

(11) Makes an initial decision under paragraph (n) of this section.

(l) *Rights of the person at the hearing.* The person may:

(1) Testify or present evidence through witnesses or by documents;

(2) Cross-examine witnesses and rebut records or other physical evidence, except as provided in paragraph (m)(4) of this section;

(3) Be present during the entire hearing, except as provided in paragraph (m)(4) of this section; and

(4) Be accompanied, represented, and advised by counsel of the person's choosing.

(m) *Conduct of the hearing.* (1) DOE shall make a transcript of the hearing.

(2) Except as provided in paragraph (m)(4) of this section, the Hearing Officer may receive any oral or documentary evidence, but shall exclude irrelevant, immaterial, or unduly repetitious evidence.

(3) Witnesses shall testify under oath and are subject to cross-examination, except as provided in paragraph (m)(4) of this section.

(4) The Hearing Officer must use procedures appropriate to safeguard and prevent unauthorized disclosure of classified information, UCNI, or any other information protected from public disclosure by law or regulation, with minimum impairment of rights and obligations under this part. The UCNI status shall not, however, preclude information from being introduced into evidence. The Hearing Officer may issue such orders as may be necessary to consider such evidence *in camera* including the preparation of a supplemental initial decision to address issues of law or fact that arise out of that portion of the evidence that is protected.

(5) DOE has the burden of going forward with and of proving by a preponderance of the evidence that the violation occurred as set forth in the final notice of violation and that the proposed civil penalty is appropriate. The person to whom the final notice of violation has been addressed shall have the burden of presenting and of going forward with any defense to the allegations set forth in the final notice of violation. Each matter of controversy shall be determined by the Hearing Officer upon a preponderance of the evidence.

(n) *Initial decision.* (1) The Hearing Officer shall issue an initial decision as soon as practicable after the hearing. The initial decision shall contain findings of fact and conclusions regarding all material issues of law, as well as reasons therefor. If the Hearing Officer determines that a violation has occurred and that a civil penalty is

appropriate, the initial decision shall set forth the amount of the civil penalty based on:

(i) The nature, circumstances, extent, and gravity of the violation or violations;

(ii) The violator's ability to pay;

(iii) The effect of the civil penalty on the person's ability to do business;

(iv) Any history of prior violations;

(v) The degree of culpability; and,

(vi) Such other matters as justice may require.

(2) The Hearing Officer shall serve all parties with the initial decision by certified mail, return receipt requested. The initial decision shall include notice that it constitutes a final order of DOE 30 days after the filing of the initial decision unless the Secretary files a Notice of Review. If the Secretary files a Notice of Review, he shall file a final order as soon as practicable after completing his review. The Secretary, at his discretion, may order additional proceedings, remand the matter, or modify the amount of the civil penalty assessed in the initial decision. DOE shall notify the person of the Secretary's action under this paragraph in writing by certified mail, return receipt requested. The person against whom the civil penalty is assessed by the final order shall pay the full amount of the civil penalty assessed in the final order within 30 days unless otherwise agreed by the Director.

(o) *Collection of penalty.* (1) The Secretary may request the Attorney General to institute a civil action to collect a penalty imposed under this section.

(2) The Attorney General has the exclusive power to uphold, compromise or mitigate, or remit any civil penalty imposed by the Secretary under this section and referred to the Attorney General for collection.

(p) *Direction to NNSA.* (1) Notwithstanding any other provision of this part, the NNSA Administrator, rather than the Director, signs, issues, serves, or takes the following actions that direct NNSA employees, contractors, subcontractors, or employees of such NNSA contractors or subcontractors:

(i) Subpoenas;

(ii) Orders to compel attendance;

(iii) Disclosures of information or documents obtained during an investigation or inspection;

(iv) Preliminary notices of violation; and,

(v) Final notice of violations.

(2) The Administrator shall act after consideration of the Director's recommendation. If the Administrator disagrees with the Director's

recommendation, and the disagreement cannot be resolved by the two officials, the Director may refer the matter to the Deputy Secretary for resolution.

§ 1017.30 Criminal penalty.

Any person who violates section 148 of the Atomic Energy Act or any regulation or order of the Secretary issued under section 148 of the Atomic Energy Act, including these regulations, may be subject to a criminal penalty under section 223 of the Atomic Energy Act (42 U.S.C. 2273). In such case, the Secretary shall refer the matter to the Attorney General for investigation and possible prosecution.

[FR Doc. E8-12978 Filed 6-9-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0135; Directorate Identifier 2007-NM-345-AD; Amendment 39-15551; AD 2008-12-08]

RIN 2120-AA64

Airworthiness Directives; Short Brothers Model SD3-60 Airplanes Equipped with an Auxiliary Fuel Tank System Installed in Accordance With Supplemental Type Certificate SA00404AT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Short Brothers Model SD3-60 airplanes. This AD requires deactivation of auxiliary fuel tank systems installed in accordance with Supplemental Type Certificate SA00404AT. This AD results from fuel tank system review requirements done in accordance with Special Federal Aviation Regulation No. 88 (SFAR 88), which identified potential unsafe conditions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective July 15, 2008.

