specification", and "REA bulletin", respectively unless otherwise indicated.

* * * * *

§§ 1735.3, 1737.3 [Amended]

29. Sections 1735.3, 1737.3 are amended by adding a sentence at the end of each to read as follows:

* * * The terms "RUS form", "RUS standard form", and "RUS specification" have the same meanings as the terms "REA form" "REA standard form", and "REA specification", respectively, unless otherwise indicated.

§ 1786.51 [Amended]

30. Section 1786.51 is amended by removing the paragraph designations, revising the definition "RUS" (formerly "REA") and adding a new definition of "REA" in alphabetical order to read as follows:

* * * * *

REA means the Rural Electrification Administration formerly an agency of the United States Department of Agriculture and predecessor agency to RUS with respect to administering certain electric and telephone loan programs.

RUS means the Rural Utilities Service, an agency of the Unites States Department of Agriculture, established pursuant to Section 232 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to REA with respect to administering certain electric and telephone programs. See 7 CFR 1700.1.

* * * * *

Dated: December 18, 1994.

Bob J. Nash,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 94–31520 Filed 12–23–94; 8:45 am]

BILLING CODE 3410–15–P

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Chapter XVIII and Part 1943

RIN 0575–AB74

Small Farmer Outreach Training and Technical Assistance Program

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Consolidated Farm Service Agency (CFSA) is the successor to the Farmers Home Administration pursuant to Section 226 of the Federal Crop Insurance Reform Act of 1994 (Pub. Law 103–354, 108 stat. 3178, October 13, 1994). The CFSA is establishing a regulation whereby under the procedures of the Small Farmer Outreach Training and Technical Assistance Program and the Outreach and Assistance Grants for Socially Disadvantaged Farmers and Ranchers Program, an 1890 Land Grant Institution or other eligible educational institution or community-based organization could enter into a cooperative or other agreement with CFSA to provide outreach, training, and technical assistance to small-scale farmers, especially members of socially disadvantaged groups. This action is necessary to implement the provisions in the Food, Agriculture, Conservation, and Trade Act of 1990, title XXV, Section 2501 and the U.S. Department of Agriculture (USDA) appropriation acts which provide funding for this program. The intended effect of this action is to assist small farmers and socially disadvantaged farmers and ranchers by making them aware of programs available through the USDA. In addition, this rule amends 7 CFR chapter XVIII to reflect the abolishment of the Farmers Home Administration and the Rural Development Administration and the establishment of the Rural Housing and Community Development Service, the Rural Business and Cooperative Development Service, the Rural Utilities Service, and the Consolidated Farm Service Agency in the recent Department of Agriculture reorganization.

DATES: Interim rule effective December 27, 1994. Comments must be received by February 27, 1995.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development (RECD), U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Just-Buddy, National Project Coordinator, Special Programs Unit, or Geraldine Herring, Program Analyst, Farmer Programs, Consolidated Farm Service Agency, USDA, room 4929, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Telephone (202) 720–1636.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Intergovernmental Consultation

For reasons set forth in the final rule related to Notice 7 CFR, part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, this program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act

The information collection requirements contained in § 1943.111 have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575–0156, under the provisions of 44 U.S.C. Chapter 35. The remaining information collection and recordkeeping requirements contained in this regulation will not become effective until approved by OMB, in accordance with the Paperwork Reduction Act of 1980. Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, D.C. 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, RECD, Ag Box 0743, Washington, D.C. 20250.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. It is the determination of CFSA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Programs Affected

This action affects the following programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans
10.407—Farm Ownership Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of CFSA that this action does not constitute a major

Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Background

In July 1993, Farmers Home Administration (FmHA) initiated, under Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990, the Outreach and Assistance Grants for Socially Disadvantage Farmers and Ranchers program. The program was established by an internal funds transfer, in the amount of $1 million received on August 13, 1993, from Extension Service.

A Notice was published in the **Federal Register** on July 2, 1993, [58 FR 35911–35914], Outreach and Assistance Grants for Socially Disadvantaged Farmers and Ranchers, and no adverse comments were received. The Notice was to solicit recipients and give guidance to eligible applicants on submitting proposals for the program.

Discussion of Interim Rule

Outreach and Assistance Grants for Socially Disadvantaged Farmers and Ranchers is authorized under Section 2501 of the Food Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279). Three million dollars will remain available until expended. It was the intent of Congress to have funds available to provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. This assistance should enable socially disadvantaged farmers and ranchers to obtain information on application and bidding procedures, farm management, and other essential information to participate in agricultural programs.

The definition of Agricultural programs contained in 1943.104 of this subpart is based on the programs authorized by the statutes referenced in Section 2501 (e)(3) of the FACT Act. As authorized by Section 2501 (e)(3)(G), FmHA has designated additional USDA programs as Agricultural program based on its belief that the participation of socially disadvantaged farmers and ranchers in these programs will serve an important public purpose. The definition of Agricultural program references many of USDA's programs, however, the list is not intended to be all inclusive. Rather, the regulation intends to increase participation by socially disadvantaged farmers and ranchers in all USDA programs which are agricultural in nature. However, because the program is carried out by CFSA employees, the outreach efforts by CFSA personnel to recipients will require the personnel to provide information about CFSA agricultural loans only until such time as information on the other USDA agricultural programs becomes available.

Need for the Interim Rule:

- To implement, this year, a program that directly addresses the decline of minority farmers and ranchers.
- To immediately put into effect what is a clear and pressing goal of the Administration. On November 1, 1993, President Clinton issued Executive Order 12876, that directs the Government to support Historically Black Colleges and Universities (HBCU's) and to provide opportunities to participate in and benefit from federal programs. These institutions are a major beneficiary of this funding.
- In addition, under Section 2501, Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers, non-HBCU's entities, *i.e.*, Indian Tribal community colleges and Hispanic serving post-secondary educational institutions will be in the population served.
- To allow funds to be used in FY 95 that will provide assistance in advance of planting and building for the upcoming crop year.
- The application of this program will help in development of the components in the '95 Farm Bill aimed at stabilizing socially disadvantaged family farmers.
- As services are consolidated and agencies change as a result of reorganization of USDA, the socially disadvantaged population, whom these funds are targeted at, will be able to receive the necessary assistance to understand and gain access to the newly reorganized USDA.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts will be published for comment not withstanding the exemption of 5 U.S.C. 553. However, the Department is publishing this rule as an interim rule which will take effect immediately upon publication in the **Federal Register** without securing prior public comment.

The Agency is taking this action because the funds which will be distributed in the fiscal year 1995 are not being distributed under a typically new action or proposal which will affect the public. Rather the funds will go to organizations whose five years' plans were selected for funding pursuant to the July 2, 1993, Notice so that the organizations can continue to provide information and assistance to socially disadvantaged farmers and ranchers. Moreover, since that Notice provided the criteria for obtaining funding, the organizations which are affected by this action (which contains similar requirements) have actual notice of the applicable standards.

Organizations whose proposals were not selected for funding in 1993 and organizations submitting new proposals are not immediately affected by this action because they will not receive funding in this fiscal year. Also, these organizations will have the opportunity to comment on the interim rule because their comments will be considered before any truly new money could be distributed in the fiscal year 1996. Only $3,000,000 was appropriated for this program for the fiscal year 1994, and $2,995,000 for the fiscal year 1995. The same amount may not be appropriated in subsequent years. However, it is the Agency's expectation that funds will be appropriated for this program either as a separate item or as part of the general appropriations for the Agency in the future years. Therefore, the interim rule establishes guidelines for administering the program for future years.

Program Description

1. The regulation being developed embodies the content of the original notice, published on July 2, 1993. The interested parties are fully aware of the procedures and standards intended for this program.

2. The program's objective is to reverse, through the use of the Outreach Training and Technical Assistance Program, the decline of socially disadvantaged farmers and ranchers across the United States.

- This outcome will be reached by encouraging and assisting socially disadvantaged farmers and ranchers to own and operate their own farms, participate in agricultural programs, and become an integral part of the agricultural community.
- The recipients of these grants will provide services to socially disadvantaged farmers and ranchers and small farmers through outreach training and technical assistance in farm and ranch management, recordkeeping, marketing techniques and in testing innovative solutions to existing or anticipated issues or problems they may encounter.

Under the interim rule, CFSA will solicit proposals, and five-year plans to be funded on a competitive basis. The solicitation is encouraged from community-based organizations, 1890

Land Grant colleges, including Tuskegee University, Indian Tribal Community Colleges and Alaska Native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in providing agriculture education or other agricultural related services to socially disadvantaged family farmers and ranchers in their region.

The proposals will be evaluated by a panel of Agency technical experts to determine which proposals are most meritorious. The panel of Agency technical experts are necessary to evaluate what is expected to be a variety of very technical proposals. The evaluation panel will make recommendations to the appropriate Agency official to be forwarded to the Agency Head, who will consult with, if necessary, the Secretary of USDA before a final decision on awarding the grants or cooperative agreements is made.

To assure a consistency in the evaluation process the interim rule establishes a set of evaluation criteria to assure the proposal is consistent with the intent of the program and is worth the funds that are to be spent on the project.

The accounting for the funds awarded for the cooperative or other agreement will be subject to the normal rules for such agreements within USDA as given in part 3016 of this title. The proposed application format is used to assure that sufficient information is obtained to complete an agreement as given in part 3016 of this title. In addition, the application format is similar to that used by other USDA Agencies for their competitive grants programs.

List of Subjects in 7 CFR Part 1943

Credit, Loan Programs—Agriculture.

Accordingly, 7 CFR chapter XVIII and part 1943 are amended as follows:

1. The heading of 7 CFR chapter XVIII is revised to read as follows:

CHAPTER XVIII—RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE, RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE, RURAL UTILITIES SERVICE, AND CONSOLIDATED FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

2. In 7 CFR chapter XVIII (consisting of parts 1800–2099), everywhere "Farmers Home Administration", "FmHA", "FHA", "Rural Development Administration", or "RDA" are mentioned add the following immediately thereafter "or its successor agency under Public Law 103–354".

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

3. The authority citation for part 1943 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

4. Subpart C of part 1943 is added to read as follows:

PART 1943—FARM, OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart C—Small Farmer Outreach Training and Technical Assistance Program

§ 1943.101 General.

This subpart provides procedures for administration of the Small Farmer Outreach Training and Technical Assistance Program whereby an 1890 or other eligible educational institution or community-based organization as referenced in § 1943.105 of this subpart, also referred to as the recipient, enters into a grant, cooperative, or other agreement with the Consolidated Farm Service Agency (CFSA) to provide outreach, training, and technical assistance to members of socially disadvantaged groups to own and operate farms and ranches and to participate in agricultural programs.

§ 1943.102 Objectives.

To meet the objectives of the program referenced in paragraphs (a) and (b) of this section, CFSA will fund grant agreements, cooperative agreements, or enter into Memorandums of Understanding (MOU) with recipients as referenced in § 1943.105 of this subpart, for Small Farmer Outreach Training and Technical Assistance Projects which are determined to meet the objectives of the program:

(a) The long-term objective of the Small Farmer Outreach Training and Technical Assistance Program is to keep small farmers, especially those who are members of socially disadvantaged groups, on the farm and strengthen the rural economy.

(b) An immediate objective of the Small Farmer Outreach Training and Technical Assistance Program is to encourage and assist members of socially disadvantaged groups to own and operate farms and ranches and to participate in agricultural programs.

§ 1943.103 Project period.

A cooperative agreement or other agreement will specify a project for a period generally of 5 years, with an option for renewal up to the 5-year period, subject to the availability of funds or termination of the project by mutual agreement or for cause.

§ 1943.104 Definitions.

For the purpose of the Small Farmer Outreach Training and Technical Assistance Program, the following definitions are applicable:

Agricultural programs. Eligible programs shall include, but are not limited to, one or more of the following programs: Agricultural conservation program, programs comprising the environmental conservation acreage reserve program (ECARP), conservation technical assistance program, emergency conservation program, forestry incentives program, Great Plains Conservation Program, integrated farm management option program, price support and production adjustment programs, rural environmental conservation program, soil survey program, and water bank program; also the farm loan programs (farm ownership, operating, soil and water, and emergency loans) of the CFSA.

Awarding official. The Administrator of the CFSA or designee.

Community-based organization. Those nonprofit, nongovernment organizations with a well defined constituency that includes all or part of a particular community, *e.g.*, communities consisting of socially disadvantaged farmers and ranchers. Socially disadvantaged farmers and ranchers must play a role in the development and implementation of any program or project undertaken by the organization.

Cooperative agreement. The same meaning as "grant," except that, at the time a cooperative agreement is awarded, substantial involvement is anticipated between CFSA, acting for the Federal Government, and the recipient during performance under the agreement. (Refer to Exhibit A of FmHA Instruction 1943–C (available in any State office).)

Grant. For purposes of this regulation, an award by CFSA, acting for the Federal Government, of money to the recipient with the following characteristics:

(1) The principal purpose of the award is to accomplish a public purpose authorized by statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) At the time an award is made, no substantial involvement is anticipated between CFSA, acting for the Federal Government, and the recipient.

Memorandum of Understanding (MOU). For purposes of this regulation, a documented plan between CFSA and the recipient or recipients for carrying out their separate activities in a project of mutual interest. When an understanding is reached as to the area of operations and duties to be performed by the parties concerned, each party directs its own activities and utilizes its own resources. An MOU is not a fund obligation document since it does not directly involve a financial assistance transaction.

Project. The total activities within the scope of the program as identified in the MOU, grant, cooperative or other agreement.

Project Director. The individual who is responsible for the project, as designated by the recipient in the project proposal and approved by the awarding official. The project director will devote full time to the administration of the project.

Project period. The total time approved by the awarding official for conducting the proposed project as outlined in an approved project proposal or the approved portions thereof and as specified in the cooperative or other agreement.

Recipient. For purposes of this subpart, an entity as defined in § 1943.105 of this subpart that has entered into an MOU, grant, or cooperative or other agreement with CFSA.

Socially disadvantaged farmer or rancher. A farmer or rancher who is a member of a socially disadvantaged group. (For entity applicants, the majority interest has to be held by socially disadvantaged individuals.)

Socially disadvantaged group. A group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. Socially disadvantaged groups consist of Women, African-Americans, Native Americans, Alaskan Natives, Hispanics, Asians, and Pacific Islanders.

§ 1943.105 Eligible Entities.

(a) CFSA will consider proposals only from:

(1) 1890 Land-Grant Colleges, including Tuskegee University.

(2) Indian tribal community colleges.

(3) Alaska native cooperative colleges.

(4) Hispanic-serving post-secondary educational institutions.

(5) Other post-secondary educational institutions with demonstrated experience in providing agricultural education or other agriculturally-related services to socially disadvantaged farmers or ranchers in their region.

(6) Any community-based organization that:

(i) Has demonstrated experience in providing agricultural education or other agriculturally-related services to socially disadvantaged farmers and ranchers;

(ii) Provides documentary evidence of its past experience in working with socially disadvantaged farmers and ranchers during the 2 years preceding its application for assistance; and

(iii) Does not engage in activities prohibited under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) In addition to those entities referenced in paragraph (a) of this section, an applicant must:

(1) Have adequate financial resources for performance and the necessary experience, organizational and technical qualifications, and facilities or a firm commitment, arrangement, or ability to obtain same (including any to be obtained through subagreement(s));

(2) Have the ability to comply with the proposed or required completion schedule for the project;

(3) Have an adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets;

(4) Have a satisfactory record of performance, including, in particular, any prior performance under grants, contracts, or cooperative agreements from the Federal Government; and

(5) Otherwise be qualified and eligible to receive funding for a grant agreement, cooperative agreement, or other agreement under the applicable laws and regulations.

§§ 1943.106–1943.110 [Reserved]

§ 1943.111 Process for consideration.

(a) A program solicitation will be published in the **Federal Register** and such other publication(s) as deemed appropriate, as early as practicable every 5 years that funds will be available for new project use and at other appropriate times.

(b) The project proposal must contain the following information:

(1) *Background and need for the project.* Explain the circumstances which necessitate a Small Farmer Outreach Training and Technical Assistance Project within the State to serve small farmers, especially members of socially disadvantaged groups.

(2) *Objectives and goals proposed to meet the objectives.* Clearly state the objectives of the project, which should be in line with the objectives of the program stated in § 1943.102 of this subpart, and explain the goals proposed to meet the objectives.

(3) *Statement of Work, including staffing.* Describe the plan of action for meeting the objective of the Small Farmer Outreach Training and Technical Assistance Program and the necessary staffing.

(4) *Proposed budget.*

(i) Submit a proposed budget for each of the 5 years, showing line-by-line cost items for the proposed project. Include any in-kind contributions to be provided.

(ii) Show all funding sources and itemize costs by the following line items: personnel costs, equipment, material and supplies, travel, and all other costs.

(iii) Salaries of project personnel who will be working on the project may be requested in proportion to the effort that they will devote to the project.

(iv) Funds may be requested under any of the line items listed above provided that the item or source for which support is requested is identified as necessary for successful conduct of the project, is allowable under the authorizing legislation and applicable Federal cost principles, and is not prohibited under any applicable Federal statute.

(5) *Identification of personnel.* Incorporate into the proposal the resumes of all anticipated personnel, including the Project Director. Also discuss the experience, qualifications, and availability of all personnel, including the Project Director, to direct and carry out the project.

(c) The State Office will review the proposal and forward the proposal to the National Office Project Manager, within 15 days of receipt, with the State Office's recommendations.

(d) The National Office will make a preliminary review of the proposal and reserves the right to return it to the State Office with any questions or comments to be clarified by the 1890 or other eligible educational institution or community-based organization. A time period for resubmission will be specified.

(e) All proposals from entities eligible for funding under § 1943.105 of this subpart shall be evaluated for funding consideration. To assist in the evaluation and obtain the best possible balance of viewpoints for funding consideration, a proposal review panel will be used. The proposal review panel will be selected and organized to provide maximum expertise and objective judgment in the evaluation of proposals. The proposal review panel will use Form FmHA 1943–2, "EVALUATION—Small Farmer Outreach Training and Technical Assistance Program," to evaluate each proposal. The proposal review panel will evaluate each proposal against the five criteria using the following scale: Highly Responsive (5); Fully Responsive (3); Marginally Responsive (1); and Not Responsive (0). The criteria used by the proposal review panel and the criteria weights are:

(1) *Feasibility and Policy Consistency (3.5).* Degree to which the proposal clearly describes its objective and evidences a high level of feasibility and consistency with United States Department of Agriculture (USDA) policy and CFSA mission.

(2) *Institutional Commitment (3.5).* Degree to which the institution or organization is committed to the project, as shown by funds, in-kind services, or historical success in meeting the objectives of the program.

(3) *Number of Counties and Farmers Served (3.5).* Degree to which the proposal reflects collaborative approaches in meeting with other agencies or organizations to enhance the objectives of the program. Also, the areas and number of farmers who would benefit from the services offered.

(4) *Socially Disadvantaged Applicants—Outreach (3.5).* Degree to which the proposal contains efforts to reach persons identified as socially disadvantaged farmers and ranchers in designated counties.

(5) *Preparatory Features—Statement of Work (6.0).* Degree to which the proposal reflects special innovative features to attract, interest, and improve the economical and social conditions of socially disadvantaged farmers and ranchers.

(f) The final decision to award is at the discretion of the awarding official. The awarding official shall consider the ranking, comments, and recommendations from the proposal review panel and any pertinent information before deciding which applications to approve and the order of approval. The awarding official will notify in writing entities whose proposals are rejected. In accordance with § 1900.55 of subpart B of part 1900 of this chapter, appeal rights will be provided only to those entities identified as eligible under § 1943.105 of this subpart.

(g) After a decision regarding funding is made, CFSA and the recipient which is selected will enter into a grant or cooperative agreement. The awarding official will notify the recipient of approval and inform them of the necessary documents needed to execute the agreement. If no funding is involved, CFSA and the recipient will enter into an MOU.

§§ 1943.112–1943.114 [Reserved]

§ 1943.115 Authorized use of funds.

Any funds authorized under this subpart will be used solely for the operation and administration of the Small Farmer Outreach Training and Technical Assistance Program specifically for the project under the cooperative or other agreement. There is no other authorized use of the funds. Eligible costs are limited to those line items specified in § 1943.111 (b)(4) of this subpart.

§§ 1943.116–1943.125 [Reserved]

§ 1943.126 Other applicable federal statutes and regulations that apply.

Several other Federal statutes and regulations apply to proposals considered for review or cooperative and other agreements awarded under the program. These include, but are not limited to the following:

(a) 7 CFR part 1b—USDA Implementation of the National Environmental Policy Act;

(b) 7 CFR part 3—USDA implementation of OMB Circular A–129 regarding debt collection;

(c) 7 CFR part 1.1—USDA implementation of the Freedom of Information Act;

(d) 7 CFR part 15, Subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964;

(e) 7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB Directives (*i.e.*, Circular Nos. A–110, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Public Law No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance;

(f) 7 CFR part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(g) 7 CFR part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(h) 7 CFR part 3018—USDA implementation of New Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

(i) 29 U.S.C. 794, Section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of the statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs; and

(j) 35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained 37 CFR part 401).

§ 1943.127 Fund disbursement.

The method of payment will be by reimbursement by Treasury check, and payment will be requested on Standard Form (SF) 1034, "Public Voucher for Purchases and Services Other Than Personal," or SF–270, "Request for Advance or Reimbursement," whichever is applicable. Payments will be processed in accordance with 7 CFR parts 3015 and 3016.

§ 1943.128 Financial management systems and reporting requirements.

(a) Recipients must comply with standards for the financial management and reporting and program performance reporting found in 7 CFR parts 3015 and 3016.

(b) Recipients must provide to the State Office quarterly financial and program performance reports. The reports are due 30 days after the reporting period, and an original and two copies of each report will be submitted. The financial report will be presented on SF–269A, "Financial Status Report," and the financial and program performance reports will be prepared in accordance with 7 CFR parts 3015 and 3016.

(c) The program performance report should also address progress on the activities under each of the areas of Outreach, Training, and Technical Assistance, as stipulated in the cooperative agreement or other agreement.

(d) Within 30 days after receipt, the State Office will forward the reports to the National Office Project Manager, with the State Office's comments and recommendations.

§§ 1943.129–1943.135 [Reserved]

§ 1943.136 Standards of conduct for employees of recipient.

(a) Recipients must establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Therefore, recipients receiving financial support must have written policy guidelines on conflict of interest and the avoidance thereof. These guidelines should reflect State and local laws and must cover financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. These rules must also indicate the conditions under which outside activities, relationships, or financial interests are proper or improper, and provide for notification of these kinds of activities, relationships, or financial interests to a responsible and objective recipient official. For the requirements of a code of conduct applicable to procurements under grants and cooperative agreements, see the procurement standards prescribed by 7 CFR 3015.181.

(b) The rules of conduct must contain a provision for prompt notification of violations to a responsible and objective recipient official and must specify the type of administrative action that may be taken against an individual for violations.

(c) A copy of the rules of conduct must be given to each officer, employee, board member, and consultant of the recipient who is working on the CFSA financed project, and the rules must be enforced to the extent permissible under State and local law or to the extent to which the recipient determines it has legal and practical enforcement capacity. The rules need not be formally submitted and approved by the awarding official; however, they must be made available for review upon request, for example, during a site visit.

§ 1943.137 Monitoring compliance and penalty for noncompliance.

(a) *CFSA monitoring.* CFSA will monitor compliance of the Small Farmer Outreach Training and Technical Assistance projects through the reports received in accordance with § 1943.128 of this subpart, through information received from field offices and the public, and may include on-site visits to observe the operation and administration of the program.

(b) *Audits.* Recipients are subject to the audit requirements of 7 CFR parts 3015 and 3016. An audit report will be submitted to the State Office annually in accordance with OMB Circular A–128, A–110, or A–133, whichever is applicable. The State Office will forward the audit to the National Office Project Manager, within 30 days after receipt, with the State Office's comments and recommendations.

(c) *Penalty for noncompliance.* If the Administrator determines that a Small Farmer Outreach Training and Technical Assistance project does not meet or no longer meets the objective of the program, that there has been a violation of the cooperative or other agreement, that reporting requirements are not being met, or that funds are not being used only for the operation and administration of the Small Farmer Outreach Training and Technical Assistance Program, the awarding official is authorized to impose any penalties or sanctions established in 7 CFR parts 3015 and 3016. Penalties may include withholding payments, suspension of the cooperative agreement or other agreement, or termination for cause. If a penalty for noncompliance is enforced, the reason(s) will be stated in a letter to the recipient along with appeal rights pursuant to subpart B of part 1900 of this chapter.

§§ 1943.138–1943.140 [Reserved]

§ 1943.141 Nondiscrimination.

The policies and regulations contained in subpart E of part 1901 of this chapter apply to grants and other agreements made under this subpart.

§ 1943.142 Environmental requirements.

The policies and regulations contained in subpart G of part 1940 of this chapter apply to grants and other agreements made under this subpart.

§§ 1943.143–1943.150 [Reserved]

Dated: December 5, 1994.

Eugene Moos,

Under Secretary, Farm and Foreign Agricultural Services.

Dated: December 5, 1994.

Bob J. Nash,

Under Secretary, Rural Economic and Community Development.

[FR Doc. 94–30999 Filed 12–23–94; 8:45 am]

BILLING CODE 3410–07–U

Food Safety and Inspection Service

9 CFR Parts 318, 381 and 391

[Docket No. 94–033I]

RIN: 0583–AB87

Reduction of Accreditation Fees for FSIS Accredited Laboratories

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending provisions of the Federal meat and poultry products inspection regulations to reduce the fees charged participants in the Agency's Accredited Laboratory Program (ALP). Non-Federal analytical laboratories are qualified under the ALP to conduct analyses of official meat and poultry samples. Laboratory accreditation fees that cover the costs of the ALP are mandated by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Farm Bill), as amended. The same Act mandates annual payment of the fees on the anniversary date of each accreditation. FSIS has determined that reduced ALP administrative expenditures for fiscal year 1995 will enable the Agency to charge a smaller accreditation fee than last year. However, because the laboratory accreditation fee is set forth in the regulations, the regulations must be changed before the Agency can charge a different fee. Since the anniversary date of most current accreditations is December 13, FSIS would like to begin billing the laboratories at the reduced rate on that date. FSIS is also making an editorial correction to the Federal meat and poultry products inspection regulations.

EFFECTIVE DATE: December 27, 1994. Comments must be received by: January 26, 1995.

ADDRESSES: Send written comments, in triplicate, to Policy, Evaluation and Planning Staff, ATTN: Diane Moore, FSIS Docket Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments, as provided by the Poultry Products Inspection Act, should be presented to Dr. Jess Rajan, Chief, Quality Systems Branch, Chemistry Division, Science and Technology, (202) 205–0679.

FOR FURTHER INFORMATION CONTACT: Dr. Jess Rajan, Food Safety and Inspection Service, U.S. Department of Agriculture, room 516A, Annex Building, 300 12th Street, SW., Washington, DC 20250–3700, (202) 205–0679.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this interim rule. Written comments should be sent in triplicate to the Policy, Evaluation and Planning Staff and should refer to docket number 94–033I. Any person desiring opportunity for oral presentation of views, as provided under the Poultry Products Inspection Act, must make such request to Dr. Rajan so that arrangements may be made for such views to be presented. A record will be made of all views orally presented All comments submitted in response to this interim rule will be available for public inspection in the FSIS Docket Room, room 3171, South Agriculture Building, Washington, DC 20250, from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

To assure compliance with the Federal Meat Inspection Act (FMIA—21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA—21 U.S.C. 451 *et seq.*), and regulations promulgated under the Acts, samples of meat and poultry products are tested periodically to determine protein, moisture, fat, and salt content. Analyses are also conducted to determine the presence of any violative concentrations of drugs or other chemical residues.

When FSIS finds that a product is not in compliance, the Agency is required to take appropriate action against the processor of that product. Depending on the type of product and the severity of the noncompliance, such action may range from product reprocessing to litigation proceedings. In view of the critical nature of product testing, it is necessary for laboratories that analyze official samples of meat and poultry products to maintain a high degree of integrity.

A processor whose sample is to be analyzed generally has the option of using either an FSIS laboratory or an accredited laboratory. The cost of FSIS analysis is borne by the Government while the cost of non-Federal analysis is borne by the processor. Due to the limited number of FSIS laboratories and their heavy workload, many processors prefer to use the non-Federal laboratories either for convenience of location or to obtain test results more quickly.

Section 1327 (7 U.S.C. 138f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (PL 101–624), as amended, known as the 1990 Farm Bill, requires USDA to charge a nonrefundable accreditation fee for laboratories seeking accreditation by the Secretary under the authority of the FMIA or PPIA. The fee is required to be in an amount that will offset the cost of the ALP. All fees collected by the Secretary of Agriculture are credited to an account from which the expenses of the Accredited Laboratory Program are paid, and are available immediately and remain available until expended for the ALP.

Fees are billed annually on a per-accreditation basis. The ALP regulations define an accreditation to be a determination by FSIS that a laboratory is qualified to analyze official samples of meat and poultry products for the presence and amount of all four food chemistry analytes (protein, moisture, fat, and salt) or a determination by the Agency that a laboratory is qualified to analyze official samples of product for the presence and amount of one of several classes of chemical residues. Accreditations are granted separately for the food chemistry analysis of official samples and for the analysis of such samples for any one of the several classes of chemical residue. A laboratory may hold more than one accreditation.

The user-fee-funded ALP has been in operation since December 13, 1993, the effective date of the final rule that, among other things, established the accreditation fee (58 FR 65254). FSIS has reviewed its costs incurred to grant and/or renew a laboratory's accreditation status. A cost analysis was performed on the 1994 rate and it was determined that the 1995 rate should be reduced. The revised fee was determined by an analysis of the fixed and variable costs of the service. The cost was calculated to be $2,500 per year, a reduction of $1000 from the 1994 fee.[1] This reduction was due to administrative and managerial efficiencies, and the use of interlaboratory accreditation maintenance check samples only, rather than both check and split samples, to demonstrate acceptable laboratory performance.

Each year, FSIS will perform a cost analysis to determine whether the current accreditation fee is adequate to recover the costs of providing the service for the next year. If the fee is not adequate or is in excess of that required to recover the costs, a new fee will be established.

The Agency has determined that the fee for original accreditations and renewals, beginning December 13, 1994 (the anniversary date for the accreditations of most laboratories in the program), will be $2,500.

Because the amount of the accreditation fee is mandated by regulation, the regulations must be amended before laboratories can be billed at the new, reduced rate. As the regulations are now written, the Agency must begin billing December 13 at the existing, higher fee rate of $3,500. However, the Agency has determined that a lower fee should be charged. The Agency has determined that the lower fee needs to be made effective immediately in order to assure that it collects the fee it has determined is appropriate and in order to assure that industry will not be burdened unnecessarily by the charging of a fee that is higher than what is needed.

FSIS is also making an editorial correction to § 318.21(c)(3)(ix), paragraphs (A), (B), and (C), and § 381.153(c)(3)(ix), paragraphs (A), (B), and (C), of the Federal meat and poultry products inspection regulations. In the final rule, the option for using interlaboratory accreditation check samples was inadvertently omitted from these paragraphs but included in the introductory sections for these paragraphs. This interim rule merely corrects that editorial error and makes no substantive change.

In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553), for the reasons listed above, the Agency finds good cause for making this interim rule effective upon publication. At the same time, however, FSIS is providing for a 30-day comment period.

Executive Order 12866

This interim rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule reduces the accreditation fees for non-Federal analytical chemistry laboratories accredited under the Federal Meat and Poultry Products Inspection Acts and regulations promulgated thereunder.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any requirements with respect to federally inspected premises and

[1] A copy of the cost analysis is available from the FSIS Docket Clerk, USDA, Food Safety and Inspection Service, Room 3171, South Agriculture Building, 14th Street and Independence Avenue, Washington, DC 20250.

facilities, and operations of such establishments, that are in addition to, or different than, those imposed under the FMIA or PPIA. States and local jurisdictions are also preempted under the FMIA and PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than, those imposed under the FMIA or the PPIA, as well as preempted from imposing, under the PPIA for poultry products, certain storage and handling requirements. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. States and local jurisdictions may also make requirements or take other actions, that are consistent with the FMIA and PPIA, with respect to any other matters regulated under the FMIA and PPIA.

Under the FMIA and the PPIA, States that maintain meat and poultry inspection programs must impose requirements that are at least equal to those required under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

This interim rule will have no retroactive effect and applicable administrative procedures must be exhausted before any judicial challenge to the application of these provisions. Those administrative procedures are set forth in 9 CFR §§ 306.5, 318.21(h), 381.35, and 381.153(h).

Effect on Small Entities

There are currently approximately 150 laboratories in the FSIS accredited laboratory program. About one quarter (37) of these are considered small entities.

This interim rule reduces the fee charged for FSIS accreditation from $3,500 per accreditation, per year, to $2,500 per accreditation, per year. All small accredited laboratories are affected by this interim rule. Since the payment of fees to begin or renew a laboratory's status as "accredited by FSIS" is a very small part of total business costs, FSIS has determined that this rule will not have a significant effect on small entities.

List of Subjects

9 CFR Part 318

Meat inspection, Laboratory accreditation.

9 CFR Part 381

Poultry and poultry products inspection, Laboratory accreditation.

9 CFR Part 391

Fees and charges for inspection services, Laboratory accreditation fees.

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 318, 381, and 391, as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 138f; 21 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. The first sentence in Paragraphs (c)(3)(ix) (A)(*1*), (A)(*2*), (B), and (C) of § 318.21 are revised to read as follows:

§ 318.21 Accreditation of chemistry laboratories.

* * * * *

(c) * * *

(3) * * *

(ix) * * *

(A) *Systematic laboratory difference:*

(1) Positive systematic laboratory difference: The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P.[11] * * *

* * * * *

(2) Negative systematic laboratory difference: The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N.[12] * * *

* * * * *

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/ or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V.[13] * * *

* * * * *

(C) *Large Deviations:* The large deviation measure of the accredited laboratory's result for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[14] * * *

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

4. The first sentence in Paragraphs (c)(3)(ix) (A)(*1*), (A)(*2*), (B), and (C) of § 381.153 are revised to read as follows.

§ 381.153 Accreditation of chemistry laboratories.

* * * * *

(c) * * *

(3) * * *

(ix) * * *

(A) *Systematic laboratory difference:*

(1) Positive systematic laboratory difference: The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–P.[11] * * *

* * * * *

(2) Negative systematic laboratory difference: The standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–N.[12] * * *

* * * * *

(B) *Variability:* The absolute value of the standardized difference between the accredited laboratory's result and that of the FSIS laboratory for each split and/ or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–V.[13] * * *

* * * * *

(C) *Large Deviations:* The large deviation measure of the accredited laboratory's result for each split and/or interlaboratory accreditation maintenance check sample is used to determine a CUSUM value, designated as CUSUM–D.[14] * * *

* * * * *

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES AND LABORATORY ACCREDITATION

5. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622, 1624; 21 U.S.C. 450 et seq.; 21 U.S.C. 601–695.

6. Paragraph (a) of § 391.5 is revised to read as follows:

§ 391.5 Laboratory accreditation fees.

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to §§ 318.21 and 381.153 shall be $2,500 per accreditation.

* * * * *

Done at Washington, DC, on: December 19, 1994.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 94–31639 Filed 12–23–94; 8:45 am]

BILLING CODE 3410–OM–P–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–25–AD; Amendment 39–9100; AD 94–26–04]

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that currently requires inspections to detect damage of the ball bearings in the aileron quadrants, replacement of damaged ball bearings with new ball bearings, and adjustment to the secondary stops. This amendment requires installation of new swivel bearings in the aileron quadrants, which, when accomplished, will terminate the inspection requirement. This amendment is prompted by the development of a modification that eliminates the need to inspect repetitively. The actions specified by this AD are intended to prevent failure of the bearings in the aileron quadrants, which could result in reduced controllability of the airplane.

DATES: Effective January 26, 1995.

The incorporation by reference of Jetstream Alert Service Bulletin J41–A–27–026, Revision 2, dated January 17, 1994, and Jetstream Service Bulletin J41–27–027, dated January 17, 1994, is approved by the Director of the Federal Register as of January 26, 1995.

The incorporation by reference of Jetstream Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993, was approved previously by the Director of the Federal Register as of March 28, 1994 (59 FR 11531, March 11, 1994).

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Incorporated, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–25–10, Amendment 39–8849 (59 FR 11531, March 11, 1994), which is applicable to certain Jetstream Model 4101 airplanes, was published in the **Federal Register** on May 4, 1994 (59 FR 23031). The action proposed to require installation of new swivel bearings in the left and right aileron quadrants (Modification JM41307A) as terminating action for the currently required inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below has been revised to reflect this increase in the specified hourly labor rate.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. Under these circumstances, at least one operator appears to have incorrectly assumed that its airplane was not subject to an AD. On the contrary, all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been added to this final rule to clarify this requirement. The FAA has determined that this addition will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD.

The inspections that were previously required by AD 93–25–10, and retained in this amendment, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of these inspection requirements on U.S. operators is estimated to be $480, or $60 per airplane, per inspection cycle.

The adjustment to the secondary stops that were previously required by AD 93–25–10, and retained in this amendment, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of this adjustment requirement on U.S. operators is estimated to be $480, or $60 per airplane. The FAA estimates that all affected U.S. operators have already accomplished this action; therefore, the future cost impact of this requirement is minimal.

The installation of new swivel bearings (Modification JM41307A) that will be required by this amendment will take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the modification requirement of this AD on U.S. operators is estimated to be $4,800, or $600 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8849 (59 FR 11531, March 11, 1994), and by adding a new airworthiness directive (AD), amendment 39–9100 to read as follows:

94–26–04 Jetstream Aircraft Limited: Amendment 39–9100. Docket 94–NM–25–AD. Supersedes AD 93–25–10, Amendment 39–8849.

Applicability: Model 4101 airplanes having constructors numbers 41004 and subsequent; on which Modification JM41307A or JM41307B has not been installed previously; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bearings in the aileron quadrants, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), perform a detailed visual inspection to detect damage of the bearings in the aileron quadrant in the pilot's and co-pilot's aileron control, in accordance with Jetstream Aircraft Limited Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993; or Revision 2, dated January 17, 1994.

(1) If no damaged bearing is found, repeat the inspection, thereafter, at intervals not to exceed 7 days.

(2) If any damaged bearing is found, prior to further flight, replace the damaged bearing with a new bearing in accordance with the service bulletin, and repeat the inspection, thereafter, at intervals not to exceed 7 days.

Note 2: Paragraph (a) of this AD restates the requirement for an initial and repetitive inspections contained in paragraph (a) of AD 93–25–10. Therefore, for operators that have previously accomplished at least the initial inspection in accordance with AD 93–25–10, paragraph (a) of this AD requires that the next scheduled inspection be performed within 7 days after the last inspection performed in accordance with paragraph (a) of AD 93–25–10.

(b) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), adjust the aileron secondary stop in the pilot's and co-pilot's aileron control system in accordance with Jetstream Aircraft Limited Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993; or Revision 2, dated January 17, 1994.

Note 3: Paragraph (b) of this AD restates the requirement to adjust the aileron secondary stop contained in paragraph (b) of AD 93–25–10. As allowed by the phrase "unless accomplished previously," if that requirement of AD 93–25–10 has been accomplished previously, this AD does not require that it be repeated.

(c) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), revise the Abnormal Procedures Section of the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD in the AFM:

"Where abnormal aileron control backlash is experienced by one pilot, the other pilot should assume control of the aircraft without using the disconnect facility. The disconnect facility should only be used in accordance with published procedures in cases of control restrictions or jamming."

Note 4: Paragraph (c) of this AD restates the requirement for an AFM revision contained in paragraph (c) of AD 93–25–10. As allowed by the phrase "unless accomplished previously," if that requirement of AD 93–25–10 has been accomplished previously, this AD does not require that it be repeated.

(d) Within 180 hours time-in-service after the effective date of this AD, install new swivel bearings in the left and right aileron quadrants (Modification JM41307A) in accordance with Jetstream Service Bulletin J41–27–027, dated January 17, 1994. Accomplishment of this modification constitutes terminating action for the requirements of this AD. The AFM revision required by paragraph (c) of this AD may be removed following accomplishment of this modification.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with Jetstream Service Bulletin J41–27–027, dated January 17, 1994; and Jetstream Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993, or Jetstream Alert Service Bulletin J41–A–27–026, Revision 2, dated January 17, 1994, as applicable. Revision 2 of Jetstream Alert Service Bulletin J41–A–27–026 contains the following list of effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
J41–A–27–026 Revision 2 January 17, 1994	1–3	2	January 17, 1994.
	4–9	1	December 7, 1993.

The incorporation by reference of Jetstream Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993, was approved previously by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 as of March 28, 1994 (59 FR 11531, March 11, 1994). The incorporation by reference of the remainder of the service bulletins listed above is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Jetstream Aircraft, Incorporated, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on January 26, 1995.

Issued in Renton, Washington, on December 14, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–31178 Filed 12–23–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–205–AD; Amendment 39–9099; AD 94–26–03]

Airworthiness Directives; Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 series airplanes, that requires inspection to detect cracking in the area of the side stay attachment lugs of the fitting subassembly of the main landing gear (MLG), and replacement of cracked subassemblies with new or serviceable subassemblies. This amendment is prompted by reports of cracking in the subassembly of the MLG. The actions specified by this AD are intended to prevent damage to and/or failure of the support structure of the MLG.

DATES: Effective January 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 26, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F–28 Mark 1000, 2000, 3000, and 4000 series airplanes was published in the **Federal Register** on April 5, 1994 (59 FR 15875). That action proposed to require a one-time inspection to detect cracking in the area of the side stay attachment lugs of the fitting subassembly of the main landing gear (MLG), and replacement of cracked subassemblies with new or serviceable subassemblies.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

One commenter requests that the proposed rule be withdrawn and that a supplemental notice be issued that would propose the accomplishment of a "refurbishment" program developed by the commenter. This commenter indicates that the inspection and rework proposed in the notice may actually aggravate, rather than prevent, damage to the subject fitting assemblies. This commenter reports that, within several days after reworking the lugs in accordance with the method proposed in the notice, corrosion damage indications reappeared. In order to ensure that all evidence of corrosion was removed, the commenter had to accomplish an intensive refurbishment of the main landing gear side stay attachment lugs. It is this refurbishment process that the commenter requests to be required by the proposed rule.

The FAA does not agree with the commenter's request. The commenter did not provide sufficient data to establish that the procedure required by this rule (namely, a cleaning procedure that is necessary to remove surface corrosion in order to obtain an adequate eddy current inspection) contributes to any aggravation of a corrosion condition. The FAA has determined that the cleaning and eddy current inspection are sufficient, if no cracks are detected, to allow the main fitting subassembly to remain on the airplane until the next overhaul, when a thorough inspection, corrosion removal, and corrosion control process can be accomplished.

This same commenter requests that the proposed AD be revised to provide "credit" for inspections accomplished during overhaul procedures that were performed prior to the effective date of the final rule. The commenter points out that Revision 2 of Fokker F28 Service Experience Digest 32–10, Subject No. 008, states that, if the inspection and restoration of the protective finish on the subject assembly are accomplished, as is recommended during the inspections called out in the referenced service bulletin or during normal overhaul, no repetitive inspections will be necessary between overhaul periods. The commenter considers that this implies that the damage to the anodic film is an isolated occurrence, and that stress corrosion cracking will not occur if the anodic film is intact when the unit enters service. The commenter states that, compared to a specialized shop environment, field inspections and rework operations (as proposed in the notice) are less likely to ensure that all corrosion is detected and removed. Further, rework that exposes end grains and increases stress levels can aggravate, rather than arrest, the propensity for further corrosion. In this commenter's overhaul shop, corrosion removal is verified after machining by a process beginning with a chemical etch treatment that removes the surfaced layer of metal smeared by machining, followed by a high-sensitivity fluorescent penetrant inspection.

The FAA concurs in part. Although the Fokker F28 Service Experience Digest referenced by the commenter does state that accomplishment of normal overhaul "will ensure that no repetitive inspections are required between overhaul periods," the overhaul instructions provided may not be entirely adequate to support that statement. Therefore, the FAA agrees with the commenter's suggestion to provide credit to operators for inspections that were accomplished during overhaul prior to the effective date of the AD, but only provided that:

1. The overhaul was accomplished within the normal overhaul period (12,000 cycles or 12 years, whichever comes first); and

2. The overhaul was accomplished in accordance with Dowty Aerospace Landing Gear (DALG) Component Maintenance Manual (CMM), dated September 1977 or later; and