

regulatory bar that prevents the lawful employment of the person. However, conduct that surfaces during a reinvestigation (for example, off-duty criminal conduct) could form the basis for an adverse action under 5 CFR part 752.

Consistent with the changes made to 5 CFR 731.106, the reporting requirements under 5 CFR 731.206 would be modified to require agencies to report any decisions and actions taken as a result of a background investigation or reinvestigation. Here, the “level” of investigation is replaced by the “level or nature” of the investigation as a reporting obligation, to be consistent with E.O. 13488. The actual information reported is unchanged. Section 731.206 of title 5, Code of Federal Regulations, also would be clarified to reflect current practice that agencies follow in reporting the completion dates of background investigations. This is important, since the public trust position reinvestigation schedule is tied to the completion date of a relevant investigation.

Technical Amendment

OPM proposes a technical amendment to the Authorities for this part to reflect the President’s signing of Executive Order 13488 on January 16, 2009, which authorizes the Director of OPM to issue regulations and guidance implementing the order.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

E.O. 12866, Regulatory Review

This proposed rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

E.O. 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E.O. 12988—Civil Justice Reform

This regulation meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 5 CFR Part 731

Administrative practices and procedures, Government employees. Office of Personnel Management.

John Berry,
Director.

Accordingly, OPM proposes to amend part 731, title 5, Code of Federal Regulations, as follows:

PART 731—SUITABILITY

Subpart A—Scope

1. The authority citation for part 731 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 7301; E.O. 10577, E.O. 13467, E.O. 13488, 3 CFR, 1954–1958 Comp., p. 218, as amended, 5 CFR, parts 1, 2 and 5.

2. In § 731.106, revise paragraphs (d) and (f) to read as follows:

§ 731.106 Designation of public trust positions and investigative requirements.

* * * * *

(d) *Reinvestigation requirements.*

(1) Agencies must ensure that reinvestigations are conducted and an assessment made regarding continued employment of persons occupying public trust positions at least once every 5 years. The nature of these reinvestigations and any additional requirements concerning their frequency will be established in supplemental guidance issued by OPM.

(2) If, prior to the next required reinvestigation, a separate investigation (or reevaluation) is conducted to determine a person’s eligibility (or continued eligibility) for access to

classified information or as a result of a change in risk level as provided in § 731.106(e), and that investigation is conducted at an equal or higher level than is required for a public trust reinvestigation, a new reinvestigation is not required. Such a completed investigation restarts the cycle for a public trust reinvestigation for that person.

* * * * *

(f) *Completed investigations.* Any suitability investigation (or reinvestigation) completed by an agency under paragraphs (d) and (e) of this section must result in an assessment by the employing agency of whether the findings of the investigation would justify an action against the employee, under this part or under some other authority, such as 5 CFR 752. § 731.103 addresses whether an action is available under this part, and whether the matter must be referred to OPM for debarment consideration.

3. Revise § 731.206 to read as follows:

§ 731.206 Reporting requirements.

Agencies must report to OPM the level or nature, result, and completion date of each background investigation or reinvestigation, each agency decision based on such investigation or reinvestigation, and any personnel action taken based on such investigation or reinvestigation, as required in OPM issuances.

[FR Doc. E9–26448 Filed 11–2–09; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1025; Directorate Identifier 2009–CE–055–AD]

RIN 2120–AA64

Airworthiness Directives; Extra Flugzeugproduktions- und Vertriebs-GmbH Models EA–300/200 and EA–300/L Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct

an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

The manufacturer has advised that the combination of a redesigned tail spring support with a stiffer tail spring and rough field operations has led to cracks in the tail spring support mounting base. Cracks have also been reported on aeroplanes already compliant with Part II of Extra Service Bulletin No. SB-300-2-97 issue A, as mandated by the LBA AD D-1998-001, dated 15 January 1998.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 18, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-1025; Directorate Identifier

2009-CE-055-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency, which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2009-0160, July 21, 2009 (corrected on July 28, 2009) (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The manufacturer has advised that the combination of a redesigned tail spring support with a stiffer tail spring and rough field operations has led to cracks in the tail spring support mounting base. Cracks have also been reported on aeroplanes already compliant with Part II of Extra Service Bulletin No. SB-300-2-97 issue A, as mandated by the LBA AD D-1998-001, dated 15 January 1998.

