance with DCI directives; and conducting eligibility determinations, adjudications, revocations and appeals from denials and revocations.

A notice of proposed rulemakng was published in the **Federal Register** on June 14, 2001 (66 FR 32272), following publication of DOE's comprehensive systems notice on May 16, 2001 (66 FR 27300). No public comments were received on the proposed rule.

II. Summary of Final Rule

A. Systems of Records Exempted

Today's final rule amends § 1008.12 (b) of DOE's Privacy Act regulation to exempt the following three new systems of records from certain subsections of the Privacy Act (5 U.S.C. 552a):

The system of records ''Employee Concerns Program Records'' (DOE–3) will be exempt from subsections (c)(3), (d)(2), and (e)(1) of 5 U.S.C. 552a pursuant to subsections (k)(1), (2), and (5) to the extent that information in this system meets the requirements of those subsections of the Act.

The system of records ''Whistleblower Investigation, Hearing and Appeal Records'' (DOE–7) will be exempt from subsections (c)(3), (d)(2), and (e)(1) of 5 U.S.C. 552a pursuant to subsections (k)(1), (2), and (5) to the extent that information in this system meets the requirements of those subsections of the Act.

The system of records ''Intelligence Related Access Authorization'' (DOE–15) will be exempt from subsections

(c)(3), (d), (e)(1), (e)(4)(G) and (H), and (f) of 5 U.S.C. 552a pursuant to subsections (k)(1), (2), and (5) to the extent that information in this system meets the requirements of those subsections of the Act. This system of records will consist of administrative records of DOE and contractor employees, consultants, and certain persons applying for, granted or denied access to certain categories of classified information. The purpose of the system is to satisfy the requirements of Executive Order 12968, the Department of Energy Procedures for Intelligence Activities, and DOE Order 5670.1A ''Management and Control of Foreign Intelligence.''

B. Basis for Exemptions

The detailed reasons for exemptions of the three systems of records under 5 U.S.C. 552a(k)(1), (2) and (5) are as follows:

1. *Subsection (k)(1) Exemption.* Under subsection (k)(1) of the Act records may be exempted that are ''specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order'' (5 U.S.C. 552(b)(1)). To the extent that records in these systems are classified pursuant to an Executive Order, they may not be disclosed. Therefore, this exemption will apply as follows:

(a) Except for disclosures made under (b)(7) of the Act, 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting that reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient. Under subsection (k)(1) of the Act, records may be exempted that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order. To the extent that records in these systems are classified pursuant to an Executive Order, they may not be disclosed.

DOE has programs involving classified material that may be the subject of a whistleblower complaint, and the Office of Intelligence handles certain types of classified information. The application of the Act's accounting provision to records involving properly classified material could reveal classified material. If information about classified material were disclosed, national security might be compromised. An example of an issue involving classified material that can affect national security would be a whistleblower complaint that discusses security measures at a particular weapons facility. Such information could be used to the detriment of national security.

(b) These systems also are exempt from 5 U.S.C. 552a(d)(2). To require the Office of Employee Concerns, the Office of Hearings and Appeals and the Office of Intelligence to amend information thought to be incorrect, irrelevant, or untimely because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations and access adjudications in response to questions involving the accuracy of these investigations and adjudications.

(c) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. The Office of Intelligence maintains records relating to authorization for individuals to have access to classified information. The Office of Employee Concerns and the Office of Hearings and Appeals do not create the material they collect and have no control over the content of that material. An exemption from the foregoing provision is needed because:

(i) It is not always possible to assess the relevance or necessity of specific information in the early stages of an investigation that involves use of properly classified information or of an adjudication of access to classified national security information.

(ii) Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevancy and necessity of such information can be established. Furthermore, information outside the scope of the jurisdiction of the Office of Employee Concerns and the Office of Hearings and Appeals may be helpful in establishing patterns of activities or problems, or in developing information that should be referred to other entities. Such information cannot always readily be segregated. Likewise, in any adjudication of access, information may be obtained concerning violations of laws other than those within the scope of the adjudication. In the interest of effective law enforcement, such information should be retained for dissemination to appropriate law enforcement agencies.

(iii) In interviewing persons or obtaining information from other sources during an adjudication, including the background investigation, information may be supplied to the investigator that relates to matters incidental to the main purpose of the inquiry or investigation, but that also relates to matters under the jurisdiction of another agency. Such information cannot be readily segregated.

2. *Subsection (k)(2) Exemption.* Subsection (k)(2) permits the exemption of investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2), provided, however, that if any individual is denied any right, privilege, or benefit to which he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual. The material will be provided except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(a) Except for disclosures made under (b)(7) of the Act, 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting that reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the records and the name and address of the recipient. To the extent that such an accounting would lead directly or indirectly to the disclosure of the identity of a source as described above, the (k)(2) exemption is applicable.

