ment or Transfer of Account to Farmers Home Administration," to the Finance Office and notify the borrower of the action taken. The Finance Office will send the borrower's Promissory Note through the State Office to the appropriate county office for further servicing of the account as provided in FmHA regulations. Once an account has been transferred to FmHA, the utility must no longer accept payments from the borrower.

5. Under no circumstances can a borrower's indebtedness be transferred to another borrower.

6. For income tax purposes, the utility will be responsible for informing the borrower of the interest paid on the loan for each calendar year by January 31 of the next calendar year.

7. On a semi-annual basis, the FmHA Finance Office will send to each utility a detailed list of advances and payments for reconciliation purposes.

8. Interest on unpaid interest shall not be charged.

H. *Bonding*. Fidelity bonding coverage must be provided for the utility officials entrusted with the receipt, custody, and disbursement of funds. The amount of the bond must be at least equal to the maximum amount of money that the utility officials will have access to at any one time.

I. *Inspection of Records*. The utility will provide FmHA (or other appropriate Federal Agencies) at all reasonable times, access to all books and records relating to FmHA loans made to its consumers under the provisions of this Agreement.

J. *Referrals to FmHA*. Applicants who are unable to qualify for a loan as provided herein because the cost of repairs will exceed $1,500, because of lack of repayment ability, or because the applicant is not a utility consumer should be referred to the FmHA County Office serving the area for further consideration of eligibility under other FmHA programs.

K. *Equal Opportunity Clause*. This equal opportunity clause applies to the utility executing the Cooperative Agreement rather than to the contractor performing weatherization work.

1. In the Equal Opportunity clause the term "contractor" means the "utility" and "contract" means "Cooperative Agreement."

2. During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Farmers Home Administration setting forth the provisions of his nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor will send to each labor union or representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Farmers Home Administration, advising the said Labor union or workers' representative of the contractor's commitments under this agreement as required pursuant to section 301 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of such Executive Order and of all relevant rules, regulations, and orders of the Secretary of Labor and of any prior authority which remain in effect.

(e) The contractor will furnish all information and reports required by such Executive Order, rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records, and accounts by the Farmers Home Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in such Executive Order and such other sanctions may be imposed and remedies invoked as provided in the such Executive Order or by any such rule, regulation, or order, or as otherwise provided by law.

(g) The contractor will include the provisions of the FmHA Equal Opportunity Agreement (Form FmHA 400-1 available in all FmHA offices) in every subcontract or purchase order, unless exempted by such rules, regulations, or orders, so that such provisions will be binding upon each such subcontractor or vendor. The contractor will take such action as the Farmers Home Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Farmers Home Administration, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

L. *Personal Benefit Clause*. No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

M. *Payment for Services*. Consumers may be charged customary fees for technical services provided in determining the type and amount of weatherization improvements, obtaining cost estimates, and for inspections made to insure that the improvements have been properly completed. Loan funds may only be used for these purposes to the extent set forth in paragraph C. However, neither the FmHA nor the applicant/borrower will pay a loan origination or packaging fee, nor will a fee be paid for servicing the account during the life of the loan.

N. *Administrative Policy*. The FmHA State Director, in conjunction with the signing of this agreement, will advise the utility of the following:

1. Eligible rural areas.
2. The interest rate to be charged.
3. The current income limits.
4. Any funding limitations likely to be encountered in the forseeable future.
5. The processing requirements for this type of loan.
6. Consideration is to be given the potential effect of any weatherization loan made on a historic property. Each State Historic Preservation Officer maintains survey data on historic properties in the State. The State Director should communicate regularly with the SHPO to keep informed about properties included in the State survey data and should make such information available to the utility. The State Director must provide the utility a list of historic properties (including districts) listed or determined eligible for listing in the National Register of Historic Places. (Listings and updates are published regularly in the "Federal Register".) Before weatherization improvements are made to historic buildings, the utility must contact the State Director. The State Director, in accordance with FmHA Procedure 1901-F, will assure that the proposed improvement will not damage the historic integrity or fabric of the building.
7. The FmHA State Director will be responsible for seeing that the utility is notified in the future of any interest rate, income limit, or other program changes. The State Director will provide the needed forms for loan processing to the utility. The utility will advise the State Director when additional forms are required or assistance is needed. This address of the FmHA State Office is ________________

(Address)

____

(Phone No.)