For the reasons stated above, this new AD mandates instructions for recurring inspections and modification in the area of the tail spring support in order to prevent separation of the tail landing gear which could result in serious damage to the airplane during landing.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Extra Flugzeugproduktions- und Vertriebs-GmbH has issued EXTRA Service Bulletin No. SB-300-2-97, Issue: C, dated September 24, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all

information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 184 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$29,440, or \$160 per product.

In addition, we estimate that any necessary follow-on actions would take about 20 work-hours and require parts costing \$460, for a cost of \$2,060 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Extra Flugzeugproduktions- und Vertriebs-GmbH: Docket No. FAA-2009-1025; Directorate Identifier 2009-CE-055-AD.

Comments Due Date

(a) We must receive comments by December 18, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following model and serial number airplanes, certificated in any category:

- (1) Model EA-300/200 airplanes, serial numbers (S/N) 01 through 31, and 1032 through 1043; and
- (2) Model EA-300/L airplanes, S/N 01 through 170, 172, 173, 1171, and 1174 through 1299.

Subject

(d) Air Transport Association of America (ATA) Code 53: Fuselage.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: "The manufacturer has advised that the combination of a redesigned tail spring support with a stiffer tail spring and rough field operations has led to cracks in the tail spring support mounting base. Cracks have also been reported on aeroplanes already compliant with Part II of Extra Service Bulletin No. SB-300-2-97 issue A, as mandated by the LBA AD D-1998-001, dated 15 January 1998.

"For the reasons stated above, this new AD mandates instructions for recurring inspections and modification in the area of the tail spring support in order to prevent separation of the tail landing gear which could result in serious damage to the airplane during landing."

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Before further flight after the effective date of this AD and repetitively thereafter at intervals not to exceed 50 hours time-in-service, inspect the tail spring support for cracks in accordance with PART I of Extra Flugzeugproduktions- und Vertriebs-GmbH EXTRA Service Bulletin No. SB-300-2-97, Issue: C, dated September 24, 2009.

(2) If any crack is found as a result of the inspections required by paragraph (f)(1) of this AD, before further flight, modify the tail spring support structure as instructed in PART II of Extra Flugzeugproduktions- und Vertriebs-GmbH EXTRA Service Bulletin No. SB-300-2-97, Issue: C, dated September 24, 2009. Modification of the tail spring support structure terminates the repetitive inspections required in paragraph (f)(1) of this AD.

(3) You may at any time modify the tail spring support structure as instructed in PART II of Extra Flugzeugproduktions- und Vertriebs-GmbH EXTRA Service Bulletin No. SB-300-2-97, Issue: C, dated September 24, 2009, to terminate the repetitive inspections required in paragraph (f)(1) of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District

Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2009-0160, July 21, 2009 (corrected on July 28, 2009); and Extra Flugzeugproduktions- und Vertriebs-GmbH EXTRA Service Bulletin No. SB-300-2-97, Issue: C, dated September 24, 2009, for related information.

Issued in Kansas City, Missouri, on October 28, 2009.

Margaret Kline,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-26391 Filed 11-2-09; 8:45 am]

BILLING CODE 4910-13-P

NATIONAL MEDIATION BOARD

29 CFR Parts 1202 and 1206

[Docket No. C-6964]

RIN 3140-ZA00

Representation Election Procedure

AGENCY: National Mediation Board.

ACTION: Proposed rule with request for comments.

SUMMARY: As part of its ongoing efforts to further the statutory goals of the Railway Labor Act, the National Mediation Board (NMB or Board) is proposing to amend its Railway Labor Act rules to provide that, in representation disputes, a majority of valid ballots cast will determine the craft or class representative. The NMB believes that this change to its election procedures will provide a more reliable measure/indicator of employee sentiment in representation disputes and provide employees with clear choices in representation matters.

DATES: NMB must receive comments on or before January 4, 2010.

ADDRESSES: You may submit comments identified by Docket Number C-6964 by any of the following methods: