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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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2423

Unfair Labor Practice Proceedings

AGENCY: Office of the General Counsel, Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking.

SUMMARY: The General Counsel of the Federal Labor Relations Authority (FLRA) proposes to revise portions of its regulations regarding unfair labor practice (ULP) proceedings (Part 2423, subpart A). The purpose of the proposed revisions is to clarify the Office of the General Counsel's (OGC) role during the investigatory stage of processing unfair labor practice charges consistent with the policies of the General Counsel, and to clarify certain administrative matters relating to the filing and investigation of ULP charges. Implementation of the proposed changes confirms and enhances the neutrality of the OGC before a ULP merit determination is made.

DATES: Comments must be received on or before January 22, 2008.

ADDRESSES: Mail or deliver written comments to the Office of the Executive Director, Federal Labor Relations Authority, 1400 K Street, NW., Fourth Floor, Washington, DC 20424. Comments may also be e-mailed to FLRAexecutivedirector@flra.gov.

FOR FURTHER INFORMATION CONTACT: Jill Crumpacker, Executive Director, at jcrumpacker@flra.gov.

SUPPLEMENTARY INFORMATION: The OGC of the FLRA proposes modifications to the existing rules and regulations in subpart A of title 5 of the Code of Federal Regulations regarding the processing and investigation of ULP charges.

Subpart A of the regulations has not been reexamined in its entirety since 1998, and before that since its enactment in 1980. The OGC has modified its policies, revising or rescinding many of the internal policies

that were established prior to 1998 and which resulted in the 1998 regulatory changes. Accordingly, the General Counsel has proposed revisions to the regulations addressing the investigation and processing of ULP charges.

The proposed revisions clarify the neutral fact-finding role of the OGC in the investigation of ULP charges. The proposed revisions continue to encourage parties involved in a ULP dispute to work collaboratively to resolve the dispute; however, consistent with the General Counsel's Settlement policy, the proposed revisions clarify that the OGC will not be involved in any way in resolving parties' disputes until after a determination has been made that a charge is meritorious. At that time, the OGC will aggressively use Alternative Dispute Resolution (ADR) processes to resolve parties' ULP disputes and to avoid protracted litigation of ULP complaints.

Sectional Analyses

Sectional analyses of the revisions to Part 2423—Unfair Labor Practice Proceedings are as follows:

Part 2423—Unfair Labor Practice Proceedings

Section 2423.0

This part is applicable to any charge of an alleged ULP pending or filed with the Authority on or after February 1, 2008.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

Section 2423.1

The current section encourages parties to meet and resolve ULP disputes prior to filing ULP charges. The proposed revision continues to encourage parties to settle their ULP disputes, and clarifies that the OGC will assist the parties in resolving their dispute only once a decision has been made that the issuance of a ULP complaint is warranted. The proposed revision promotes an understanding that the parties to a ULP dispute are responsible for their relationship and the resolution of their disputes. The proposed revision is intended to preserve the neutrality of the OGC in the investigation and processing of ULP charges, and incorporates the General Counsel's Settlement Policy, which is set forth in its entirety on the FLRA's Web site at www.FLRA.gov. Where the

parties are unable to resolve their dispute on their own and where a determination is made that the Federal Service Labor-Management Relations Statute (Statute) has been violated, the OGC—as set forth in other sections of the proposed revised regulations—will actively work with the parties using ADR processes to reach a satisfactory resolution that is consistent with the Statute and resolves the parties' ULP dispute.

Section 2423.2

The current section sets forth the specific ADR services that the OGC may provide. The parties are redirected to § 2423.12, which sets forth the ADR services that the OGC may now provide consistent with the General Counsel's Settlement Policy.

Section 2423.3

This section, which identifies who may file a ULP charge, is unchanged.

Section 2423.4

This section, describing the content of a ULP charge, is substantially unchanged. The proposed revisions provide for the inclusion of e-mail addresses for all of the parties.

The proposed revision also includes a subsection addressing when a ULP charge must be filed and reiterates the statutory time limits for the filing of a ULP charge set forth in 5 U.S.C. 7118(a)(4).

Section 2423.5

This section, which is reserved, is unchanged.

Section 2423.6

The current section remains substantially unchanged. The proposed revisions address an issue previously not addressed in the regulations, and clarify that a charge received after the close of business will be deemed received and docketed the next business day.

The current section limited to two pages the number of pages that a party could fax to an OGC Regional Office when filing a charge. The proposed revision eliminates that limitation and returns it to the current limitation of 10 pages, consistent with 5 CFR § 2429.24.

Section 2423.7

The current section, which provides for alternative case processing,

incorporates the internal OGC policies and procedures established under the 1998 revisions. Consistent with current internal OGC policies and procedures, this section is being eliminated. Under the proposed revisions the parties to a ULP dispute are always encouraged to work collaboratively to resolve their own dispute, taking a problem-solving approach, rather than filing a ULP charge. Once a ULP charge is filed, parties are also encouraged on their own to attempt to resolve their dispute while the OGC conducts its investigation of the facts and determines the merits of the charge.

Section 2423.8

This section, which provides for the investigation of charges, is substantially unchanged. The proposed revisions clarify and confirm that all investigations conducted by the OGC are neutral and unbiased.

The revisions further clarify that the failure of a party to cooperate during an investigation may result in a ULP charge being dismissed by the Regional Director.

Section 2423.9

This section is unchanged.

Section 2423.10

This section, which provides for the action by the Regional Director, remains substantially unchanged. The proposed revisions modify this section to be consistent with the other sections under this part that the Regional Director takes its action on behalf of the General Counsel. The proposed revision also modifies the wording to reflect action currently taken on a charge that is determined to be without merit, *i.e.*, that the charge is dismissed.

Section 2423.11

The proposed revisions provide that all parties to a dispute will be advised of an OGC decision to dismiss a ULP charge upon completion of the investigation. This ensures that both parties to the dispute are apprised of the result of the investigation at the same time and maintains the neutrality of the OGC. The proposed revisions also incorporate the opportunity for a Charging Party to withdraw the charge prior to the issuance of the dismissal letter.

This section also rewords the grounds for appeal to include when a Regional Director's decision is based on an incorrect statement or application of the applicable rule of law, rather than only when a Regional Director's decision is based on an incorrect statement of the applicable rule of law.

Section 2423.12

This section, which provides for the settlement of ULP charges after a Regional Director's determination to issue a complaint, sets forth that the OGC will utilize ADR processes to assist the parties in resolving the ULP dispute and to avoid the cost of protracted litigation.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the General Counsel of the FLRA has determined that this regulation, as amended, will not have a significant impact on a substantial number of small entities, because this rule applies to Federal employees, Federal agencies, and labor organizations representing Federal employees.

Unfunded Mandates Reform Act of 1995

This rule change 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2423

Administrative practice and procedure, Government employees, Labor-management relations.

For these reasons, the General Counsel of the Federal Labor Relations Authority, proposes to amend 5 CFR part 2423 as follows:

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

1. The authority citation for part 2423 continues to read as follows:

Authority: 5 U.S.C. 7134.

2. Section 2423.0 and subpart A of part 2423 are revised to read as follows:

Sec. 2423.0 Applicability of this part.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

Sec.

2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.

2423.2 Alternative Dispute Resolution (ADR) services.

2423.3 Who may file charges.

2423.4 Contents of the charge; supporting evidence and documents.

2423.5 [Reserved]

2423.6 Filing and service of copies.

2423.7 [Reserved]

2423.8 Investigation of charges.

2423.9 Amendment of charges.

2423.10 Action by the Regional Director.

2423.11 Determination not to issue complaint; review of action by the Regional Director.

2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

2423.13–2423.19 [Reserved]

§ 2423.0 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices pending or filed with the Authority on or after February 1, 2008, and any complaint filed on or after October 1, 1997.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

§ 2423.1 Resolution of unfair labor practice disputes prior to a Regional Director determination whether to issue a complaint.

The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the collaborative efforts of all persons covered by that law. The General Counsel encourages all persons on their own to meet, and in good faith, attempt to settle unfair labor practice disputes. To maintain complete neutrality, the General Counsel may not be involved with such settlement discussions with the parties prior to a Regional Director determination on the merits. Attempts by the parties to resolve unfair labor practice disputes prior to filing an unfair labor practice charge do not toll the time limitations for filing a charge set forth at 5 U.S.C. 7118(a)(4).

§ 2423.2 Alternative Dispute Resolution (ADR) services.

The General Counsel provides ADR services under § 2423.12(a) after a Regional Director has determined to issue a complaint.

§ 2423.3 Who may file charges.

(a) *Filing charges.* Any person may charge an activity, agency or labor organization with having engaged in, or engaging in, any unfair labor practice prohibited under 5 U.S.C. 7116.

(b) *Charging Party.* Charging Party means the individual, labor organization, activity or agency filing an unfair labor practice charge with a Regional Director.

(c) *Charged Party.* Charged Party means the activity, agency or labor organization charged with allegedly having engaged in, or engaging in, an unfair labor practice.