____

(Name)

____

(Title of Co-op Official)

Date: ________________________________

____

(Name)

____

(State Director)

Date: ________________________________

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 24, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-25434 Filed 8-31-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 447]

AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

General Conference Committee and Plan Conference—Withdrawal of Proposal to Terminate

AGENCY: Agricultural Research Service, USDA.

ACTION: Withdrawal of proposal to terminate the General Conference Committee and Plan Conference of the National Poultry Improvement Plan.

SUMMARY: This notice announces the withdrawal of Proposed Rule FR Docket 77-18592 (42 FR 33041) which would terminate the General Conference Committee and the biennial Plan Conference of the National Poultry Improvement Plan. The Department ruled in favor of the nearly unanimous opposition expressed by poultry trade associations, hatcherymen, breeders, poultrymen, State officials, avian pathologists, and

University personnel to the proposed rulemaking.

EFFECTIVE DATE: September 1, 1977.

ADDRESS: Raymond D. Schar, Agricultural Research Service, U.S. Department of Agriculture, BARC East, Beltsville, Md. 20705.

FOR FURTHER INFORMATION CONTACT:

Raymond D. Schar, 301-344-2227.

The purpose of this notice is to announce that the Administrator of the Agricultural Research Service is closing Docket No. 77-18592 without further action and does not now intend to institute additional proceedings on the subject of terminating the General Conference Committee and biennial Plan Conference of the National Poultry Improvement Plan.

In Federal Register Docket No. 77-18592, published on June 29, 1977, the Administrator of the Agricultural Research Service issued an advance notice of proposed rulemaking, inviting interested persons to comment on the Proposal to Terminate the General Conference Committee and biennial Plan Conference of the National Poultry Improvement Plan (42 FR 33041). Upon review of the comments received in response to that invitation, the Administrator of the Agricultural Research Service, in consultation with the Secretary of Agriculture, has determined that it would not be in the public interest to terminate the General Conference Committee and the Plan Conference Committee of the National Poultry Improvement Plan.

Done at Washington, D.C. this 26th day of August 1977.

T. W. EDMINSTER,
Administrator,
Agricultural Research Service.

[FR Doc.77-25450 Filed 8-31-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 40]

LICENSING OF SOURCE MATERIAL

General License for Government Agencies' Operational Use of Small Quantities of Source Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering an amendment to its regulations to include Federal, State, and local governmental agencies' research, development, education, or operational use of small quantities of source material in the general license which authorizes certain persons to use small quantities of source material. This rule change was requested by the United States Air Force Radioisotope Committee. Its implementation would lessen the existing administrative burden of specific licensing requirements for thorium coated lenses.

DATES: Comment period expires October 31, 1977.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone: 301-443-6911.

Deborah A. Bozik, Office of Standards

SUPPLEMENTARY INFORMATION: By letter dated October 30, 1974, the United States Air Force Radioisotope Committee, Wright-Patterson Air Force Base, Ohio, filed with the Nuclear Regulatory Commission a petition for rule making (PRM-40-20) requesting that the Commission amend the general license in 10 CFR 40.22, "Small Quantities of Source Material," to (a) authorize use and transfer of source material under that general license by Federal agencies for operational purposes, and (b) authorize USAF possession and operational use of thorium, as a fluoride salt, in anti-reflective lens coatings on thermal imaging lenses of the Forward Looking Infra-Red (FLIR) imaging system.

The general license in 10 CFR 40.22 of the NRC regulations now authorizes certain persons (physicians, pharmacists, commercial and industrial firms, and research educational, and medical institutions) to use and transfer not more than fifteen pounds of source material at any one time for research, educational, or commercial purposes, provided that no person shall receive more than 150 pounds of source material in any one calendar year. These generally licensed persons are exempt from the provisions of Parts 19, 20, and 21 of the Commission's regulations. At the present time, thorium coated lenses are manufactured and used commercially under this general license

Since the general license in 10 CFR 40.22 is not available to government agencies, the U.S. Air Force was required to obtain a specific license authorizing it to possess and use thorium, as a fluoride salt, in anti-reflective lens coatings on thermal imaging lenses of the Forward Looking InfraRed (FLIR) imaging system. Since the coating on the lens is greater than 75% by weight thorium it is not exempt from licensing pursuant to 10 CFR 40.13(a) which exempts any material containing less than 0.05% source material. Since the thorium coats the lens and is not evenly distributed in the finished lens, it is not exempt from licensing pursuant to 10 CFR 40.13(c)(7) which exempts finished optical lenses containing less than 30% thorium.

