

Proposed Rules

Federal Register

Vol. 74, No. 204

Friday, October 23, 2009

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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS-2009-0048]

RIN 0579-AC99

User Fees for Agricultural Quarantine and Inspection Services; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are informing the public of an upcoming meeting to address affected stakeholders' questions and concerns regarding the agricultural quarantine and inspection user fee increases scheduled to go into effect on November 1, 2009. The meeting is being organized by the Animal and Plant Health Inspection Service.

DATES: The meeting will be held on October 27, 2009, from 9 a.m. to 1 p.m. Registration will begin at 8:30 a.m.

ADDRESSES: The public meeting will be held in the USDA Center at Riverside, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Thomas, Director, Quarantine Policy, Analysis, and Support, PPQ, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737; (301) 734-5214.

SUPPLEMENTARY INFORMATION: In an interim rule¹ published in the **Federal Register** on September 28, 2009 (74 FR 49311-49315, Docket No. APHIS-2009-0048), we amended the user fee regulations in 7 CFR part 354 by adjusting the fees charged for certain agricultural quarantine and inspection (AQI) services that are provided in connection with certain commercial vessels, commercial trucks, commercial

railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. In the interim rule, we explained that the recent downturn in the U.S. economy has negatively impacted travel volumes, and, as a result, our user fee collections, which fund these services, have diminished. Although the volume of international travel and trade has decreased, inspection and related support services continue to be provided at their existing levels, so expenses have not decreased. As a result, our user fee collections have not been sufficient to enable us to provide those services and maintain a reasonable reserve balance. We therefore found it necessary to increase our AQI user fees in order to provide adequate funds for these purposes.

The interim rule was scheduled to become effective on October 1, 2009. However, we subsequently published a document in the **Federal Register** on October 2, 2009 (74 FR 50915, Docket No. APHIS-2009-0048), in which we delayed the effective date of the user fee increases until November 1, 2009. This delay was intended to provide entities affected by the changes in AQI user fees additional time to make the necessary preparations to comply with the new fees. In conjunction with the delay, we held a public meeting on October 15, 2009, in Riverdale, MD. Transcripts of that meeting are available for viewing on the Regulations.gov Web site.²

APHIS will continue to accept public comments on the interim rule until November 27, 2009. In order to gather additional feedback and to address questions and concerns that stakeholders potentially affected by the AQI user fee increases may have, we plan to hold a second public meeting. The public meeting will be held on Tuesday, October 27, 2009, in the USDA Center at Riverside, 4700 River Road, Riverdale, MD. Registration will begin at 8:30 a.m. The public meeting will begin at 9 a.m. and is scheduled to end at 1 p.m. Additional information regarding the meeting may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Security Procedures

Upon entering the building, visitors should inform security personnel that they are attending the AQI user fee

public meeting. State-issued photo identification is required and all bags will be screened. Security personnel will direct visitors to the registration tables located outside of the conference center on the first floor. Registration upon arrival is required for all participants.

Done in Washington, DC, this 20th day of October 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-25548 Filed 10-22-09; 8:45 am]

BILLING CODE 3410-34-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 918

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1261

RIN 2590-AA31

Federal Home Loan Bank Directors' Compensation and Expenses

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement section 1202 of the Housing and Economic Recovery Act of 2008 (HERA), which amended section 7(i) of the Federal Home Loan Bank Act (Bank Act) by repealing the statutory caps on the annual compensation that can be paid to Federal Home Loan Bank (Bank) directors. The proposed rule would allow each Bank to pay its directors reasonable compensation and expenses, subject to the authority of the Director (Director) of the Federal Housing Finance Agency (FHFA) to object to, and to prohibit prospectively, compensation and/or expenses that the Director determines are not reasonable.

DATES: FHFA will accept written comments on this proposed rule on or before December 7, 2009.

ADDRESSES: You may submit your comments on the proposed rule identified by regulatory information number (RIN) 2590-AA31 by any one of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is:

¹ To view and comment upon the interim rule and its supporting documents, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0048>.

² See footnote 1.

Alfred M. Pollard, General Counsel,
Attention: Comments/RIN 2590-AA31,
Federal Housing Finance Agency,
Fourth Floor, 1700 G Street, NW.,
Washington, DC 20552.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA31, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail to RegComments@fhfa.gov. Please include "RIN 2590-AA31" in the subject line of the message.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at RegComments@fhfa.gov to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Federal Housing Finance Agency. Proposed Rule: Federal Home Loan Bank Directors' Compensation and Expenses, RIN 2590-AA31.

FOR FURTHER INFORMATION CONTACT:

Daniel E. Coates, Associate Director, Risk Analysis and Research, (202) 408-2959, Daniel.Coates@fhfa.gov; Neil R. Crowley, Deputy General Counsel, (202) 343-1316, Neil.Crowley@fhfa.gov. The telephone number for the Telecommunications Device for the Deaf is 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing the final rule. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Internet Web site at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414-3751.

II. Background

A. Establishment of FHFA

Effective July 30, 2008, Division A of HERA, Public Law 110-289, 122 Stat. 2654 (2008), titled the Federal Housing Finance Regulatory Reform Act of 2008, created FHFA as an independent agency of the Federal Government.

HERA transferred to FHFA the supervisory, mission, and oversight responsibilities over the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises), and the Banks (collectively, regulated entities) from the U.S. Department of Housing and Urban Development (HUD), including the Office of Federal Housing Enterprise Oversight (OFHEO), and from the Federal Housing Finance Board (FHFB). HERA abolished OFHEO and the FHFB one year after the date of its enactment.

FHFA is responsible for ensuring that the Enterprises and the Banks operate in a safe and sound manner, including their maintenance of adequate capital, internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. See § 1102 of HERA, amending section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) (12 U.S.C. 4513). The regulated entities continue to operate under regulations promulgated by OFHEO and FHFB until such regulations are superseded by regulations promulgated by FHFA. See *id.* section 1302 and 1312 of HERA; 122 Stat. 2795, 2798.

B. Statutory and Regulatory Background

Until 1999, section 7(i) of the Bank Act authorized the Banks to pay reasonable compensation and expenses to their directors, subject to the approval of the FHFB. In 1999, Congress amended section 7(i) to impose statutory caps on the amount of annual compensation that a Bank could pay to its Chairperson, Vice Chairperson and other directors. See Public Law 106-102, 113 Stat. 1338, 1453 (November 12, 1999). As part of HERA, Congress repealed the statutory caps on director compensation, the effect of which was to reinstate the prior statutory structure, which authorized the Banks to pay reasonable compensation and expenses to their directors, subject to the approval of FHFA. See § 1202 of HERA, amending section 7(i) of the Bank Act at 12 U.S.C. 1427(i). HERA also enhanced the authority of the Director to oversee

the compensation practices of the regulated entities more generally. See *id.* § 1202 of HERA and §§ 1113 and 1114 of HERA (the latter sections amend section 1318 of the Safety and Soundness Act, 12 U.S.C. 4518). The proposed rule would implement the provisions of section 7(i) of the Bank Act in a manner that is consistent with the other authorities that the Director has over the compensation practices of the regulated entities.

C. HERA Section 1201

Section 1201 of HERA (section 1313(f) of the Safety and Soundness Act) requires the FHFA Director to consider the differences between the Banks and the Enterprises in rulemakings that affect the Banks with respect to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure and joint and several liability. 12 U.S.C. 4513(f). In preparing this proposed rule, the Director considered these factors and determined that the rule is appropriate, particularly because the proposed amendments would implement statutory provisions of the Bank Act that apply only to the Banks. Nonetheless, FHFA requests comments about whether these factors should result in a revision of the proposed amendment as it relates to the Banks.

III. Analysis of Proposed Rule

A. Scope of the Proposed Rule

This proposed rule would relocate the FHFB regulations relating to director compensation in their entirety from part 918 of the FHFB regulations to part 1261 of the FHFA regulations. In addition, the proposed rule would amend certain provisions of those regulations to reflect the changes made by HERA. Although each of the individual amendments to the FHFB regulations may not be evident from the regulatory text of the proposed rule because the provisions are being relocated in their entirety, any material substantive revisions are discussed in this preamble.