(b) These systems also are exempt from 5 U.S.C. 552a(d)(2). To require the Office of Employee Concerns, the Office of Hearings and Appeals and the Office of Intelligence to amend information thought to be incorrect, irrelevant, or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously review its investigations and access adjudications.

(c) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency

required by statute or Executive Order. An exemption from the foregoing is needed because:

(i) It is not always possible to assess the relevance or necessity of specific information in the early stages of an investigation involving employee complaints or concerns and whistleblowing, or of an adjudication of access to classified national security information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated or the investigation, hearing or appeal is completed that the relevancy and necessity of such information can be established.

(iii) In investigating an employee complaint or conducting a whistleblower proceeding, or in the adjudication of access to classified national security information, the relevant office may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, these offices should be able to retain this information as it may aid in establishing patterns of program violations or criminal activity and provide leads for those law enforcement agencies charged with enforcing criminal or civil law.

(iv) In addition, information obtained by these offices may relate not only to an investigation or proceeding under 10 CFR part 708 or to an adjudication of access to classified national security information, but also to matters under the jurisdiction of another agency. Such information cannot be readily segregated and should be retained for dissemination to appropriate law enforcement agencies charged with enforcing other criminal or civil law.

(d) The Office of Intelligence system of records is exempt from paragraphs (d), (e)(4)(G) and (H), and (f) as they relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and agency procedures relating to access to records and the content of information contained in such records. The reason for this exemption is that to notify an individual of the existence of records in an investigative file could interfere with investigations undertaken in connection with national security, or could disclose the identity of sources kept secret to protect national security, or could reveal confidential information supplied by these sources.

3. *Subsection (k)(5) Exemption.* The (k)(5) exemption is for investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information. The (k)(5) exemption applies only to the extent that disclosure would reveal the identity of a source who furnished information under an express promise of confidentiality. Where this is the case, the (k)(5) exemption applies as follows:

(a) Except for disclosures made under (b)(7) of the Act, 5 U.S.C. 552a(c)(3) requires that upon request, an agency must give an individual named in a record an accounting which reflects the disclosure of the record to other persons or agencies. This accounting must state the date, nature, and purpose of each disclosure of the records and the name and address of the recipient. To the extent that such an accounting would lead directly or indirectly to the disclosure of the identity of a source as described above, the (k)(5) exemption is applicable.

(b) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. Any information compiled solely for one of the purposes enumerated in (k)(5), *e.g.,* determining access to sensitive or classified information is properly subject to the (k)(5) exemption when it reveals confidential sources or confidential information. An exemption from the foregoing is needed because:

(i) It is not always possible to assess the relevance or necessity of specific information in the early stages of an investigation of a complaint or concern that may involve whistleblowing, or in the early stages of an adjudication of access to classified national security information.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated or the investigation, hearing or appeal is completed that the relevancy and necessity of such information can be established.

(iii) In investigating an employee complaint or concern or in conducting a whistleblower proceeding, or in the adjudication of access to classified national security information, the relevant office may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, these offices should be able to retain this information as it may aid in establishing patterns of program violations or criminal activity and provide leads for those law enforcement agencies charged with enforcing criminal or civil law.

(iv) Information obtained by the Office of Employee Concerns, the Office of Hearings and Appeals, or the Office of Intelligence in an investigation or adjudication, may relate to the DOE proceeding as well as to matters under the jurisdiction of another agency. Such information cannot be readily segregated and in the interest of effective law enforcement, such information should be retained for dissemination to appropriate law enforcement agencies charged with enforcing other criminal or civil law.

(c) 5 U.S.C. 552a(c)(4) requires disclosure of corrections or notations of disputes in records made in accordance with subsection (d). These systems are exempt from paragraph (d)(2) of the Act because to require the Office of Employee Concerns, the Office of Hearings and Appeals or the Office of Intelligence to amend information thought to be incorrect, irrelevant, or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations and adjudications in response to questions involving the accuracy of these investigations and adjudications.

(d) 5 U.S.C. 552a(d), (e)(4)(G) and (H), and (f) relate to the following: a individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and agency procedures relating to access to records and the content of information contained in such records. The Office of Intelligence's system of records is exempt from the foregoing provisions because to notify an individual of the existence of records in an investigative file or to grant access to an investigative file could interfere with investigations undertaken in connection with national security, or could disclose the identity of sources kept secret to protect national security, or could reveal confidential information supplied by these sources.