The major hazard associated with source material arises from the inhalation or ingestion of such material and not from external radiation. The operational uses which may be made of less than fifteen pounds of source material make the inhalation or ingestion of any significant quantities of material unlikely.

The thorium coated lenses described in the U.S. Air Force's petition for rule making are an example of the type of product which would be generally licensed for operational use if the proposed amendment to 10 CFR 40.22(a)(4) were adopted. The maximum source material would be 33.9 milligrams per lens, and the Air Force would require 16.4 grams to 38.2 grams of source material if full deployment of the current generation thermal imaging system is made. The source material in these lenses presents negligible, if any, radiation hazard. Based on the maximum of fifteen pounds of source material at any one time, not more than a few millirem per year dose would be received; therefore the use of thorium coated lenses presents no substantial radiation hazard.

The proposed amendment to 10 CFR 40.22(a)(4) would make it unnecessary for Federal, State, and local governmental agencies to obtain specific licenses to use small quantities of source material for research, development, educational, or operational purposes. Extension of the general license in 10 CFR 40.22 to these agencies would not significantly change existing NRC policy regarding use and transfer of not more than fifteen pounds of source material at any one time. The number of increments of fifteen pounds that would be added by the governmental agencies' use of small quantities of source material would not increase significantly since the number of Federal, State, and local governmental agencies is still very small compared to the number of commercial and industrial firms authorized to use small quantities of source material under 10 CFR 40.22.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that the adoption of the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 40 is contemplated.

1. Section 40.22 of 10 CFR Part 40 is amended by revising paragraph (a)(4) to read as follows:

§ 40.22 Small quantities of source material.

(a) A general license is hereby issued authorizing use and transfer of not more than fifteen (15) pounds of source material at any one time by persons in the following categories:

* * * * *

(4) Commercial and industrial firms and research, educational and medical institutions and Federal, State and local governmental agencies for research,

development, educational, commercial or operational purposes;

* * * * *

(Secs. 62, 63, 161, Pub. Law 83-703, 68 Stat. 932, 933, 948 (42 U.S.C. 2092, 2093, 2201); sec. 201, as amended, Pub. Law 93-438, 88 Stat. 1242, Pub. Law 94-97, 89 Stat. 413 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 18th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-25269 Filed 8-31-77;8:45 am]

[10 CFR Part 73]

PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Upgraded Guard Qualification, Training and Equipment Requirements; Extension of Comment Period

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On July 5, 1977, NRC published a proposed rule to upgrade guard qualification, training and equipment requirements for security personnel protecting against theft of special nuclear material and industrial sabotage of nuclear facilities or nuclear shipments (42 FR 34321). Comments were requested by August 19, 1977. Several commenters have requested more time to comment. In view of the complexity of the rule and the concerns expressed by commenters, the NRC is hereby extending the comment period to expire September 19, 1977.

DATES: Comments must be received on or before September 19, 1977.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Jones, Chief, Material Protection Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301-443-6973).

Dated at Washington, D.C. this 24th day of August 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-25410 Filed 9-1-77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 308]

RULES OF PRACTICE AND PROCEDURES

Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rules.

SUMMARY: The procedures and standards set forth in these proposed rules would be applicable to proceedings by the Board of Directors of the Federal Deposit Insurance Corporation to suspend and/or prohibit from participation any officer or director or other person participating in the conduct of the affairs of an insured State nonmember bank, where such person is charged with a felony involving dishonesty or breach of trust. These proposed rules are intended to make available to such persons specific procedures for hearings in such cases and are believed by the Board to be necessary because of the decision in *Feinberg* v. *Federal Deposit Insurance Corporation*, 420 F. Supp. 109 (D.D.C. 1976), holding that an order suspending an indicted individual where no such hearing is held is unconstitutional.

DATE: Comments must be received on or before September 26, 1977.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed rules to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Werner Goldman, Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, telephone 202-389-4616.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend 12 CFR Part 308 as set forth below.