§ 2423.4 Contents of the charge; supporting evidence and documents.

(a) *What to file.* The Charging Party may file a charge alleging a violation of 5 U.S.C. 7116 by completing a form prescribed by the General Counsel, or on a substantially similar form, that contains the following information:

(1) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party;

(2) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charged Party;

(3) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charging Party's point of contact;

(4) The name, address, telephone number, facsimile number (where facsimile equipment is available), and e-mail address of the Charged Party's point of contact;

(5) A clear and concise statement of the facts alleged to constitute an unfair labor practice, a statement of how those facts allegedly violate specific section(s) and paragraph(s) of the Federal Service Labor-Management Relations Statute and the date and place of occurrence of the particular acts; and

(6) A statement whether the subject matter raised in the charge:

(i) Has been raised previously in a grievance procedure;

(ii) Has been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation Service, the Equal Employment Opportunity Commission, the Merit Systems Protection Board, or the Office of the Special Counsel for consideration or action;

(iii) Involves a negotiability issue raised by the Charging Party in a petition pending before the Authority pursuant to part 2424 of this subchapter; or

(iv) Has been the subject of any other administrative or judicial proceeding.

(7) A statement describing the result or status of any proceeding identified in paragraph (a)(6) of this section.

(b) *When to file.* Under 5 U.S.C. 7118 (a)(4), a charge alleging an unfair labor practice must normally be filed within six (6) months of its occurrence.

(c) *Declarations of truth and statement of service.* A charge shall be in writing and signed, and shall contain a declaration by the individual signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that individual's knowledge and belief.

(d) *Statement of service.* A charge shall also contain a statement that the Charging Party served the charge on the Charged Party, and shall list the name, title and location of the individual served, and the method of service.

(e) *Self-contained document.* A charge shall be a self-contained document describing the alleged unfair labor practice without a need to refer to supporting evidence and documents submitted under paragraph (f) of this section.

(f) *Submitting supporting evidence and documents and identifying potential witnesses.* When filing a charge, the Charging Party shall submit to the Regional Director, any supporting evidence and documents, including, but not limited to, correspondence and memoranda, records, reports, applicable collective bargaining agreement clauses, memoranda of understanding, minutes of meetings, applicable regulations, statements of position and other documentary evidence. The Charging Party also shall identify potential witnesses with contact information (telephone number, e-mail address, and facsimile number) and shall provide a brief synopsis of their expected testimony.

§ 2423.5 [Reserved]**§ 2423.6 Filing and service of copies.**

(a) *Where to file.* A Charging Party shall file the charge with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director in any of those regions.

(b) *Filing date.* A charge is deemed filed when it is received by a Regional

Director. A charge received in a Region after the close of the business day will be deemed received and docketed on the next business day. The business hours for each of the Regional Offices are set forth at www.FLRA.gov.

(c) *Method of filing.* A Charging Party may file a charge with the Regional Director in person or by commercial delivery, first class mail, facsimile or certified mail. If filing by facsimile transmission, the Charging Party is not required to file an original copy of the charge with the Region. A Charging Party assumes responsibility for receipt of a charge. Supporting evidence and documents must be submitted to the Regional Director in person, by commercial delivery, first class mail, certified mail, or by facsimile transmission. Charges shall not be filed by electronic mail.

(d) *Service of the charge.* The Charging Party shall serve a copy of the charge (without supporting evidence and documents) on the Charged Party. Where facsimile equipment is available, the charge may be served by facsimile transmission in accordance with paragraph (c) of this section.

§ 2423.7 [Reserved]**§ 2423.8 Investigation of charges.**

(a) *Investigation.* The Regional Director, on behalf of the General Counsel, conducts an unbiased, neutral investigation of the charge as the Regional Director deems necessary. During the course of the investigation, all parties involved are afforded an opportunity to present their evidence and views to the Regional Director.

(b) *Cooperation.* The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the full cooperation of all parties involved and the timely submission of all potentially relevant information from all potential sources during the course of the investigation. All persons shall cooperate fully with the Regional Director in the investigation of charges. The failure of a Charging Party to cooperate during an investigation may provide grounds for a Regional Director to dismiss the charge for failure to produce evidence supporting the charge.

Cooperation includes any of the following actions, when deemed appropriate by the Regional Director:

(1) Making union officials, employees, and agency supervisors and managers available to give sworn/affirmed testimony regarding matters under investigation;

(2) Producing documentary evidence pertinent to the matters under investigation; and

(3) Providing statements of position on the matters under investigation.