III. Regulatory and Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It also will not have any indirect economic consequences. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or record keeping requirements are imposed by this rule. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that this rule would not represent a major Federal action having significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule amends an existing regulation and does not change its environmental impact, and, therefore, is covered under the Categorical Exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

F. Review under Executive Order 13132

Executive Order 13132, ''Federalism'' (64 FR 43255, August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policy making discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect them. This rule does not contain any Federal mandate and, therefore, these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has not prepared a Family Policymaking Assessment.

I. Review Under Executive Order 13084

Under Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments), DOE may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. This rulemaking would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Part 1008

Government employees, Investigations, Privacy, Security measures, Whistleblowing.

Issued in Washington, DC, on January 22, 2002.

Bruce M. Carnes,

Director, Office of Management, Budget and Evaluation/Chief Financial Officer.

For the reasons set forth in the preamble, part 1008 of Chapter X of Title 10, Code of Federal Regulations, is amended as set forth below:

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

1. The authority citation for Part 1008 is revised to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 552a.

2. Section 1008.12 is amended:

a. by adding paragraphs (b)(1)(ii)(K), (b)(1)(ii)(L), (b)(1)(ii)(M);

b. by adding paragraphs (b)(2)(ii)(N), (b)(2)(ii)(O), (b)(2)(ii)(P);

c. by adding paragraphs (b)(3)(ii)(P), (b)(3)(ii)(Q) and (b)(3)(ii)(R).

The additions specified above read as follows:

§ 1008.12 Exemptions.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(K) Employee Concerns Program Records (DOE–3)

(L) Whistleblower Investigation, Hearing and Appeal Records (DOE–7)

(M) Intelligence Related Access Authorization (DOE–15)

(2) * * *

(ii) * * *

(N) Employee Concerns Program Records (DOE–3)

(O) Whistleblower Investigation, Hearing and Appeal Records (DOE–7)

(P) Intelligence Related Access Authorization (DOE–15)

(3) * * *

(ii) * * *

(P) Employee Concerns Program Records (DOE–3)

(Q) Whistleblower Investigation, Hearing and Appeal Records (DOE–7)

(R) Intelligence Related Access Authorization (DOE–15)

* * * * *

[FR Doc. 02–2111 Filed 1–28–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–373–AD; Amendment 39–12619; AD 2001–17–26 R1]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model DH.125, HS.125, BH.125, and BAe.125 (U–125 and C–29A) Series Airplanes; Model Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects and clarifies information in an existing airworthiness directive (AD) that applies to certain Raytheon Model DH.125, HS.125, BH.125, and BAe.125 (U–125 and C–29A) series airplanes; Model Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 airplanes. That AD currently requires an inspection for cracking or corrosion of the cylinder head lugs of the main landing gear actuator and follow-on/corrective actions. This document corrects and clarifies the affected airplane serial numbers. This correction is necessary to ensure that operators do not misinterpret which airplanes are subject to the requirements of this AD.

DATES: Effective October 3, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of October 3, 2001 (66 FR 45575, August 29, 2001).

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4129; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: On August 20, 2001, the Federal Aviation Administration (FAA) issued AD 2001–17–26, amendment 39–12417 (66 FR 45575, August 29, 2001), which applies to certain Raytheon Model DH.125, HS.125, BH.125, and BAe.125 (U–125 and C–29A) series airplanes; Model Hawker 800, Hawker 800 (U–125A), Hawker 800XP, and Hawker 1000 airplanes. That AD requires an inspection for cracking or corrosion of the cylinder head lugs of the main landing gear (MLG) actuator and follow-on/corrective actions. That AD was prompted by reports of attachment lugs cracking at the actuator cylinder head. The actions required by that AD are intended to prevent separation of the cylinder head lugs, which could prevent the main landing gear from extending and result in a partial gear-up landing.

Need for the Correction

Information obtained recently by the FAA indicates that the applicability of AD 2001–17–26 needs to be clarified and corrected.

As published, the applicability of that AD did not include the serial numbers of certain airplane models that were cited in the effectivity of Raytheon Service Bulletin 32–3391, dated August 2000. To correct that omission, we have determined that the applicability of this AD also must include the affected airplane serial numbers for Model Hawker 800 (U–125A up to and including serial number 258381) and for Model Hawker 800XP (up to but not including serial number 258490), as cited in the service bulletin.

Although the applicability of AD 2001–17–26 did not include the serial numbers, the FAA's intent was to list the serial numbers cited in the referenced service bulletin.

The FAA has determined that a correction to AD 2001–17–26 is necessary to correct and clarify the applicability and to include the affected airplane serial numbers.

Correction of Publication

This document corrects and clarifies the errors of AD 2001–17–26 and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains October 3, 2001.