§ 308.35 [Amended]

1. Amend § 308.35 by inserting the phrase "Except as otherwise specifically provided in Subpart F of this part," immediately before the first sentence thereof, and by revising the second sentence thereof to read: "The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart, Subpart A of this part, and, where applicable, Subpart F of this part."

§ 308.41 [Deleted]

2. Delete § 308.41.

3. Add a new Subpart F by adding the following new sections 308.50–.58;

Subpart F—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

§ 308.50 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors to suspend or remove any director or officer of an insured State nonmember bank (other than a District bank) or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, or both, where such individual is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust.

§ 308.51 Notice of suspension or prohibition.

Whenever a director or officer of an insured State nonmember bank (other than a District bank) or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust, the Board of Directors, upon a preliminary determination that the offense alleged in the information, indictment or complaint is, or may be, one involving dishonesty or breach of trust, shall, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension also shall be served upon the bank.

§ 308.52 Notice of hearing.

(a) Any notice of suspension and/or prohibition issued pursuant to § 308.51 shall be accompanied by a further notice to the individual that he may request in writing a hearing at which he may present evidence and argument as to why the suspension and/or prohibition should not continue in effect. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A request for a hearing filed pursuant to paragraph (a) above, shall state with particularity the relief desired, the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

(c) If an individual fails to request a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where a hearing has been waived pursuant to § 308.54, the suspension and/or prohibition shall remain in effect until such information, indictment or complaint is finally disposed of or until terminated by the Board of Directors.

§ 308.53 Hearing.

(a) After the receipt of request for a hearing, complying with § 308.52, the Executive Secretary of the FDIC will order a hearing to commence within the next succeeding 30 days in Washington, D.C., or such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors of the FDIC to conduct such hearings.

(b) The notice of the hearing shall be served by the Executive Secretary upon the party or parties afforded the hearing and shall set forth the time and place of the hearing and the name and address of the presiding officer.

(c) The subject individual may appear at the hearing through counsel, or personally with counsel. The individual shall have the right to introduce relevant and material evidence and to present an oral argument before the presiding officer. A member of the staff of the Office of the General Counsel of the FDIC may attend the hearing and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554-557) shall apply to the hearing. The proceedings shall be recorded and a transcript will be furnished to the individual, upon request and after the payment of the cost thereof. Witnesses may be presented, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the subject individual or the representatives of the Office of the General Counsel, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(d) The presiding officer will make his recommendations to the Board of Directors, where possible, within ten (10) business days following the close of the record.

§ 308.54 Waiver of hearing.

The subject individual may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board of Directors on the basis of written submissions alone.

§ 308.55 Decision of Board of Directors.

(a) Within thirty (30) days following receipt of the presiding officer's recommendations, or receipt of the subject individual's written submissions where hearing has been waived pursuant to § 308.54, the Board of Directors shall render its decision. The decision shall include a statement of the basis for the decision and such statement shall be provided to the subject individual and the bank.

(b) The Board of Directors may extend said thirty (30) day time period for good cause, but in no instance to exceed sixty (60) days from the date of the hearing or receipt of the subject individual's written submissions where hearing has been waived pursuant to § 308.54. Where such an extension is required, the individual will be notified of the reason for the extension and the expected date upon which a final decision will be rendered.

§ 308.56 Reconsideration by the Board of Directors.

(a) The subject individual shall have ten (10) business days following receipt of the decision of the Board of Directors in which to petition the Board for an initial reconsideration.

(b) The subject individual also shall be entitled to petition the Board of Directors for reconsideration of its decision anytime after the expiration of a twelve-month period from the date of the Board of Directors' decision. Provided, however, that no petition for reconsideration may be made within 12 months of a previous petition.

(c) Any petition shall state with particularity the basis for reconsideration, the relief sought, or any exceptions the individual has to the Board's finding. An individual's petition may be accompanied by a memorandum of points and authorities in support of his petition and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on such petition for reconsideration. The Board of Directors shall promptly render its decision following receipt of the petition.

§ 308.57 Relevant considerations.