(c) *Investigatory subpoenas.* If a person fails to cooperate with the Regional Director in the investigation of a charge, the General Counsel, upon recommendation of a Regional Director, may decide in appropriate circumstances to issue a subpoena under 5 U.S.C. 7132 for the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel or training within an agency or between an agency and the Office of Personnel Management.

(1) A subpoena shall be served by any individual who is at least 18 years old and who is not a party to the proceeding. The individual who served the subpoena must certify that he or she did so:

(i) By delivering it to the witness in person;

(ii) By registered or certified mail; or

(iii) By delivering the subpoena to a responsible individual (named in the document certifying the delivery) at the residence or place of business (as appropriate) of the person for whom the subpoena was intended. The subpoena shall show on its face the name and address of the Regional Director and the General Counsel.

(2) Any person served with a subpoena who does not intend to comply shall, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke shall be served on the General Counsel.

(3) The General Counsel shall revoke the subpoena if the witness or evidence, the production of which is required, is not material and relevant to the matters under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The General Counsel shall state the procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, shall become part of the official record if there is a hearing under subpart C of this part.

(4) Upon the failure of any person to comply with a subpoena issued by the General Counsel, the General Counsel shall determine whether to institute proceedings in the appropriate district

court for the enforcement of the subpoena. Enforcement shall not be sought if to do so would be inconsistent with law, including the Federal Service Labor-Management Relations Statute.

(d) *Confidentiality.* It is the General Counsel's policy to protect the identity of individuals who submit statements and information during the investigation, and to protect against the disclosure of documents obtained during the investigation, as a means of ensuring the General Counsel's continuing ability to obtain all relevant information. After issuance of a complaint and in preparation for a hearing, however, identification of witnesses, a synopsis of their expected testimony and documents proposed to be offered into evidence at the hearing may be disclosed as required by the prehearing disclosure requirements in § 2423.23.

§ 2423.9 Amendment of charges.

Prior to the issuance of a complaint, the Charging Party may amend the charge in accordance with the requirements set forth in § 2423.6.

§ 2423.10 Action by the Regional Director.

(a) *Regional Director action.* The Regional Director, on behalf of the General Counsel, may take any of the following actions, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Dismiss a charge;

(3) Approve a written settlement agreement in accordance with the provisions of § 2423.12;

(4) Issue a complaint; or

(5) Withdraw a complaint.

(b) *Request for appropriate temporary relief.* Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d). The General Counsel may initiate and prosecute injunctive proceedings under 5 U.S.C. 7123(d) only upon approval of the Authority. A determination by the General Counsel not to seek approval of the Authority to seek such appropriate temporary relief is final and shall not be appealed to the Authority.

(c) *General Counsel requests to the Authority.* When a complaint issues and the Authority approves the General Counsel's request to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the General Counsel may make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or

transacts business. Temporary relief may be sought if it is just and proper and the record establishes probable cause that an unfair labor practice is being committed. Temporary relief shall not be sought if it would interfere with the ability of the agency to carry out its essential functions.

(d) *Actions subsequent to obtaining appropriate temporary relief.* The General Counsel shall inform the district court which granted temporary relief pursuant to 5 U.S.C. 7123(d) whenever an Administrative Law Judge recommends dismissal of the complaint, in whole or in part.

§ 2423.11 Determination not to issue complaint; review of action by the Regional Director.

(a) *Opportunity to withdraw a charge.* If, upon the completion of an investigation under § 2423.8, a decision has been made to dismiss the charge, the Regional Director will notify the parties of the decision and the Charging Party will be advised of an opportunity to withdraw the charge(s).

(b) *Dismissal letter.* If the Charging Party does not withdraw the charge within a reasonable period of time, the Regional Director will, on behalf of the General Counsel, dismiss the charge and provide the parties with a written statement of the reasons for not issuing a complaint.

(c) *Appeal of a dismissal letter.* The Charging Party may obtain review of the Regional Director's decision not to issue a complaint by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. A Charging Party shall serve a copy of the appeal on the Regional Director. The General Counsel shall serve notice on the Charged Party that an appeal has been filed.

(d) *Extension of time.* The Charging Party may file a request, in writing, for an extension of time to file an appeal, which shall be received by the General Counsel not later than 5 days before the date the appeal is due. A Charging Party shall serve a copy of the request for an extension of time on the Regional Director.

(e) *Grounds for granting an appeal.* The General Counsel may grant an appeal when the appeal establishes at least one of the following grounds:

(1) The Regional Director's decision did not consider material facts that would have resulted in issuance of a complaint;

(2) The Regional Director's decision is based on a finding of a material fact that is clearly erroneous;

(3) The Regional Director's decision is based on an incorrect statement or application of the applicable rule of law;

(4) There is no Authority precedent on the legal issue in the case; or

(5) The manner in which the Region conducted the investigation has resulted in prejudicial error.

(f) *General Counsel action.* The General Counsel may deny the appeal of the Regional Director's dismissal of the charge, or may grant the appeal and remand the case to the Regional Director to take further action. The General Counsel's decision on the appeal states the grounds listed in paragraph (e) of this section for denying or granting the appeal, and is served on all the parties. Absent a timely motion for reconsideration, the decision of the General Counsel is final.

(g) *Reconsideration.* After the General Counsel issues a final decision, the Charging Party may move for reconsideration of the final decision if it can establish extraordinary circumstances in its moving papers. The motion shall be filed within 10 days after the date on which the General Counsel's final decision is postmarked. A motion for reconsideration shall state with particularity the extraordinary circumstances claimed and shall be supported by appropriate citations. The decision of the General Counsel on a motion for reconsideration is final.

§ 2423.12 Settlement of unfair labor practice charges after a Regional Director determination to issue a complaint but prior to issuance of a complaint.

(a) *Alternative Dispute Resolution (ADR).* After a merit determination to issue a complaint, the Regional Director will work with the parties to settle the dispute using ADR, to avoid costly and protracted litigation.

(b) *Bilateral informal settlement agreement.* Prior to issuing a complaint but after a merit determination by the Regional Director, the Regional Director may afford the Charging Party and the Charged Party a reasonable period of time to enter into an informal settlement agreement to be approved by the Regional Director. When a Charged Party complies with the terms of an informal settlement agreement approved by the Regional Director, no further action is taken in the case. If the Charged Party fails to perform its obligations under the approved informal settlement agreement, the Regional Director may institute further proceedings.

(c) *Unilateral informal settlement agreement.* If the Charging Party elects not to become a party to a bilateral settlement agreement which the

Regional Director concludes effectuates the policies of the Federal Service Labor-Management Relations Statute, the Regional Director may choose to approve a unilateral settlement between the General Counsel and the Charged Party. The Regional Director, on behalf of the General Counsel, shall issue a letter stating the grounds for approving the settlement agreement and declining to issue a complaint. The Charging Party may obtain review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.11(c) and (d). The General Counsel shall take action on the appeal as set forth in § 2423.11(e)-(g).

§§ 2423.13–2423.19 [Reserved]

Dated: December 18, 2007.

Colleen Duffy Kiko,

General Counsel, Federal Labor Relations Authority.

[FR Doc. E7-24846 Filed 12-20-07; 8:45 am]

BILLING CODE 6727-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002-NM-260-AD]

RIN 2120-AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That action would have required revising the airplane flight manual to advise the flightcrew of special operating limitations associated with a reduction in airplane performance due to loss of propeller efficiency. That action also would have required installing placards in the flight compartment and operating the airplane per certain special operating limitations; or performing repetitive flight checks to verify the adequacy of the airplane's climb performance, and accomplishing follow-on actions if necessary. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has issued another NPRM applicable to certain propellers, which addresses the identified unsafe condition.

Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A

proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on February 6, 2004 (69 FR 5775). The proposed rule would have required revising the airplane flight manual to advise the flightcrew of special operating limitations associated with a reduction in airplane performance due to loss of propeller efficiency. That action also would have required installing placards in the flight compartment and operating the airplane per certain special operating limitations; or performing repetitive flight checks to verify the adequacy of the airplane's climb performance, and accomplishing follow-on actions if necessary. That action was prompted by a report indicating that a shortfall in engine performance, compared to the performance standards shown in the airplane flight manual (AFM), has been observed during climb-performance test flights. The proposed actions were intended to ensure that the flightcrew accounts for the potential loss of airplane performance due to loss of propeller efficiency, which could result in an increased risk of collision with terrain.

Actions that Occurred Since the NPRM Was Issued

On October 24, 2007, we issued NPRM, Docket No. FAA-2006-25173, for McCauley Propeller Systems propeller models B5JFR36C1101/114GCA-0, C5JFR36C1102/L114GCA-0, B5JFR36C1103/114HCA-0, and C5JFR36C1104/L114HCA-0. These propellers are installed on BAE Systems (Operations) Limited (Jetstream) Model 4100 and 4101 airplanes. That NPRM would require, for certain blades, fluorescent penetrant inspections (FPI) and eddy current inspections (ECI) of propeller blades for cracks based on hours time-in-service after the effective date of the AD, and if any crack indications are found, removal from service.

Also, the NPRM would require inspecting for blunt leading edges of the