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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:
Robert Bosak, Aerospace Engineer,
Propulsion and Services Branch, ACE-118A, FAA, Atlanta Aircraft
Certification Office, One Crown Center,

1895 Phoenix Boulevard, Suite 450,
Atlanta, Georgia 30349; telephone (770)
703-6094; fax (770) 703-6097.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Short Brothers Model SD3-60 airplanes. That NPRM was published in the **Federal Register** on February 29, 2008 (73 FR 11070). That NPRM proposed to require deactivation of auxiliary fuel tank systems installed in accordance with Supplemental Type Certificate SA00404AT.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

The following table provides the estimated costs for the 1 U.S.-registered airplane to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Fleet cost
Report	1	\$80	None	\$80
Preparation of tank deactivation procedure	80	80	None	6,400
Physical tank deactivation	30	80	\$1,200	3,600

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under 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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2008-12-08 Short Brothers PLC:

Amendment 39-15551. Docket No. FAA-2008-0135; Directorate Identifier 2007-NM-345-AD.

Effective Date

(a) This airworthiness directive (AD) is July 15, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Short Brothers Model SD3-60 airplanes, certificated in any category, and equipped with an auxiliary fuel tank system installed in accordance with Atlantic Reconnaissance Supplemental Type Certificate (STC) SA00404AT.

Unsafe Condition

(d) This AD results from fuel tank system review requirements done in accordance with Special Federal Aviation Regulation No. 88 (SFAR 88), which were not conducted by the STC holder, for identification of potential unsafe conditions and corrective actions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Report

(f) Within 45 days after the effective date of this AD, submit a report to the Manager, Atlanta Aircraft Certification Office (ACO), FAA. The report must include the information listed in paragraphs (f)(1) and (f)(2) of 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 contained in this AD, and assigned OMB Control Number 2120-0056.

(1) The airplane registration and serial number.

(2) The usage frequency in terms of total number of flights per year and total number of flights per year for which the auxiliary fuel tank system is used.

Prevent Usage of Auxiliary Fuel Tank

(g) Before December 16, 2008, deactivate the auxiliary fuel tank system, in accordance with a deactivation procedure approved by the Manager of the Atlanta ACO. Any auxiliary fuel tank system component that remains on the airplane must be secured and must have no effect on the continued operational safety and airworthiness of the airplane. Deactivation may not result in the need for additional Instructions for Continued Airworthiness (ICA).

Note 1: Appendix A of this AD provides criteria that must be included in the deactivation procedure. The proposed deactivation procedures should be submitted to the Atlanta ACO as soon as possible to ensure timely review and approval, prior to implementation.

Note 2: For technical information, contact Robert Bosak, Aerospace Engineer, Propulsion and Services Branch, ACE-118A, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703-6094; fax (770) 703-6097.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Atlanta ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. 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.

Material Incorporated by Reference

(i) None.

Appendix A—Deactivation Criteria

The auxiliary fuel tank system deactivation procedure required by paragraph (g) of this AD must address the following actions.

(1) Permanently drain the auxiliary fuel tank system tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

(2) Disconnect all auxiliary fuel tank system electrical connections from the fuel quantity indication system (FQIS), float, pressure and transfer valves and switches, and all other electrical connections required for auxiliary fuel tank system operation, and stow them at the auxiliary fuel tank interface.

(3) Disconnect all auxiliary fuel tank system fuel supply and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM)

fuel tanks, cap them at the airplane tank side, and secure them. All disconnected auxiliary fuel tank system vent systems must not alter the OEM fuel tank vent system configuration or performance. All empty auxiliary fuel tank system tanks must be vented to eliminate the possibility of structural deformation during cabin decompression. The configuration must not permit the introduction of fuel vapor into any compartments of the airplane.

(4) Pull and collar all circuit breakers used to operate the auxiliary fuel tank system.

(5) Revise the weight and balance document, if required, and obtain FAA approval for any changes to the weight and balance document.

(6) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank system is deactivated. Remove auxiliary fuel tank system operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary fuel tank system is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(7) Amend the applicable sections of the applicable airplane maintenance manual to remove auxiliary fuel tank system maintenance procedures.

(8) After the auxiliary fuel tank system is deactivated, accomplish procedures such as leak checks, pressure checks, and functional checks deemed necessary before returning the airplane to service. These procedures must include verification that the basic airplane OEM FQIS, fuel distribution, and fuel venting systems function properly and have not been adversely affected by deactivation of the auxiliary fuel tank system.

(9) Include with the proposed deactivation procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation of the auxiliary fuel tank system and return of the airplane to service.

Issued in Renton, Washington, on May 30, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-12732 Filed 6-9-08; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 535, 536, 537, 538, 539, 540, 541, 542, 545, 560, 585, 586, 587, 588, 593, 594, and 595

International Emergency Economic Powers Act Civil and Criminal Penalties

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is amending its regulations to reflect amendments to the penalty provisions of the International Emergency Economic Powers Act ("IEEPA") made by the International Emergency Economic Powers Enhancement Act (the "Act").

DATES: Effective June 10, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Civil Penalties, tel.: 202/622-6140, Assistant Director, Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622-0077.

Background

On October 16, 2007, the President signed the Act into law as Public Law 110-96. Section 2 of the Act amended section 206 of IEEPA (50 U.S.C. 1705) by, among other things, raising the maximum civil penalty to an amount not to exceed the greater of \$250,000 or an amount twice the amount of the transaction that is the basis of the violation. The Act also amended IEEPA's provisions relating to the imposition of criminal penalties.

Accordingly, OFAC is amending the current IEEPA-based sanctions programs regulations to reflect the revised description of unlawful acts and the revised penalties prescribed by the Act. In particular, the amended regulations cross-reference IEEPA for the maximum civil penalty amount rather than specify such amount in the regulations themselves. OFAC posted an interim policy concerning its implementation of