B. Definitions—Section 1261.20

For the sake of consistency, the proposed rule would replace the earlier rule's definition of "compensation" with a simplified version of the definition currently proposed in FHFA's executive compensation rule, which is based on the definition of "compensation" in the Safety and Soundness Act. The new definition is in substance the same as the old; it would encompass any kind of payment or

other provision of value for a director's services, and would include, but not be limited to, such things as meeting fees, incentive payments, and perquisites or fringe benefits.

C. General—Section 1261.21

The proposed rule would add a new § 1261.21, which is intended to articulate the general standard under which the Banks may compensate their directors and to establish reporting requirements with respect to how Banks compensate their directors. The general standard is derived from section 7(i) of the Bank Act and closely parallels the statutory provisions, *i.e.*, it authorizes the Banks to pay reasonable compensation and expenses to their directors, but also makes clear that the director compensation practices of the Banks remain subject to FHFA oversight and possible disapproval. The new reporting requirements are intended to provide FHFA with a basis to assess the reasonableness of the compensation and expenses paid to a Bank's directors, as well as to provide FHFA with the information necessary to prepare its annual report to Congress regarding the compensation and expenses paid to Bank directors, as required by section 1202 of HERA, which amended the Bank Act at 12 U.S.C. 1427(i)(2). (See also section 1319B of the Safety and Soundness Act, 12 U.S.C. 4521, for the content of the Director's annual report.)

D. Directors' Compensation Policy—Section 1261.22

Section 1261.22 of the proposed rule addresses the requirement that each Bank must adopt annually a written policy relating to the compensation and expenses to be paid to its directors. This provision includes elements from § 918.2 and § 918.3 of the FHF's regulations governing this topic, as well as new provisions relating to the HERA amendments. In addition, this section would delete the Gramm-Leach-Bliley (GLB) salary caps, as required by HERA's amendment of section 7(i) of the Bank Act, and which currently are codified at § 918.3(a).

Paragraph (a) of this section would require each Bank's board of directors annually to adopt a written policy to provide for the payment of reasonable compensation and expenses to the directors of the Bank. This provision would also state that such payments may be based on any factors that the board of directors determines to be appropriate, subject to the other requirements of the regulation. Both of those requirements exist under the FHF's regulations and are carried

forward into the FHFA regulations without substantive change.

Paragraph (b) of this section would specify the minimum contents of a Bank's director compensation policy, much of which already is included in § 918.2 and § 918.3 of the FHF's regulations. Specifically, the compensation policy must: (a) Identify the activities or functions for which director attendance or participation is necessary and which may be compensated; (b) explain and justify the methodology used to determine the amount of compensation to be paid to the Bank directors; (c) include provisions requiring that compensation paid must reflect the amount of time a director has spent on official business, and that compensation be reduced, as necessary, to reflect lesser attendance at board or committee meetings.

Paragraph (c) of this section prohibits a Bank from paying compensation to a director who regularly fails to attend board or committee meetings, and prohibits the payment of fees to a director that do not reflect the director's performance of official Bank business conducted prior to the payment of such fees (*e.g.*, retainer fees). This provision largely reiterates similar prohibitions contained in § 918.3(b) of the FHF's regulations.

Paragraph (d) of this section is a new provision that requires each Bank to submit to the Director a copy of its directors' compensation policy, along with all studies or other supporting materials upon which the Bank relied in determining the level of compensation and expenses to pay its directors. The Bank must submit the information no later than 10 business days after adopting the policy, and no fewer than 30 calendar days prior to the first payment to directors being made under the policy. The Director intends to use this information in assessing the reasonableness of the compensation and expenses paid to directors each year, as well as to develop the provisions for its annual report to Congress that address the amount of compensation and expenses paid by each of the Banks to its directors.

E. Director Disapproval—Section 1261.23

Section 918.5 of the FHF's regulations deemed any payments made by the Banks in accordance with the provisions of part 918 to be approved by the FHF for purposes of section 7(i) of the Bank Act. The proposed rule includes a new provision, § 1261.23, which addresses the Director's authority to disapprove compensation arrangements that do not conform to the reasonableness standard

imposed by section 7(i) of the Bank Act. This section provides that the Director may determine that a Bank's compensation arrangements are not reasonable after reviewing the Bank's director compensation policy, the methodology employed in establishing the amount of compensation and/or expenses to be paid, or any other materials submitted by the Bank in support of its policy. In such an event, the Director may order a Bank to refrain from making any further payments based upon that compensation policy, although the proposal also provides that any such order will be applied prospectively and will not affect payments made prior to the Director's order.