In deciding the question of suspension under this subpart the Board of Directors will consider the following:

(a) Whether the alleged offense: (1) is a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (2) involved dishonesty or a breach of trust;

(b) Whether the continued presence of the subject individual in his position constitutes a possible danger to the safety of deposits or the soundness of an insured bank because of: (1) the nature and extent of the individual's participation in the affairs of the insured bank, or (2) the nature of the offense with which the individual has been charged, or (3) both;

(c) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular bank or the banking system (either generally or in the particular locality in which the bank is situated) if the subject individual is permitted to remain in his position in an insured bank; and

(d) Whether the individual is covered by the bank's fidelity bond and, if so, whether the bonding company is likely to revoke the bond or whether coverage under the bond will be affected adversely as a result of the indictment.

(e) The Board of Directors may consider any other factors which, in the specific case, appear relevant to continuing a suspension order in effect, except that it shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

§ 308.58 Removal and/or Permanent Prohibition.

In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board of Directors may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board of Directors from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in bank affairs, pursuant to the provisions of Section 8(e) of the Federal Deposit Insurance Act.

(Sec. 2[8], Pub. L. 797, 64 Stat. 879, as amended, sec. 202, Pub. L. 89-695, 80 Stat. 1046, 1050 (12 U.S.C. 1818); sec. 2[9], Pub. L. 797, 64 Stat. 881-82 (12 U.S.C. 1819).)

By order of the Board of Directors, dated August 22, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-25541 Filed 8-31-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 21]

[Docket No. 17147; Notice 77-19]

PARTS MANUFACTURER APPROVALS—EXPORT AIRWORTHINESS APPROVALS

Miscellaneous Proposals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes—(1) to revise the application and reporting requirements applicable to Parts Manufacturer Approvals (PMA), (2) to provide for the issuance of export certificate of airworthiness for unassembled normal category rotorcraft, and (3) to provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such condition. The FAA believes that these proposals, if adopted, will relieve PMA holders and applicants for export airworthiness approvals from unnecessary burdens with no adverse effect on safety. The NPRM also proposes to update certain form number references and to clafiy the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate.

DATES: Comments must be received on or before November 1, 1977.

ADDRESSES: Send comments on the proposals to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17147, 800 Independence Avenue, SW., Washington, D.C., 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, telephone 202-755 8716.

SUPPLEMENTARY INFORMATION:

COMMENT SOLICITATION AND INFORMATION FOR OBTAINING ADDITIONAL COPIES OF NPRM

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments submited wil be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA—public contact, dealing with the substance of the proposed rules, will be placed in the Rules Docket.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF PROPOSALS

Due to the diverse subject matter dealt with in this notice the discussion of the rule changes proposed is divided into several parts under descriptive headings.

PMA APPLICATION AND REPORTING REQUIREMENTS

The lead-in sentence of § 21.303(c) and § 21.303(c)(2) require, in pertinent part, that an application for a PMA be made to the FAA Regional Office of the region in which the manuftcturing facility is located and must include the name and address of the manufacturing facilities at which the parts to be covered by the PMA are to be manufactured. In addition, § 21.303(j) provides that PMA holders shall notify the FAA, in writing, within 10 days from the date the manufacturing facility at which the part is manufactured is relocated or expanded to include additional facilities at other locations.

Based on a recent review of these regulations, the FAA has found that varying interpretations have led to different applications of these requirements. While the FAA must have access to the manufacturing facilities utilized in the production of PMA parts in order to provide necessary surveillance, there appears to be no reason in the interest of safety why a PMA holder should submit and the FAA maintain a list of those facilities. The PMA holder must maintain this information in order to assure that all manufacturing is controlled by his fabrication inspection system. So long as this information is made available to the FAA on request, further notification and the maintenance of a list of manufacturing facilities by the FAA creates unnecessary paperwork and duplication of records, and places an undue administrative and financial burden on the PMA holder and the FAA. However, it should be noted that with respect to manufacturing facilities located outside the United States, the information is necessary inasmuch as a PMA is not issued in such cases unless the Administrator finds under § 21.303(g) that the location of the facilities outside the United States places no burden on the FAA in administering the applicable airworthiness requirements. Therefore, it is proposed to amend the lead-in of § 21.303(c) and § 21.303(c)(2) to require an application for a PMA to be made to the regional office in which the applicant is located rather than in the region in which the manufacturing facilities are located, and that the application include the address of the applicant. In addition, § 21.303(j) would be revised to require that each PMA holder maintain a record of the address of each of the manufacturing facilities at which its PMA parts have been manufactured in the preceding two years, and to make the records available upon request for inspection by the Administrator. However, as proposed herein, if a manufacturing facility is to be located outside of the United States, the PMA application would continue to be required to include the name and address of the facility. In addition, if a manufacturing facility is to be relocated or expanded to include facilities outside of the United States, the PMA holder would be required to notify the FAA prior to the date of that relocation or expansion. A notification would also be required within 10 days when the PMA holder's address, if specified in its application for a PMA, is changed.

SHOWING OF IDENTICALNESS TO OBTAIN PMA

Section 21.303(c)(4) requires that each application for a PMA include test reports and computations necessary to show that the design of a part meets the requirements applicable to the product on which the part is to be installed unless the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate.

The FAA has permitted applicants for PMAs to show identicalness by a number of methods one of which is the submittal, along with the design of his part, of a certifying statement indicating that the design of his part is identical to a design previously approved under a type certificate. Under this method, applicants have been required to adequately identify the previously approved design to the FAA. Based on several inquiries, the FAA believes that a certain amount of confusion may exist with respect to this as well as the other methods of showing identicalness that are permitted under § 21.303(c)(4). Therefore, an amendment to § 21.303(c)(4) is being proposed to clarify that provision by specifying the available methods of showing identicalness under that paragrtph. However, it should be noted that if, based on the comments received, the FAA determines that one or more of the methods specified should not be allowed, the proposal will be revised accordingly.

FORM NUMBER REVISIONS

Sections 21.327(f)(1) and 21.335(e)(2) contain references to form numbers which are obsolete. Accordingly, it is proposed that those sections be revised to reference the current form numbers.

EXPORT APPROVAL OF UNASSEMBLED ROTORCRAFT

Section 21.325(b), in part, requires that new aircraft be assembled and flight-tested in order to qualify for an export airworthiness approval. Exceptions are provided in the rule for small airplanes and gliders manufactured under production certificates but not for rotorcraft. Section 21.327(f)(2), in part, requires that each application for an export airworthiness approval for a rotorcraft include a weight and balance report based on an actual weighing of the aircraft.

It has come to the attention of the FAA that manufacturers of normal category rotorcraft may desire to export their aircraft unassembled. Based on the request of one such manufacturer, the FAA has granted an exemption to provide for the issuance of export airworthiness approvals for its unassembled normal category rotorcraft. The export of these unassembled aircraft facilitate air freight shipment, and the FAA believes, based on experience with § 21.325(b) and the exemption, that the assembly of these aircraft following shipment can be accomplished with no adverse effect on safety. Therefore, it is proposed to amend § 21.325(b) to permit the issuance of export airworthiness approvals for unassembled normal category rotorcraft. Consistent with this, § 21.327(f)(2) would also be revised to provide for the export of these rotorcraft without actual weighing.

It should be noted that, as with small airplanes and gliders, the importing state would be fully advised in advance as to the status of the rotorcraft since, under § 21.327(e), it would be required that the application for an export airworthiness approval be accompained by a written statement from the importing country indicating that it will validate the export airworthiness approval of each unassembled aircraft which has not been flight-tested.

EXPORT AIRWORTHINESS APPROVALS EXCEPTIONS APPROVED BY IMPORTING STATES

Sections 21.329, 21.331, and 21.333 specify the standards and maintenance requirements which must be met to obtain an export airworthiness approval. In no case are these requirements less comprehensive than those applicable to products to be used in the U.S. To the contrary certain requirements applicable to export products do not apply to products intended for domestic use. On a number of occasions, the FAA has been informed by foreign airworthiness authorities that compliance with specific FAA export requirements was neither necessary nor desired in a particular situation.

The primary purpose of an export airworthiness approval is to notify the purchasers and the importing state of the airworthiness status of a product. The FAA believes that this purpose can be accomplished without requiring compliance with all FAA requirements provided that the importing state agrees. Therefore, amendments to §§ 21.321, 21.329, 21.331, and 21.333 are proposed herein to provide for the issuance of an export airworthiness approval for a product which does not meet one or more specific FAA requirements for the issuace of that approval if the importing state indicates to the FAA that compliance with the specific FAA requirement is not necessary. Section 21.325 would also be revised to provide for the listing on the export airworthiness approval of those FAA requirements that the product does not meet. In addition, § 21.327(e) would be revised to require a written statement from the importing state indicating that it will validate the export airworthiness approval for a product that does not meet specific FAA requirements.

It should be noted that this proposed rule change would provide for the issuance of export airworthiness approvals for used engines, propellers, and Class II aeronautical products that have not been newly overhauled as is required under §§ 21.329 and 21.331. In this connection the FAA has issued exemptions that provided for the issuance of export airworthiness approvals for used engines and Class II products where an importing state indicated that it would accept those products that were satisfactorily maintained under a continuous airworthiness maintenance program but were not newly overhauled.

The principal authors of this document are Mr. C. Risner, Flight Standards Service, Mr. S. Podberesky, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 21 of the Federal Aviation Regulations (14 CFR Part 21) as follows:

1. By revising the lead-in of § 21.303 (c) and by revising §§ 21.303 (c)(2), (c)(4), and (j) to read as follows:

§ 21.303 Replacement and modification parts.

* * * * *

(c) An application for a Parts Manufacturer Approval is made to the Regional Office of the region in which the applicant is located and must include the following:

* * * * *

(2) The name and address of: (i) The applicant; and

(ii) Any manufacturing facilities located outside of the United States at which the parts are to be manufactured.

* * * * *

(4) Test reports and computations necessary to show that the design of the part meets the airworthiness requirements of the Federal Aviation Regulations applicable to the product on which the part is to be installed. However, these test reports and computations need not be submitted if the applicant shows that the design of the part is identical to the design of a part that is covered under a type certificate by submitting, in addition to the data required by paragraph (c)(3) of this section:

(i) A copy of the FAA-approved design of the identical part covered under the type certificate;

(ii) A statement by the applicant stating that the design of the applicant's part is identical to that of a part covered under the type certificate. The statement must completely identify the part covered under the type certificate by the part name, part number, and drawing revisions and revision dates, if any; or

(iii) A statement from the holder of the type certificate that the design of the applicant's part is identical to that of the part covered under the type certificate. The statement must completely identify the part approved under the type certificate by part name, part number, and drawing revisions and revision dates, if any.

If the design of the part was obtained by a licensing agreement, evidence of that agreement must be furnished.

* * * * *

(j) The holder of a Parts Manufacturer Approval shall:

(1) Maintain and make available for inspection by the Administrator upon request, a current list containing the address of each manufacturing facility at which parts have been manufactured in the preceding two years. The list must be maintained:

(i) For Parts Manufacturer Approvals issued on the basis of an application submitted prior to (the effective date of this amendment), at the principal location of the holder of the Parts Manufacturer Approval; and

(ii) For other Parts Manufacturer Approvals, at the address specified in accordance with § 21.303(c)(2)(i) of this section in the application for a Parts Manufacturer Approval; and

(2) Notify the FAA in writing. (i) Before the manufacturing facilities at which the parts are manufactured are relocated to include additional facilities at locations outside the United States or expanded to include such facilities; or

(ii) Within 10 days after the date the address specified in accordance with § 21.303(c)(2)(i) of this section is changed.

* * * * *

2. By revising § 21.321(b)(1) to read as follows:

§ 21.321 Applicability.

* * * * *

(b) * * *

(1) A Class I product is a complete aircraft, aircraft engine, or propeller, which:

(i) Has been type certificated in accordance with the applicable Federal Aviation Regulations and for which Federal Aviation Specifications or type certificate data sheets have been issued; or

(ii) Is identical to a type certificated product specified in paragraph (b)(1)(i) of this section in all respects except as is otherwise acceptable to the civil aviation authority of the importing state.

* * * * *

3. By replacing the word "either" in the lead-in of § 21.325(b)(1) with the word "any", by deleting the word "or" from the end of § 21.325(b)(1)(i), by deleting the period and adding a semicolon and the word "or" at the end of § 21.325(b)(1)(ii), and by adding new §§ 21.325(b)(1)(iii) and (c) to read as follows:

§ 21.325 Export airworthiness approvals.

* * * * *

(b) * * *

(1) * * *

(iii) A normal category rotorcraft type certificated under Part 6 of the Civil Air Regulations or Part 27 of the Federal

Aviation Regulations and manufactured under a production certificate.

