situation which qualifies for the good cause exemption to these requirements, given that these procedures are "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(b)(B). Ratification of the Commission's regulations falls within the APA's good cause exception for several reasons. Notice, comment, and a delayed effective date are impracticable and contrary to the public interest as these procedures would inevitably result in a lengthy period of uncertainty during which time candidates, political committees, contributors and others would have insufficient guidance, and many of the FEC's programs would be significantly disrupted. Thus, there is a need to clarify the status of the regulations as promptly as possible. It is certainly true that such ratification responds to a circumstance beyond the Commission's control, namely the NRA decision. The effect of ratification may be limited in duration to the time necessary to resolve the NRA decision. Moreover, notice, comment and a delayed effective date are unnecessary because the Commission has already provided notice, received public comment and published identical final rules in the **Federal Register** and the Code of Federal Regulations. Given that there would be no changes in the Commission's rules or forms at this point, affected parties do not need time to get ready to operate under the ratified rules.

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the potential impact of regulations on small businesses and small entities. It requires either the preparation of initial and final regulatory flexibility analyses or a certification of no significant economic impact on a substantial number of small entities. *Id.* The Commission has complied with these requirements in promulgating its regulations. Accordingly, nothing further is required if 11 CFR Chapter I is ratified.

Additional information regarding the ratification of 11 CFR Chapter I may be found in Agenda Document #93-94.

Dated: November 5, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-27673 Filed 11-9-93; 8:45 am]

BILLING CODE 6715-01-M

[Notice 1993-28]

11 CFR Parts 100 and 114

Definition of "Member" of a Membership Association

AGENCY: Federal Election Commission.

ACTION: Final rule; Announcement of effective date.

SUMMARY: On August 30, 1993 (58 FR 45770), the Commission published the text of revised regulations defining who is a "member" of a membership association. These regulations implement provisions of the Federal Election Campaign Act of 1971, as amended. The Commission announces that these rules are effective as of November 10, 1993.

EFFECTIVE DATE: November 10, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR Parts 100 and 114 were transmitted to Congress on August 25, 1993. Thirty legislative days expired in the Senate on October 26, 1993, and in the House of Representatives on November 2, 1993.

Announcement of Effective Date: 11 CFR 100.8(b)(4)(iv), 114.1(e), and 114.7(k), as published at 58 FR 45770, are effective as of November 10, 1993.

Dated: November 5, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-27672 Filed 11-9-93; 8:45 am]

BILLING CODE 6715-01-M

[Notice 1993-29]

11 CFR Parts 102 and 110

Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On August 16, 1993 (58 FR 42172), the Commission published the text of revised regulations governing multicandidate political committees. These regulations implement provisions of the Federal Election Campaign Act of 1971, as amended. The Commission announces that these rules are effective as of January 1, 1994. The Commission's new forms implementing the reporting provisions of these regulations will also take effect on January 1, 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR parts 102 and 110 were transmitted to Congress on August 3, 1993. Thirty legislative days expired in the Senate on October 20, 1993, and in the House of Representatives on October 27, 1993.

Section 438(d) also requires that any form prescribed by the Commission be transmitted to the Speaker of the House of Representatives and the President of the Senate ten legislative days before final promulgation. New FEC Form 1M and revisions to FEC Form 3X, implementing the reporting provisions of these regulations, were transmitted to Congress on August 3, 1993. The ten day legislative review period for the forms expired in the Senate on September 15, 1993, and in the House on September 22, 1993. Therefore, the Commission may now prescribe these new forms.

Prior to the promulgation of these rules, a committee informed the Commission that it had qualified as a multicandidate committee by checking the appropriate box on the first regularly-scheduled Report of Receipts and Disbursements (FEC Form 3X) due after this status was achieved. Any committee that so notified the Commission prior to the effective date of these rules need not file a Form 1M.

Announcement of Effective Date

11 CFR 102.2(a)(3) and 110.2(a)(2), as published at 58 FR 42172, are effective as of January 1, 1994. New and revised forms implementing the reporting provisions of these regulations are also effective as of January 1, 1994.

Dated: November 5, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-27671 Filed 11-9-93; 8:45 am]

BILLING CODE 6715-01-M

11 CFR Part 112

[Notice 1993–30]

Federal Elections

AGENCY: Fedral Election Commission.

ACTION: Policy statement on advisory opinion precedent.

SUMMARY: The Commission will give its past advisory opinions, issued under 11 CFR part 112, the same precedential effect as existed before the decision of the D.C. Circuit Court of Appeals on October 22, 1993. Further information on this statement is provided in the supplementary information which follows.

DATES: The policy statement covers all advisory opinions whether issued before or after October 22, 1993.

FOR FURTHER INFORMATION CONTACT: N. Bradley Litchfield, Associate General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On October 22, 1993, the Court of Appeals for the D.C. Circuit issued an opinion in *FEC* v. *NRA Political Victory Fund, et al.*, No. 91–5360, slip op. at 2 (D.C. Cir. Oct. 22, 1993), in which it held that the composition of the Commission, which included the Clerk of the House of Representatives and the Secretary of the Senate as *ex officio* members, violates the Constitution's requirement of separation of powers. On October 26, 1993, the Commission reconstituted itself as a body of six voting members subject to further judicial action.

In light of these events, the Commission issues this Policy Statement to alert the regulated community that the Commission will give its advisory opinions the same effect as precedent that would have been given before the NRA decision. The Statement was adopted by the Commission on November 4, 1993, by a vote of 5–0. The statement, FEC Policy Statement: Continuing Effect of Advisory Opinions, provides as follows:

Having recently reconstituted itself as a 6 member body, the Federal Election Commission continues to regard previously issued advisory opinions as reflecting its duly authorized interpretation and application of the Federal Election Campaign Act of 1971, as amended; chapters 95 and 96 of title 26, United States Code; and of regulations prescribed under those statutes, to the specific transactions and activities set forth in those advisory opinions. The Commission will give its advisory opinions the same precedential effect as would be accorded to them prior to the recent decision of the D.C. Circuit Court of Appeals in *FEC* v. *National Rifle Association Political Victory Fund, et al.*

Additional information regarding the Policy Statement may be found in Agenda Document #93–95, dated November 3, 1993.

Dated: November 5, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–27670 Filed 11–9–93; 8:45 am]

BILLING CODE 6715–01–M

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11 CFR Part 201

[Notice 1993–26]

Ex Parte Communications

AGENCY: Federal Election Commission.

ACTION: Revised interim rules.

SUMMARY: The Federal Election Commission is revising its interim rules for handling outside communications made to Commissioner offices in connection with public funding, Commission audits, litigation, rulemaking proceedings and advisory opinions. In general, these communications are prohibited, in the case of public funding, audits and litigation; and are to be made part of the public record, in the case of rulemaking proceedings and advisory opinions.

DATES: Effective Date: These rules are effective on November 10, 1993.

Comments: The Commission will accept comments on these rules received on or before December 10, 1993, and may re-evaluate them in light of these comments.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, 999 E Street, NW., Washington, DC 02463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission is revising its interim rules for handling ex parte communications made in connection with public funding, Commission audits, litigation, rulemaking proceedings and the advisory opinion process. The revised rules complement those found at 11 CFR 7.15 and 111.22, which prohibit these communications in connection with Commission enforcement actions.

On December 9, 1992, the Commission issued interim rules on this topic. 57 FR 58133. The rules are codified at 11 CFR part 201.

While these rules became effective on the date of publication, the Commission provided a 30-day comment period and announced that the rules might be revised to reflect comments received during this time. Five comments were received in response to this publication.

In addition, the Commission held a public hearing on the interim rules on April 1, 1993. Three witnesses testified at this hearing.

The revised rules reflect these comments and testimony, as well as the Commission's further consideration of its practices and experience. The Commission is still considering these rules and therefore is publishing this revised version as a second set of interim rules. However, while operating under the current interim rules, the Commission realized that certain aspects of those rules were having some unintended consequences in areas such as litigation.

The revised interim rules prohibit substantive communications made by persons outside the agency to any Commissioner or member of a Commissioner's staff in connection with public funding, ongoing Commission audits, and litigation. Ex parte communications may be made to Commissioners in connection with rulemaking proceedings and advisory opinions, but they are to be made part of the public record. Finally statements made in public forums and inquiries as to the status of open proceedings are explicitly exempted from the definition of ex parte communications.

The Commission believes that these rules are necessary to avoid the possibility of prejudice, real or apparent, to the public interest. To maintain public confidence in agency proceedings, it is important that efforts to influence official actions be regulated in this manner.

The revised rules apply to communications made to Commissioners and all individuals serving under their personal supervision. The Commission also plans to consider recommendations for internal guidelines in this area for communications by Commissioners and Commission employees. References in the interim rules to ex officio Commissioners and their Special Deputies have been deleted following the D.C. Circuit's opinion in *FEC* v. *NRA Political Victory Fund*, No. 91–5360 (D.C. Cir., October 22, 1993). Should this decision be reversed, the Commission will consider what further action is necessary.

Discussion of Revised Interim Rules

Section 201.1. Purpose and Scope

This section summarizes the contents of this revised part.

Section 201.2. Definitions

This section defines the various terms used in this part.

Paragraph (a)(1) of the former rules defined "ex parte communication" for purposes of Commission audits and litigation, while paragraph (a)(2) defined the term in the context of agency rulemakings and advisory opinions. These definitions have been combined into paragraph (a) of the revised rules, which defines an "ex parte communication" as any written or oral communication made to a Commissioner or a member of a Commissioner's staff by any person outside the agency, concerning substantive Commission action in the public funding process, or any ongoing Commission audit, litigation matter, rulemaking, or pending advisory opinion request.

Paragraph (a) of the former rules further defined ex parte communications to include any written or oral substantive communication made *by* any Commissioner or any member of a Commissioner's staff to any person outside the agency. On reflection, the Commission has decided that these classes of communications should be handled differently, and that the rules themselves should be limited to incoming communications seeking to influence Commission action. Accordingly, references to outgoing communications found in the interim rules have been deleted. However, the Commission will be considering an internal agency directive that will govern outgoing communications by Commissioners and members of Commissioner's staffs.

Paragraph (b) is new, and for the first time provides a definition of what is not an ex parte communication.

One commenter suggested that, since the purpose of these rules is to regulate private, off-the-record contacts, the interim rules be amended to exclude statements made in a public forum. The Commission agrees, and therefore in paragraph (b)(1) has excluded public statements made at public conferences and similar events by any person from the definition of ex parte communication.

Paragraph (b)(2) excludes procedural status discussions of open proceedings that are intended to influence and do not have the effect of influencing Commission consideration under all circumstances covered by these rules. The former rules had required that such inquiries be referred to the appropriate staff person.

Paragraph (c) defines "Commissioner" as an individual appointed by the President to the Federal Election Commission pursuant to 2 U.S.C. 437c(a).

Paragraph (d) defines "Commissioner's staff" to include all individuals working under the personal supervision of a Commissioner, including executive assistants and executive secretaries.

Section 201.3. Public Financing, Audits and Litigation

Ex parte communications made in connection with public financing, audits, and litigation are generally prohibited. However, the prohibition regarding litigation has been narrowed to cover only those communications that relate to a pending Commission decision on a particular case, such as whether to settle or appeal. This change will permit Commissioners to respond to inquiries regarding court decisions, apart from matters requiring further Commission deliberations. Since this is discussed in the section's introductory matter, paragraph (b)(3), which formerly dealt with this topic, has been deleted.

The former rules prohibited ex parte communications in connection with Commission audits. In addition, the Commission specifically invited comments on whether broader rules should be adopted that would apply from the time a candidate or committee sought eligibility to receive federal matching funds.

While none of the commenters or witnesses specifically addressed this point, the Commission has decided that the same circumstances that justify the imposition of a total ban on ex parte communications in connection with Commission audits are also present throughout the matching fund process. Questions that arise in connection with eligibility for funding are potentially as sensitive as those that arise in the subsequent audit. The fact that committees applying for public funds know in advance that their records will be audited increases the possibility that contacts made during the eligibility process will impact on the subsequent audit.

Paragraph (b)(1) states that this ban applies from the time a candidate or committee initiates proceedings to participate in the matching fund process. In the case of presidential candidates and committees, this occurs when a primary election candidate submits to the Commission the letter required by 11 CFR 9033.1(a), or presidential and vice presidential candidates submit the letter required by 11 CFR 9003.1(a)(1). The ban applies to committees seeking convention funding from the date on which a committee registers with the Commission as required by 11 CFR 9008.12(a)(1) or 9008.12(b)(1). In each instance the ban remains in effect until the start of the audit process, which is subject to its own ban.

The Commission is required to audit the records of any presidential campaign that receives payments from the Presidential Election Campaign Fund. 26 U.S.C. 9007(a), 9009(b), 9038(a), 9039(b). If a party receives funding for its presidential nominating convention, the Commission is required to audit the records of the party's convention committee. The Commission is also required to audit the records of all convention host committees. 26 U.S.C. 9008 (g) and (h), 11 CFR 9008.9.

Paragraph (b)(2)(i) states that, for all public financing audits, the prohibition on ex parte communications begins when the Commission sends a letter to the committee asking that it make a pre-inventory check of its records prior to the commencement of audit fieldwork by the Commission. Commissioners' offices will be provided with contemporaneous copies of these letters.

The prohibition on audits of all publicly funded committees extends until the end of the audit process. This occurs when the Commission issues a final audit report ["FAR"], if the report does not contain a repayment determination. If the FAR contains a repayment determination, the process ends when the United States Treasury receives the final repayment check from the committee, or when the Commission authorizes suit to pursue the repayment.

The Commission is also authorized under its general administrative authority, 2 U.S.C. 438(b), to conduct audits for cause of any political committee that is required to file campaign finance reports under the Federal Election Campaign Act's general reporting requirement, 2 U.S.C. 434.

Under paragraph (b)(2)(ii), when an audit is conducted pursuant to 2 U.S.C. 438(b), the prohibition on ex parte communications takes effect when the Commission's staff circulates a document for Commission approval containing a proposed referral to undertake an audit, and extends until the Commission publicly issues the final audit report. If the matter is referred to the Office of General Counsel and there is reason to believe that a violation has occurred, the prohibition on ex parte communications made in connection with an enforcement matter, found at 11 CFR 111.22, becomes applicable.

Paragraph (c)(1) states that a Commissioner or member of a Commissioner's staff who receives a prohibited communication shall attempt to prevent the communication. If the Commissioner or staff member is unsuccessful in this effort, he or she shall advise the person making the communication that it will not be considered.

Under paragraph (c)(2), if the Commissioner or staff member is unable to prevent the communication, he or she shall prepare a statement setting forth the substance and circumstances of the communication as soon after the communication as is reasonably possible, but no later than three business days after its receipt, unless special circumstances make this impracticable, or prior to the next Commission discussion of the matter, whichever is earlier. The term "special circumstances" includes such situations as illness and travel that can prevent more timely filing.

The statement must be delivered to the Designated Agency Ethics Official for placement in the file of the public finance matter, litigation case or audit. A copy of written comments must be filed with the Designated Agency Ethics Official within the same time period. This is similar to the Commission's existing rules regarding enforcement matters.

The new and former rules interrelate so that, if an audit or enforcement matter leads to litigation, the ban on ex parte communications extends from the start of the audit or enforcement action through the conclusion of any related litigation. The ban applies to both written and oral communications.

Paragraph (c) of the former rules required a Commissioner or member of a Commissioner's staff who received a request for the procedural status of an audit or litigation case to refer the inquiry to the appropriate Commission staff. This paragraph has been deleted, and its subject matter addressed in paragraph (b)(3) of section 201.2, *supra*. As already noted, that paragraph allows responses to such inquiries in ongoing proceedings.

Section 201.4. Rulemaking Proceedings and Advisory Opinion Requests

The Commission encourages members of the public to state their views on rulemakings and advisory opinion requests in writing, during the public comment period on each such matter. Communications prior to the start of a rulemaking proceeding or the receipt of an advisory opinion request are also welcome.

All comments received ruing the public comment period for a rulemaking or advisory opinion request are made part of the public record. The Commission believes that this approach should also be taken with regard to ex parte communications received during or after a public comment period, so that all persons will have equal notice of the information before the Commission.

Paragraph (a) provides that a Commissioner or member of a Commissioner's staff who receives written comments on a rulemaking or advisory opinion once the rulemaking or advisory opinion process has started shall transmit the communication to the Commission Secretary as soon after the communication as is reasonably possible, but no later than three business days after receipt unless special circumstances make this impracticable; or prior to the next Commission discussion of the matter, whichever is earlier. If a Commissioner or member of a Commissioner's staff has a discussion that would qualify as an ex parte communication regarding a rulemaking proceeding or advisory opinion during the pertinent time period, he or she shall, within the same time frame, summarize the conversation in writing and transmit this summary to the Commission Secretary.

All such communications and/or summaries become part of the public record. The term "special circumstances" will be applied under this section in the same manner as under section 201.3(c)(2), *supra*.

As previously noted, the former rules governed all ex parte communications both made and received by Commissioners and members of their staffs. However, some commenters discussing advisory opinions and the rulemaking process argued that ex parte communications with the potential to influence Commission action are generally those communications made *to* decision-makers, and not *by* them. Further, some argued that Commission officials should be encouraged to solicit outside comments on these matters, so as to become as well informed as possible regarding the merits of different positions. The Commission believes this point is well taken, and will consider addressing it as part of the agency directive governing ex parte communications by Commissioners and members of Commissioners' staffs.

The Commission notes, however, that substantive responses to communications by Commissioners are covered by these rules under all circumstances. For example, if a Commissioner contacts a person to request that that person provide views on a pending rulemaking, that contract would not be considered an ex parte communication nor would a statement by a Commissioner indicating his or her own views on the matter. However, any substantive response by the other party would trigger application of the rules; and any written response would have to be included on the public record (either from the commenter or the Commissioner).

One commenter suggested that the Commission shift the responsibility for summarizing an oral communication covered by this section to the outside party. However, the Commission believes that handling this internally will help insure timely summaries.

Some commenters suggested that those making oral ex parte communications be given an opportunity to review the summary of their comments before this is placed on the public record. The Commission believes that this would unnecessarily slow the disclosure process. The fact that the summaries are made part of the public record means that they will be readily available to any interested party.

Under paragraph (b)(1), the applicable period for rulemaking proceedings begins on the date a petition for rulemaking is circulated to Commissioners' offices, or the date on which a proposed rulemaking document is first placed on an agenda of a Commission public meeting. It extends through the conclusion of the rulemaking. This can occur at different times, depending on the course of a particular rulemaking: e.g., when a rulemaking petition is denied; when the reconsideration process regarding a petition is concluded; when final rules are promulgated after transmittal to Congress; or when the Commission concludes its consideration of any congressional action relating to a pending rule.

Under paragraph (b)(2), the rules apply in the case of advisory opinions from the time a request for an advisory opinion is circulated to Commissioners' offices, through the date the opinion is issued. The disclosure requirements also apply during any reconsideration of an advisory opinion, and any discussion of reconsideration.

Section 201.5 Sanctions

Some commenters suggested that the Commission add language on possible actions against those who violate these provisions. The Commission agrees that this is appropriate, and has therefore created a new section, 11 CFR 201.5, for this purpose. The new section provides that a person who becomes aware of a possible violation shall notify the Designated Agency Ethics Official in writing of the facts and circumstances of the alleged violation. The Designated Agency Ethics Official shall recommend to the Commission the appropriate action to be taken, and the Commission shall determine the appropriate action by at least four votes.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached interim regulations will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that no small entities are impacted under these rules.

List of Subjects in 11 CFR Part 201

Administrative practice and procedure.

For the reasons set out in the preamble, part 201 of subchapter B, chapter I of title 11 of the Code of Federal Regulations is revised to read as follows:

PART 201—EX PARTE COMMUNICATIONS

Sec.

Authority: 2 U.S.C. 437d(a)(8), 437f, 438(a)(8), 438(b); 26 U.S.C. 9007, 9008, 9009(b), 9038, 9039(b).

§ 201.1 Purpose and scope.

This part prescribes procedures for handling ex parte communications made in connection with public funding, Commission audits, litigation, rulemaking proceedings and the advisory opinion process. Rules governing such communications made in connection with Commission enforcement actions are found at 11 CFR 111.22, while provisions setting forth employee responsibilities under the Commission's Standards of Conduct rules are found at 11 CFR 7.15.

§ 201.2 Definitions.

As used in this part:

(a) *Ex parte communication* means any written or oral communication by any person outside the agency to any Commissioner or any member of a Commissioner's staff which imparts information or argument regarding prospective Commission action or potential action concerning:

(1) Any candidate or committee applying for or participating in the public funding process, or

(2) Any ongoing audit, or

(3) Any pending litigation matter, or

(4) Any pending rulemaking, or

(5) Any pending advisory opinion request.

(b) Ex parte communications does not include the following communications.

(1) Statements by any person publicly made in a public forum; or

(2) Statements or inquiries by any person limited to the procedural status of an open proceeding involving an application for public funding, a rulemaking, an advisory opinion request, an audit being conducted pursuant to 26 U.S.C. 9007 (a) and (b), 9008 (g) and (h), or 9038 (a) and (b), or a litigation matter.

(c) *Commissioner* means an individual appointed by the President to the Federal Election Commission pursuant to 2 U.S.C. 437c(a).

(d) *Commissioner's staff* means all individuals working under the personal supervision of a Commissioner including executive assistants and executive secretaries.

§ 201.3 Public funding, audits and litigation: Ex parte contacts prohibited.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in Commission decisionmaking during the public funding process, in audits undertaken by the Commission, and in any litigation to which the Commission is a party, no person outside the agency shall make or cause to be made to any Commissioner or any member of any Commissioner's staff any ex parte communication regarding any candidate or committee's eligibility for or entitlement to public funding; any audit; or any pending or prospective Commission decision regarding litigation, including whether to initiate, settle, appeal, or seek certiorari, or any other decision concerning a litigation matter; nor shall any Commissioner or member of any Commissioner's staff entertain any such ex parte communications.

(b) The requirements of this section apply:

(1) In the case of public funding, from the time a primary election candidate submits to the Commission the letter required by 11 CFR 9033.1(a), Presidential and Vice Presidential candidates submit to the Commission the letter required by 11 CFR 9003.1, or a committee seeking convention funding registers with the Commission as required by 11 CFR 9008.12(a)(1) or 9008.12(b)(1), until the start of the audit process.

(2) (i) In the case of an audit undertaken pursuant to 26 U.S.C. 9007 (a) and (b), 9008 (g) and (h), or 9038 (a) and (b), from the date of the Commission's letter to a presidential campaign committee, a convention committee, or a host committee asking that it make a pre-inventory check of its records, prior to the commencement of audit fieldwork by the Commission, through the end of the audit process; and

(ii) In the case of an audit undertaken pursuant to 2 U.S.C. 438(b), from the date the Commission's staff circulates a document for Commission approval containing a proposed referral to undertake an audit, until the Commission publicly issues the final audit report.

(c)(1) A Commissioner or member of a Commissioner's staff who receives an oral ex parte communication concerning any matters addressed in paragraph (a) or (b) of this section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or staff member shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, unless special circumstances make this impracticable; or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication, and deliver the statement to the Designated Agency Ethics Official for placement in the file of the matching fund request, audit or litigation case.

(2) A Commissioner or member of a Commissioner's staff who receives a written ex parte communication concerning any Commission action or potential action concerning any candidate or committee's eligibility for or entitlement to public funding, or any audit, or any prospective Commission decision or action concerning any pending litigation case, during the period described in paragraph (b) of this section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, unless special circumstances make this impracticable; or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Designated Agency Ethics Official for placement in the file of the audit or litigation case.

§ 201.4 Rulemaking Proceedings and Advisory Opinions: Ex Parte Contacts Reported.

(a) A Commissioner or member of a Commissioner's staff who receives an ex parte communication concerning any rulemaking or advisory opinion during the period described in paragraph (b) of this section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication unless special circumstances make this impracticable, or prior to the next Commission discussion of the matter, whichever is earlier, provide a copy of a written communication or a written summary of an oral communication to the Commission Secretary for placement in the public file of the rulemaking or advisory opinion. The Commissioner or staff member shall advise any person making an oral communication that a written summary of the conversation will be made part of the public record.

(b) The requirements of paragraph (a) of this section apply:

(1) In the case of a rulemaking proceeding, from the date a petition for rulemaking is circulated to Commissioners' offices, or the date on which a proposed rulemaking document is first circulated to the Commission or placed on an agenda of a Commission public meeting, through final Commission action on that rulemaking.

(2) In the case of an advisory opinion, from the date a request for an advisory opinion is circulated to Commissioner's offices through the date on which the advisory opinion is issued, and during any period of reconsideration pursuant to 11 CFR 112.6.

§ 201.5 Sanctions.

Any person who becomes aware of a possible violation of this part shall notify the Designated Agency Ethics Official in writing of the facts and circumstances of the alleged violation. The Designated Agency Ethics Official shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least four votes.

Dated: November 1, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-27252 Filed 11-9-93; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-79, Special Conditions No. 25-ANM-78]

Special Conditions: Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 777 airplane. This airplane will have novel and/or unusual design features when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

EFFECTIVE DATE: December 10, 1993.

FOR FURTHER INFORMATION CONTACT: Bob McCracken, FAA, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2118.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1990, the Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207, applied for a type certificate for the new Model 777 airplane. The Model 777 is a long range, transport category airplane powered by two Pratt & Whitney 4073A, Rolls-Royce RB211-Trent 870, or General Electric GE90-B3 engines with 73,500, 71,200, and 74,500 lb. thrust ratings, respectively. The overall length of the Model 777 is 209 feet, the height is 61 feet, and the wingspan is 198 feet. The airplane has a seating capacity in a typical three class configuration of 305 to 328 passengers, or 375 to 400 passengers in a two configuration. The Model 777 has a maximum takeoff weight of 535,000 lbs., a maximum landing weight of 445,000 lbs., a maximum operating altitude of 43,100 ft., and a range of 4,200 nautical miles in a two class configuration or 6,600 nautical miles in a three class configuration.

Type Certification Basis

Under the provisions of § 21.17, Boeing must show that the Model 777 airplane meets the applicable provisions of part 25, as amended by Amendments 25-1 through 25-71. Boeing has also elected to comply with most of part 25 as amended by Amendment 25-77. The type certification basis for the Model 777 is, therefore: Part 25 through Amendment 25-77, except for § 25.571(e)(1), which remains at Amendment 25-71 level; parts 34 and 36, each as amended at the time of certification. Boeing may also elect to comply with subsequent part 25 requirements to facilitate operators' compliance with corresponding part 121 requirements. The certification basis may also include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 777 airplane because of novel and/or unusual design features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Model 777 Design Features

The structure of the Model 777 is generally of conventional design and construction, but with considerable use of composite materials. Elements of the primary structure (the fin and horizontal tail) are constructed of composites, as are some elements of secondary structure, including the elevators, rudders, flaps, spoilers, ailerons, engine cowls, and main deck floor beams.

The Model 777 utilizes a combination of multiple computer channels and redundant sensors which channel command signals to various control surface actuators in response to programmed control laws. This control architecture, referred to as fly-by-wire (FBW), provides closed loop command to move servo-actuators for the elevators, ailerons, rudder, spoilers, horizontal stabilizer, slats and flaps, and engine power levers. In the unlikely event of simultaneous failure of all digital computers or signalling, a direct control path from the pilot's controllers to the surface actuators is provided through simple analog circuitry.

Hydraulic power for the flight control system is provided by three independent hydraulic systems. Functions are shared among these systems to ensure airplane control in the event of loss of one or two systems. The three systems are pressurized by