F. Other Amendments—Sections 1261.24, 1261.25, 1261.26 and 1261.27

The proposed rule includes several other provisions that are carried over from the regulations of the FHF without material substantive changes. Sections 1261.24 and 1261.27 of the proposed rule, which relate to directors' expenses and the location of board and committee meetings, respectively, are identical to the corresponding provisions within the FHF's regulations. Section 1261.25, which relates to items that must be disclosed in a Bank's annual report to its members, adds four elements to those that were required by the FHF's regulations. The additional items relate to the amount of compensation and expenses paid to each director during the year, the number of board and committee meetings held each year, and the number of board and committee meetings that each board member attended during the year.

Section 1261.26 of the proposed rule, relating to the number of in-person board meetings each Bank must hold annually, is much the same as § 918.7 of the FHF's regulations, except that the proposal does not include any references to the statutory compensation caps and introduces a new provision requiring the board of directors of each Bank to hold as many meetings as is appropriate for the board to carry out its fiduciary responsibilities to the Bank. That provision is intended to recognize that changing circumstances may require the board of directors of a Bank to meet more frequently than the minimum of six in-person meetings each year, if such additional meetings are needed to address adverse financial or supervisory issues, or for other reasons.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Regulatory Flexibility Act

The proposed rule, if adopted as a final rule, will apply only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the General Counsel of FHFA hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Parts 918 and 1261

Banks, Banking, Community development, Conflicts of interest, Credit, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Housing, Reporting and recordkeeping requirements, Wages.

Authority and Issuance

For the reasons stated in the preamble, under the authority of 12 U.S.C. 1427, 4511, 4526, FHFA proposes to amend chapters IX and XII, of title 12 of the Code of Federal Regulations as follows:

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

PART 918—[REMOVED]

1. Remove part 918.

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

PART 1261—FEDERAL HOME LOAN BANK DIRECTORS

2. The authority citation for part 1261 continues to read as follows:

Authority: 12 U.S.C. 1426, 1427, 1432, 4511 and 4526.

3. Add Subpart B to read as follows:

Subpart B—Federal Home Loan Bank Directors' Compensation and Expenses

Sec.	
1261.20	Definitions.
1261.21	General.
1261.22	Directors' compensation policy.
1261.23	Director disapproval.
1261.24	Directors' expenses.
1261.25	Disclosure.
1261.26	Board meetings.
1261.27	Site of board of directors and committee meetings.

Subpart B—Federal Home Loan Bank Directors' Compensation and Expenses

§ 1261.20 Definitions.

As used in this subpart:

Compensation means any payment of money or the provision of any other thing of current or potential value in connection with service as a director. Compensation includes all direct and indirect payments of benefits, both cash and non-cash, granted to or for the benefit of any director.

§ 1261.21 General.

(a) *Standard.* Each Bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, as determined by a resolution adopted by the board of directors of the Bank and subject to the provisions of this subpart.

(b) *Reporting.* No later than December 1 of each calendar year, each Bank shall report to the Director the compensation anticipated to be paid to its directors for the following calendar year. By no later than the tenth business day of each calendar year, each Bank shall report to the Director the amount of compensation and expenses paid to each director for the immediately preceding calendar year.

§ 1261.22 Directors' compensation policy.

(a) *General.* Each Bank's board of directors annually shall adopt a written compensation policy to provide for the payment of reasonable compensation and expenses to the directors for the time required of them in performing their duties as directors. Payments under the directors' compensation policy may be based on any factors that the board of directors determines reasonably to be appropriate, subject to the requirements set forth in this subpart.

(b) *Minimum contents.* The compensation policy shall address the activities or functions for which director attendance or participation is necessary and which may be compensated, and shall explain and justify the methodology used to determine the amount of compensation to be paid to the Bank directors. The compensation policy shall require that any compensation paid to a director reflect the amount of time the director has spent on official Bank business, and shall require that compensation be reduced, as necessary to reflect lesser attendance or performance at board or committee meetings during a given year.

(c) *Prohibited payments.* A Bank shall not pay a director who regularly fails to

attend board or committee meetings, and shall not pay fees to a director that do not reflect the director's performance of official Bank business conducted prior to the payment of such fees.

(d) *Submission requirements.* By no later than the tenth business day after adopting its annual policy for director compensation and expenses, and at least 30 days prior to the first payment being made to its directors, each Bank shall submit to the Director a copy of the policy, along with all studies or other supporting materials upon which the board relied in determining the level of compensation and expenses to pay to its directors.

§ 1261.23 Director disapproval.

The Director may determine, based upon his or her review of a Bank's director compensation policy, methodology and/or other related materials, that the compensation and/or expenses to be paid to the directors are not reasonable. In such case, the Director may order the Bank to refrain from making any further payments under that compensation policy. Any such Director determination and order shall be applied prospectively only and shall not affect any compensation or expense payments made prior to the date of the Director's determination and order.

§ 1261.24 Directors' expenses.

Each Bank may pay its directors for such necessary and reasonable travel, subsistence and other related expenses incurred in connection with the performance of their official duties as are payable to senior officers of the Bank under the Bank's travel policy, except that directors may not be paid for gift or entertainment expenses.

§ 1261.25 Disclosure.

Each Bank shall, in its annual report:

- (a) State the sum of the total compensation paid to its directors in that year;
- (b) State the sum of the total expenses paid to its directors in that year;
- (c) State the total compensation paid to each director in that year;
- (d) State the total expenses paid to each director in that year;
- (e) State the total number of board meetings and meetings of its designated committees held in that year;
- (f) State the number of board and designated committee meetings that each director attended; and
- (g) Summarize its policy on director compensation.

§ 1261.26 Board meetings.

The board of directors of each Bank shall hold as many meetings as

necessary and appropriate to carry out its fiduciary responsibilities with respect to the effective oversight of the management of the Bank and such other duties and obligations as may be imposed by applicable laws, provided the board of directors of a Bank shall hold a minimum of six in-person meetings in any year.

§ 1261.27 Site of board of directors and committee meetings.

Meetings of a Bank's board of directors and committees thereof usually should be held within the district served by the Bank. No meetings of a Bank's board of directors and committees thereof may be held in any location that is not within the United States, including its possessions and territories.

Dated: October 18, 2009.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. E9-25577 Filed 10-22-09; 8:45 am]

BILLING CODE 8070-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM417; Notice No. 25-09-12-SC]

Special Conditions: Model C-27J Airplane; Class E Cargo Compartment Lavatory

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Alenia Model C-27J airplane. This airplane has novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport-category airplanes. These design features include a lavatory in the Class E cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. We have issued additional special conditions for other novel or unusual design features of the C-27J.

DATES: We must receive your comments by November 23, 2009.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM417, 1601 Lind Avenue, SW., Renton, Washington 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM417. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1503, facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 27, 2006, the European Aviation Safety Agency (EASA) forwarded to the FAA an application from Alenia Aeronautica of Torino, Italy, for U.S. type certification of a twin-engine, commercial transport

designated as the Model C-27J. The C-27J is a twin-turbopropeller, cargo-transport aircraft with a maximum takeoff weight of 30,500 kilograms.

Type Certification Basis

Under the provisions of Section 21.17 of Title 14 Code of Federal Regulation (14 CFR) and the bilateral agreement between the U.S. and Italy, Alenia Aeronautica must show that the C-27J meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-87. Alenia also elects to comply with Amendment 25-122, effective September 5, 2007, for 14 CFR 25.1317.

If the Administrator finds that existing airworthiness regulations do not adequately or appropriately address safety standards for the C-27J due to a novel or unusual design feature, we prescribe special conditions under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the C-27J must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92-574, the "Noise Control Act of 1972."

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions also apply to the other model under § 21.101.

Novel or Unusual Design Features

The C-27J incorporates a lavatory into the Class E cargo compartment, which is considered a novel or unusual design feature in a cargo compartment. In developing the airworthiness requirements for cargo compartments, the FAA did not envision that a lavatory would be installed inside a Class E cargo compartment. Lavatories, including the one proposed for the C-27J, typically contain electrical systems, which could serve as ignition sources for a fire, and an oxygen supply system, which could intensify the growth and size of a fire. Therefore, consideration must be given to a means to control the possibility of the: