

Proposed Rules

Federal Register

Vol. 64, No. 216

Tuesday, November 9, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 785

Farm Service Agency

7 CFR Part 1946

RIN 0560-AE02

Certified Mediation Program

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to amend its Agricultural Loan Mediation Program regulations to implement the requirements of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the 1994 Act). The 1994 Act expands the scope of issues that may be mediated in State mediation programs certified by FSA. This regulation proposes to establish and modify requirements and procedures for certification and funding of State mediation programs. This action will also move the mediation provisions from the Rural Development chapter of the CFR to the FSA chapter.

DATES: Comments on this proposed rule must be received on or before January 10, 2000 to be assured of consideration. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through January 10, 2000.

ADDRESSES: Send comments in duplicate to Executive Director for State Operations, Farm Service Agency, U.S. Department of Agriculture, Room 3090 S, STOP 0539, 1400 Independence Avenue, SW, Washington, DC 20250-0539, or by fax to 202-690-3009. All written comments will be available for public inspection at the above address between 8 a.m. and 5 p.m., EST, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Chester A. Bailey, Mediation

Coordinator, FSA, at the above address, telephone 202-720-1471.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Certified Mediation Program-10.435.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Environmental Evaluation

It has been determined that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed under the National Environmental Policy Act of 1969.

Executive Order 12612

This document has been reviewed in accordance with Executive Order 12612, Federalism. The agency has determined that this action does not have significant Federalism implications.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted (1) all State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given to this rule, and (3) administrative proceedings published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this program. The

administration certifies that this program will not have a significant impact on a substantial number of small entities. By statute this grant program applies only to States. These grants cannot be made to small entities or individuals. Small entities may participate in mediation, however, to the same extent as individual and other entities affected by adverse decisions covered by certified mediation programs.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objective of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA will submit an emergency information collection request (ICR) to OMB for the approval of the Certified Mediation Program reports as necessary for the proper functioning of the program.

Title: Certified Mediation Program.

OMB Control Number: 0560-0165.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Abstract: The information collected under OMB Control Number 0560-0165, as identified above, is needed to enable

FSA to administer effectively the Certified Mediation Program.

FSA requires some of the information it collects to be reported in a standard manner. Although other institutions, public and private, generally require and collect information similar to that requested by FSA, there is a wide diversity in reporting practices.

The amendment contained in this information collection that requires clearance by OMB is "Agricultural Mediation and Related Requirements including, State Certification and Grant Administration Provisions." The information to be collected includes an application for certification, reverification for subsequent annual approval, application for Federal Assistance, reporting requirements, and audit reports.

The information requested is reported annually and is necessary for the FSA to determine eligibility, and to administer the mediation grant program in an equitable and cost-effective manner.

Estimate of Burden: The public reporting burden for this information collection is estimated to average 34 hours per respondent.

Respondents: State agencies.

Estimated Number of Respondents: 24.

Estimated Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 816 hours.

Topics for comments include: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Chester A. Bailey, Mediation Coordinator, FSA, USDA, STOP 0539, 1400 Independence Avenue, SW, Washington, DC 20250-0539, (202) 720-1471. Copies of the information collected may be obtained from Chester A. Bailey at the above address.

OMB is required to make a decision concerning the collections of information contained in these

proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department of Agriculture (USDA) on the proposed regulation.

Discussion of Proposed Rule

Title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5106 *et seq.*) (1987 Act) authorized the Secretary of Agriculture to qualify States as certified to develop State mediation programs that mediate agricultural loan disputes. The Secretary delegated this authority at that time to the Administrator of the Farmers Home Administration (FmHA). In addition, the 1987 Act required FmHA to participate in mediation in certified States.

To be certified under the 1987 Act, a State was required to: (1) Provide mediation services to producers and their creditors that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program; (2) be authorized or administered by an agency of the State government or by the Governor of the State; (3) provide for the training of mediators; (4) provide that the mediation sessions be confidential; and (5) ensure that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

The 1987 Act authorized funding of \$7.5 million a year for each of the fiscal years 1988 through 1991, with matching grants to the States limited to \$500,000 or 50 percent of the cost of a State's program, whichever is less. The Food, Agriculture, Conservation, and Trade Act of 1990 extended this authority through 1995, and the Agricultural Credit Improvement Act of 1992 increased the maximum percentage of the grant to 70 percent. The 1994 Act extended the program through 2000.

Sections 275 and 282 of the 1994 Act establish the role of mediation in the administrative appeals process, expand the range of issues that can be mediated by certified State mediation programs, and explain the procedures and criteria under which a State, upon its application, can be certified by the Secretary of Agriculture as a qualifying State. The 1994 Act requires that, if mediation is available as a part of the USDA agency's informal appeals process, the appeal participant in a qualifying State will be offered the opportunity to mediate. As part of USDA's reorganization, the Secretary re-

delegated the responsibility for State certification and administration of the grant program to the Administrator, FSA.

The 1994 Act restates the requirements for certification of a State's mediation program contained in the 1987 Act. Additional requirements are that the State mediation program ensure, in the case of issues other than agricultural loans covered by the mediation program, that persons directly affected by actions of the USDA receive adequate notification of the mediation program. The 1994 Act re-emphasizes the importance of qualifying States adequately training mediators to address all issues covered by their mediation programs.

For the administration of the matching grant program in qualifying States, FSA will continue to use the uniform standards prescribed in 7 CFR part 3015, "Uniform Federal Assistance Regulations," and 7 CFR part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." These generally applicable rules are sufficiently well known to the States to permit an informed comment on these proposed rules.

This rule also continues the practice of making the grant year for all qualifying States run concurrently with the Federal fiscal year, which commences on October 1.

The significant changes to the mediation regulations contained herein are: (1) All references to "agricultural loan mediation" are replaced with "certified mediation"; (2) issues that may be mediated by a State mediation program are expanded to include certain issues specified in the 1994 Act and non-specified issues the Secretary deems appropriate; (3) USDA agencies will participate in good faith in mediation under the same terms and conditions applicable to agricultural producers, creditors, if applicable, and other persons directly affected by actions of the USDA; (4) participants may be offered the opportunity to choose mediation as part of an agency's informal appeal process; (5) certified State mediation programs are required to train mediators adequately to address all issues covered by the program; (6) added is a condition that a certified mediation program must ensure, for issues other than agricultural loans covered by the mediation program, that persons directly affected by actions of USDA receive adequate notification of the mediation program; (7) the confidentiality provisions of the Administrative Dispute Resolution Act of 1996 apply to the certified mediation

program, but this regulation clarifies that this does not alter the State's responsibility to provide the Government access to its records as required by 7 CFR 3015.24; (8) more specific information concerning the State's mediation program is required as a certification condition; (9) procedures are clarified to eliminate confusion about administration of mediation grants; (10) the mission of State-certified mediation programs is specified to provide mediation services to agricultural producers, their creditors and other persons directly affected by actions of the USDA; (11) provisions for audit and penalties for non-compliance are amended to remove internal administrative procedures and for clarity; (12) the basis on which grant funds will be allocated to certified State mediation programs is clarified and described; (13) "mediation" is defined; and (14) the method of payment of grant funds has been changed to permit advances of funds earlier in the fiscal year of appropriation. The advance payment will expedite receipt of grant funds by the State programs, so as to assist the State's need to budget, obligate and spend the funds in a timely and efficient manner and enhance operation of the program. At the same time, State programs are required to obligate, spend, and account for grant funds and for the State's matching fund obligation in accordance with USDA grant regulations. In addition carryover of unspent funds is specifically allowed. Carryover balances must be obligated and liquidated by the State program during the subsequent fiscal year.

Request for Comment

FSA encourages interested persons to comment on this proposed regulation, and particularly solicits comments on the following specific matters:

1. Training and reporting. FSA asks for comment on the request for information on training programs implemented by States under the recent statutory amendments, and on the requirement for reporting quarterly on the certified State program.

2. Issues available for mediation. The 1994 Act expanded the issues available for mediation. Many State programs have made mediation available for the new issues. FSA is interested in learning whether States offer mediation in the new issues, and the experience of State programs in mediating these issues.

3. Mediation not involving USDA agencies and programs. Certified State mediation programs may offer mediation services on issues that do not affect USDA agencies and programs.

Costs of such services which are inconsistent with the statutory purposes of the program, however, will not be considered part of the costs for operating the program in determining the amount of the grant.

4. Grant determination; reserve. An important change from the prior regulation is the change in the manner of determining the amount of grant funds available to certified States. Previously, certified States were awarded grants based on their requests, subject to the statutory limitations. Where total requests exceeded the appropriation, funds were allocated, pro-rata, based on the ratio of one State's request to all States' requests. In other words, the award was mathematical, without consideration of other factors. This regulation provides that awards should be made based on factors contained in this proposed rule.

In addition, the proposed regulation creates a reserve of 10 percent of each grant award that will be obligated later in the fiscal year, to newly-qualified States, or reallocated to States to meet excess demand for mediation services, and then to requesting States. The reserve mechanism is intended to enable the program to fund a mediation program in a State that becomes newly-qualified in the first half of the fiscal year. Under the current regulation, a newly-certified State program must await award of grant funds until the following fiscal year. The proposed regulation will enable the program to respond to increased demand for mediation services in a more timely manner, and to adjust a small percentage of funds to meet excess demand. Ultimately, the reserve, net of any such adjustment, will be allocated to States to which it had been awarded initially, in time to be used toward States' cash flow needs with respect to the mediation program. States receiving a grant of less than \$50,000 are exempt from this reserve requirement.

5. The proposed regulation makes clear that financial advisory and counseling services are permitted to be funded by the program only in those limited circumstances where a financial needs test is met, provided the work product of such services is available to all parties, and the services are assigned and provided under the control of a mediator. USDA views the mediation process as a viable and desirable means of resolving disputes. To the extent these services can be shown to serve this objective in specific instances, USDA supports them under this program. Generally, however, FSA views the use of grant funds to provide financial advisory or other services in

an advocacy context to be inconsistent with the premise of a mediation program, to provide a neutral forum for resolution of disputes. FSA seeks comment on this clarification.

List of Subjects in 7 CFR Parts 785 and 1946

Agriculture, Federal-State relations, Grant programs—Intergovernmental relations, Mediation.

Accordingly, 7 CFR chapters VII and XVIII are proposed to be amended, as follows:

1. Part 785 is added to read as follows:

PART 785—CERTIFIED MEDIATION

Sec.

785.1 General.

785.2 Definitions.

785.3 Process for certification.

785.4 Grants.

785.5 Penalty for non-compliance.

785.6 Nondiscrimination.

785.7 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 7 U.S.C. 5104.

§ 785.1 General.

(a) This part provides procedures for a State to be certified by the Farm Service Agency (FSA) as a qualifying State that provides mediation services for issues affecting USDA agencies and programs. A certified State may receive Federal grant funds for operation and administration of the State's certified agricultural mediation program.

(b) USDA agencies will participate in good faith in mediation conducted pursuant to a State's certified mediation program, and will cooperate in good faith with requests for information or analysis of information made in the course of mediation under a certified program and, if applicable, present and explore debt restructuring proposals advanced in the course of such mediation.

(c) Where mediation is available as part of a USDA agency's informal appeal process, the participant will be offered the opportunity to mediate under a State's certified mediation program, in accordance with regulations applicable to such appeal process.

§ 785.2 Definitions.

Certified mediation program means a program for the resolution of disputes through mediation, authorized or administered by a State, that meets the requirements for certification contained in § 785.3.

Confidentiality means the mediator shall not disclose any confidential communication divulged during the mediation process except as required by § 3015.24 of this title in relation to an

audit or evaluation of mediation services funded in whole or in part by USDA.

Fiscal year means the period of time beginning October 1 of one year and ending September 30 of the next year and designated by the year in which it ends.

FSA means the Farm Service Agency of USDA, or a successor agency.

Mediation means a process in which a trained, neutral person assists disputing parties in voluntarily reaching their own settlement of issues but has no authoritative decision-making power.

Qualifying State means a State with a certified mediation program that has not expired or been withdrawn under § 785.5(b).

USDA means the United States Department of Agriculture.

§ 785.3 Process for certification.

(a) *Deadline for request.* (1) On or before August 1 of each year, the Governor of a State or head of a State agency designated by the Governor of a State may submit a written request to FSA to be certified as a qualifying State. The State must be certified in order to be eligible for a USDA grant for the fiscal year commencing October 1 of that same year.

(2) Requests for certification will be accepted after August 1 of each year; however, the State will only be considered in order of date received for reserve grant funds available under § 785.4(c).

(b) *Contents of request.* The request for certification must include:

(1) Documents and information in support of the request concerning the program, including:

- (i) A description of the program;
- (ii) Identification of issues available for mediation;
- (iii) Management of the program;
- (iv) Services offered by the program;
- (v) Budget;
- (vi) Source and amount of State funding;
- (vii) Costs (fixed and variable);
- (viii) Staffing level;
- (ix) Amount of contract labor;
- (x) Relevant State statutes and regulations in effect; and
- (xi) Any other information requested by FSA;

(2) A description of the State program's education and training requirements for mediators including:

- (i) Training in mediation skills and in USDA programs; and
- (ii) Identification and compliance with any State law requirements.

(3) A certification by the Governor, or head of a State agency designated by the Governor, that the State's mediation program:

(i) Provides mediation services to producers, their creditors, and other persons directly affected by actions of the USDA, that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties under the program;

(ii) Provides mediation services for disputes involving agricultural loans (includes both loan making and loan servicing issues), or agricultural loans and one or more of the following issues under the jurisdiction of USDA:

- (A) Wetlands determinations;
- (B) Compliance with farm programs, including conservation programs;
- (C) Rural water loan programs;
- (D) Grazing on National Forest System lands;
- (E) Pesticides; or
- (F) Such other issues as the Secretary considers appropriate;

(iii) Is authorized or administered by an agency of the State government or by the Governor of the State;

(iv) Provides for training of mediators in mediation skills and in all issues covered by the State's mediation program;

(v) Provides that the mediation sessions, and records relating to mediation sessions, shall be confidential;

(vi) Ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

(vii) Ensures, for issues other than agricultural loans covered by the State's mediation program, that persons directly affected by an adverse decision of an officer, employee, or committee of a USDA agency receive adequate notification of the mediation program.

(viii) Prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.

(4) If a grant is requested in accordance with § 785.4, the request for certification also must include the information required by parts 3015 and 3016 of this title and § 785.4(a)(2) and (b).

(c) *Request by qualifying State.* If the State is a qualifying State at the time the request is made, the written request need only describe the changes to the program since the previous year's request, together with such documents and information as are necessary concerning such changes, and a certification that the remaining elements of the program will continue as described in the previous application.

(d) *Address.* The request for certification should be mailed to: Administrator, Farm Service Agency,

U.S. Department of Agriculture, STOP 0501, 1400 Independence Avenue, SW, Washington, DC 20013-0570.

§ 785.4 Grants.

(a) *Eligibility criteria for grant.* To be eligible to receive a grant, a State must:

(1) Have a certified mediation program in accordance with § 785.5(b), which certification has not been withdrawn; and

(2) Provide detailed estimates of the cost of operating and administering the State's mediation program;

(b) *Application.* A State requesting a grant will submit to the Administrator:

(1) The standard form for Federal assistance which can be obtained from any FSA State office;

(2) Detailed estimates of the cost of operation and administration of the program;

(3) Information pertaining to the factors contained in paragraphs (c)(1) through (5) of this section;

(4) Any additional information requested by FSA.

(c) *Distribution criteria.* Grants will fund mediation activities within the State programs that are consistent with the statutory purposes of the certified mediation program and paragraph (g) of this section. Costs of services that are not consistent with such purposes are not considered part of the cost of operation and administration of the mediation program for the purpose of determining the amount of the grant. The factors used to determine the amount of a grant to a certified State include:

(1) Demand for and use of mediation services (historical and anticipated);

(2) Issues available for mediation;

(3) Demonstrated success of the program, such as:

(i) Number of inquiries;

(ii) Number of requests for and use of mediation services;

(iii) Number of resolutions;

(iv) Timeliness of mediation services; and

(v) Activities promoting awareness and use of mediation;

(4) Use of program funds (budget and actual); and

(5) Material changes in the State program.

(d) *Maximum grant amount; distribution.* (1) A grant payment shall not exceed 70 percent of the eligible cost of operation and administration of the certified mediation program within the State consistent with the purposes of this program. In no case will the total amount of a grant to any State exceed \$500,000 per fiscal year.

(2) Grant funds will be paid in advance, in installments throughout the

Federal fiscal year as requested by a certified program and approved by FSA. The initial payment shall represent at least one-fourth of the State's grant award. The initial payment will be made as soon as practicable after certification, or recertification, and after funds are appropriated and available.

(3) Payment of grant funds will be by electronic wire transfer to the designated account of each certified State program, as approved by FSA. The certified program shall submit to FSA the wire transfer information upon notice of certification, or recertification, and keep current such information.

(e) *Reserve.* FSA will reserve distribution to States of 10 percent of the grant allocated to each State. This reserve requirement does not apply to any State allocated a grant in the amount of \$50,000 or less.

(1) As determined by the FSA Administrator and consistent with the limitations in paragraph (d) of this section, the reserve will be allocated and used to fund:

(i) Grants to qualifying States that apply for certification after August 1; and

(ii) Excess demand for mediation services in certified States.

(2) The reserve will be allocated to certified States as initially determined, except to the extent reduced, pro-rata, for amounts allocated under paragraph (e)(1) of this section.

(3) FSA will consider any State request for reallocation of grant funds, appropriated by Congress for the current year, based on excess demand made by any State and submitted on or before March 1 of the fiscal year.

(4) Reserve funds obligated under this part will be made available by March 31.

(f) *Administration of grants.* (1) FSA will administer the program in accordance with the requirements of parts 3015 and 3016 of this title. Any State requesting and receiving a grant must comply with the provisions of those regulations.

(2) A State program is encouraged to obligate its award funds within the Federal fiscal year of the award. Any funds remaining unobligated by the State program at the end of the fiscal year of award, however, may be carried forward for use in the next fiscal year for costs resulting from obligations of the subsequent funding period. Any carryover balances plus any additional obligated fiscal year grant will not exceed the lesser of 70 percent of the State's administrative cost for the subsequent fiscal year, or \$500,000. Carryover balances must be obligated

and liquidated by the State program in the subsequent fiscal year.

(3) Grant funds not spent in accordance with this subpart will be subject to de-obligation and must be returned to USDA.

(g) *Grant purposes.* Grants made under this part will be used to pay for the eligible costs of operation and administration of the State's mediation program, consistent with the statutory purposes of this program. Authorized uses of grant funds include only the following:

(1) Eligible costs are limited to those allowable under § 3016.22 of this title that are reasonable and necessary to carry out the State's certified mediation program in providing mediation services for agricultural producers and their creditors, and other persons directly affected by actions of the USDA within the State, in accordance with the certified mediation grant program. Eligible costs are:

- (i) Staff salaries;
- (ii) Reasonable fees and costs of mediators;
- (iii) Office rent and expenses, such as utilities and equipment rental;
- (iv) Office supplies;
- (v) Administrative costs, such as workers' compensation, liability insurance, employer's share of Social Security, and travel that is necessary to provide mediation services;
- (vi) Education and training of mediators involved in mediation;
- (vii) Security systems necessary to assure confidentiality of mediation sessions and records of mediation sessions;
- (viii) Costs associated with publicity and promotion of the program; and
- (ix) Financial advisory and counseling services: *Provided, That:*

(A) They are incidental to a pending mediation case;

(B) A financial need is demonstrated and approved under guidelines established by the State mediation program and reported to FSA;

(C) The work product of such services is available to all parties to the mediation;

(D) Services are provided under control of the mediator; and

(E) They are determined by the mediator in advance to be reasonable and necessary in the circumstances, and consistent with the goal and purpose of mediation in a particular case.

(2) Grant funds may not be used for:

- (i) Purchase of capital assets, real estate, or vehicles and repair or maintenance of privately-owned property;
- (ii) Political activities;
- (iii) Routine administrative activities not allowable under OMB Cost

Principles found in part 3015, subpart T, of this title and OMB Circular No. A-87; and

(iv) Services provided by a State program that are not consistent with the statutory purposes of the certified mediation program, including advocacy services on behalf of a mediation participant, such as representation before an administrative appeals entity of USDA or other Federal Government department.

(h) *Reporting requirements.* (1) Qualifying States receiving grants must provide to the FSA Administrator by October 31 following the fiscal year of the grant, an annual report on:

(i) The performance and effectiveness of the State's certified mediation program;

(ii) Recommendations for improving the delivery of mediation services to producers;

(iii) The savings to the State as a result of having a certified mediation program; and

(iv) Such other matters relating to the program as the State elects to report, or as FSA may require.

(2) In addition to the auditing requirements of part 3015, subpart I and § 3016.26 of this title, the qualifying State receiving a grant must submit an audit report to the FSA Administrator in accordance with OMB Circular A-128.

(i) *Access to records.* Notwithstanding the confidentiality of mediation sessions, the State must provide the Government access to its records in accordance with § 3015.24 of this title. State mediators will notify all participants in writing at the beginning of the mediation session that USDA, the Comptroller General of the United States, the FSA Administrator, or any of their representatives will have access to mediation records to conduct an audit or evaluation of mediation services funded in whole or in part by USDA. The notice will be signed and dated by all participants and placed in the mediation file.

§ 785.5 Penalty for non-compliance.

(a) The Administrator is authorized to withdraw certification of the program, terminate or suspend the grant, and impose any other penalties or sanctions authorized by law if the Administrator determines that:

(1) A State's certified mediation program, at any time, does not meet the requirements contained in § 785.3 for certification;

(2) Grant funds are not being used as required;

(3) The certified program is not being operated in accordance with the statutory purpose of the grant program,

the regulations, the grant agreement and the representations and information provided by the State; or

(4) The certified program fails to grant access to mediation records in accordance with § 785.4.

(b) In the event that any penalty or withdrawal of certification for non-compliance is enforced, USDA agencies will cease to participate in mediation conducted by the State certified mediation program.

§ 785.6 Nondiscrimination.

The provisions of parts 15, 15b and 1901, subpart E, of this title and part 90 of title 45 apply to activities financed by grants made under this part.

§ 785.7 OMB Control Number.

The information collection requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0560-0165.

PART 1946—[REMOVED AND RESERVED]

2. Part 1946 is removed and reserved.

Signed at Washington, DC, on October 29, 1999.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 99-29212 Filed 11-8-99; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-192-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 200) series airplanes, that currently requires repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. This action would revise the repetitive inspection intervals for certain airplanes, and would require modification or repair, as applicable.

This proposal is prompted by the development of a modification that will adequately address the identified unsafe condition. The actions specified by the proposed AD are intended to detect and correct fatigue cracking, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

DATES: Comments must be received by December 9, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-192-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: George Duckett, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7525; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by

interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-192-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-192-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On July 11, 1997, the FAA issued AD 97-14-11, amendment 39-10082 (62 FR 38206, July 17, 1997), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 200) series airplanes, to require repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. That action was prompted by a report of a pressurization problem during flight, which was caused by fatigue cracking in the underfloor pressure bulkhead of the fuselage. The requirements of that AD are intended to detect and correct such fatigue cracking, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

Actions Since Issuance of Previous Rule

In the preamble of AD 97-14-11, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered to require modification of the affected fuselage frames once new service information was available. The manufacturer has now released such information, and the FAA has determined that further rulemaking is indeed necessary; this proposed AD follows from that determination.

Issuance of New Service Information

The manufacturer has issued Canadair Regional Jet Alert Service Bulletin A601R-53-045, Revision 'D,' including Appendix 1, dated December 22, 1997, which describes procedures for repetitive detailed inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations; and follow-on corrective actions, if necessary. The