* * * * *

(c) *Export airworthiness approval exceptions.* If the export airworthiness approval is issued on the basis of a written statement by the importing state as provided for in § 21.327(e)(4), the requirements that are not met and the differences in configuration, if any, between the product to be exported and the related type certificated product are listed on the export airworthiness approval as exceptions.

4. By deleting the word "or" from the end of § 21.327(e)(2), by deleting the period and adding a semi-colon and the word "or" at the end of § 21.327(e)(3), and by adding a new § 21.327(e)(4) to read as follows:

§ 21.327 Application.

* * * * *

(e) * * *

(4) A product that does not meet a requirement specified in §§ 21.329, 21.331, or 21.333, as applicable, for the issuance of an export airworthiness approval. The written statement must list the requirements not met.

* * * * *

5. By replacing the words "FAA Form 317" in § 21.327(f)(1) with the words "FAA Form 8130-9", by deleting the words "and all rotorcraft" in the second sentence of § 21.327(f)(2), by inserting a comma and the words "normal category rotorcraft, and gliders" between the words "category airplanes" and "may" in the fourth sentence of § 21.327(f)(2), and by replacing the last word in the fourth sentence of § 21.327(f)(2) with the word "aircraft".

6. By revising the lead-in of § 21.329, by deleting the phrase "subject to the special requirements of the importing country" from the end of § 21.329(a), and by adding a new § 21.329(g) to read as follows:

§ 21.329 Issue of export certificates of airworthiness for Class I products.

An applicant is entitled to an export certificate of airworthiness for a Class I product if he shows at the time the product is submitted to the Administrator for export airworthiness approval that it meets the requirements of paragraphs (a) through (f) of this section, as applicable, except as provided in paragraph (g) of this section:

* * * * *

(g) A product need not meet a requirement specified in paragraphs (a) through (f) of this section, as applicable, if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

7. By revising the lead-in of § 21.331, by redesignating the lead-in of § 21.331 as § 21.331(a) and §§ 21.331 (a) through (d) as §§ 21.331 (a)(1) through (a)(4), respectively, and by adding a new § 21.331(b) to read as follows:

§ 21.331 Issue of airworthiness approval tags for Class II Products.

(a) An applicant is entitled to an export airworthiness approval tag for a Class II product if he shows, except as provided in paragraph (b) of this section, that:

* * * * *

(b) A product need not meet a requirement specified in paragraph (a) of this section if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

8. By revising the lead-in of § 21.333, by redesignating the lead-in of § 21.333 as § 21.333(a) and §§ 21.333 (a) through (c) as §§ 21.333 (a)(1) through (a)(3), respectively, and by adding a new § 21.333(b) to read as follows:

§ 21.333 Issue of export airworthiness approved tags for Class III products.

(a) An applicant is entitled to an export airworthiness approval tag for a Class III product if he shows, except as provided in paragraph (b) of this section, that:

* * * * *

(b) A product need not meet a requirement specified in paragraph (a) of this section if acceptable to the importing country and the importing country indicates that acceptability in accordance with § 21.327(e)(4) of this part.

§ 21.335 [Amended]

9. By amending § 21.335(e)(2) by replacing the words "FAA Form 500 and Form 1362" with the words "AC Form 8050.3 and FAA Form 8100-2."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 24, 1977.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77-25445 Filed 8-31-77;8:45 am]

[14 CFR Part 39]

[Docket No. 77-WE-25-AD]

AIRWORTHINESS DIRECTIVES

Hiller Model UH-12, C, D, E(4 place), L, E-L and L4's Converted From E4's

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive on all Hiller UH-12 series helicopters which will require installation of a guard on the fuel shutoff valve control handle to preclude inadvertent movement to the "off" position.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable Service Bulletin No. 72-1 dated June 17, 1977 or later FAA approved revision, may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, Calif. 93257.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been at least one reported case of inadvertent actuation of the fuel valve control lever to the "off" position in flight that resulted in unexpected fuel starvation to the engine and caused forced autorotation on a Hiller Model UH-12 helicopter.

Since this condition is likely to develop in other helicopters of the same type design, the proposed Airworthiness Directive would require the installation of a guard on the control handle of the fuel shutoff valve.

DRAFTING INFORMATION

The principal authors of this document are Henry R. Kulewicz, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive: