

December 18, 2008, and discussed these issues in detail. Those meetings were also public meetings and both large and small entities were able to participate and express their views.

An interim final rule concerning this action was published in the **Federal Register** on March 9, 2009. Copies of the rule were mailed by the Committee's staff to all Committee members and alternates, and raisin handlers. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided a 60-day comment period which ended May 8, 2009. No comments were received during the comment period.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 9951, March 9, 2009) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 989 which was published at 74 FR 9951 on March 9, 2009, is adopted as a final rule without change.

Dated: August 24, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9-20766 Filed 8-27-09; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF ENERGY

10 CFR Parts 600 and 1024

RIN 1991-AB77

Assistance Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Financial Assistance Regulations to update, streamline, and simplify the general rules. DOE also removes regulations governing the DOE Financial Assistance Appeals Board.

DATES: This rulemaking is effective September 28, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Kniskern, Office of Procurement and Assistance Policy, U.S. Department of Energy, at 202-287-1342, or by e-mail at jacqueline.kniskern@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

II. Procedural Requirements

- A. Review Under Executive Order 12866
- B. Review Under the Regulatory Flexibility Act of 1980
- C. Review Under the Paperwork Reduction Act of 1980
- D. Review Under the National Environmental Policy Act
- E. Review Under Executive Order 13132
- F. Review Under Executive Order 12988
- G. Review Under the Unfunded Mandates Reform Act of 1995
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under the Treasury and General Government Appropriations Act, 2001
- J. Review Under Executive Order 13211
- K. Approval by the Office of the Secretary of Energy

I. Background

DOE has been actively engaged in the government-wide effort to streamline and simplify the application, administrative and reporting procedures for Federal financial assistance programs pursuant to the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107.

As part of this initiative, DOE has solicited comments and suggestions from the grant community and made changes to its assistance regulations. In particular, the DOE added to 10 CFR part 600 Subpart D, Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations, in a rule published in the **Federal Register** at 68 FR 50645 on August 21, 2003.

DOE has also incorporated policy directives issued by the Office of Management and Budget (OMB) that established a standard format for Federal agency announcements of funding opportunities under programs that award discretionary grants or cooperative agreements, established standard data elements for electronically posting synopses of Federal agencies' announcements of

funding opportunities, and required Federal agencies to post synopses of their discretionary grant and cooperative agreement funding opportunity announcements on the Grants.gov Web site, <http://www.Grants.gov>. The final rule incorporating these policy directives was published in the **Federal Register** at 69 FR 7865 on February 20, 2004. In addition, DOE developed a standard format for its funding opportunity announcements and revised systems to comply with the new posting requirements.

On May 16, 2008, a Notice of Proposed Rulemaking (NPR) was published in the **Federal Register** (73 FR 28385) that detailed changes to update, streamline and simplify the general rules in 10 CFR 600, Subpart A of its Financial Assistance Rules. The NPR also proposed to remove the regulations at 10 CFR part 1024 governing the DOE Financial Assistance Appeals Board. This Board was abolished when DOE's Energy Board of Contract Appeals was merged into the Civilian Board of Contract Appeals as required by Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163.

DOE received no comments from members of the public in response to the NPR. Nevertheless, DOE made the following technical changes to the text of the rule.

1. Section 600.5(d) is revised to add a reference to Section 600.352 after 600.162 and 600.243.

2. Section 600.7(c) is revised to show the referenced Sections to be 600.144, 60.236 and 600.331.

3. Section 600.25(a)(2) is revised to correct the modifying "An" to "A".

II. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant

economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking" (67 FR 53461, August 16, 2002), DOE published policies and procedures to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: <http://www.gc.doe.gov>. DOE has reviewed today's rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. Today's final rule subjects small entities either to requirements that parallel government-wide requirements that OMB Circular A-110 establishes for other assistance awards, or to less burdensome requirements that enable firms from the commercial marketplace to participate in DOE research, development, and demonstration projects. Today's proposed amendments would not alter the substance of the OMB requirements or impose significant additional burdens. On the basis of the foregoing, DOE certifies that this rule does not have a significant economic impact on a substantial number of small entities. DOE did not prepare a regulatory flexibility analysis for this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements subject to approval under the Paperwork Reduction Act.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule establishes guidelines and procedures for application and review, administration, audit and closeout of assistance instruments, and, therefore, is covered under the Categorical Exclusion in paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt state law and does not have a substantial direct effect 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729, (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include a regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or the private sector, of \$100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments. 2 U.S.C. 1534.

This rule amends the assistance regulations to streamline and simplify procedures for soliciting, awarding, and administering financial assistance agreements. The rule does not result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. This rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policy Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that:

- (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Approval by the Office of the Secretary of Energy

The Office of the Secretary has approved the issuance of this final rule.

List of Subjects in 10 CFR Parts 600 and 1024

Administrative practice and procedure, Assistance programs.

Issued in Washington, DC, on August 18, 2009.

Edward R. Simpson,

Director, Office of Procurement and Supply Management, Office of Management, Department of Energy.

Barbara H. Stearrett,

Acting Director, Office of Acquisition and Assistance Management, National Nuclear Security Administration.

■ For the reasons set out in the preamble, Part 600 of Chapter II, and Part 1024 of Chapter X, Title 10 of the Code of Federal Regulations, are amended as follows:

PART 600—FINANCIAL ASSISTANCE RULES

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

§ 600.2 [Amended]

■ 2. Section 600.2 is amended in paragraph (a) by removing "solicitations" and adding "funding opportunity announcement" in its place.

■ 3. Section 600.3 is amended in the definition of "Amendment" by capitalizing "Contracting Officer", and by adding new definitions in alphabetical order for "Cost sharing or matching" and "Total Project Cost" to read as follows:

§ 600.3 Definitions.

* * * * *

Cost sharing or matching means that portion of project or programs costs not borne by the Federal Government.

* * * * *

Total Project Cost means all allowable costs, as set forth in the applicable Federal cost principles, incurred in accomplishing the objective of the project during the project period, including the value of contributions made by third parties and costs incurred by Federally Funded Research and Development Centers.

■ 4. Section 600.4 paragraph (a)(1) is amended by revising the second sentence to read as follows:

§ 600.4 Deviations.

(a) *General.* (1) * * * The use of optional or discretionary provisions of this part, including special restrictive conditions used in accordance with §§ 600.114, 600.212, and 600.304 are not deviations. * * *

* * * * *

§ 600.5 Selection of Award Instrument.

■ 5. Section 600.5, paragraph (d) is amended by removing "§§ 600.162 and

600.243" and adding in its place "§§ 600.162, 600.243 and 600.352".

■ 6. Section 600.6 is revised to read as follows:

§ 600.6 Eligibility.

(a) *General.* DOE shall solicit applications for financial assistance in a manner which provides for the maximum amount of competition feasible.

(b) *Restricted eligibility.* If DOE restricts eligibility, an explanation of why the restriction of eligibility is considered necessary shall be included in the funding opportunity announcement, program rule, or published notice.

(1) If the aggregate amount of DOE funds available for award under a funding opportunity announcement or published notice is \$1 million or more, unless authorized by statute or program rule, such restriction of eligibility shall be:

(i) Supported by a written determination initiated by the program office;

(ii) Concurred in by legal counsel and the Contracting Officer; and

(iii) Approved by an official no less than one level below the responsible program Assistant Secretary, Deputy Administrator, or other official of equivalent authority.

(2) Where the amount of DOE funds is less than \$1 million, the cognizant HCA and the Contracting Officer may approve the determination.

(c) *Noncompetitive financial assistance.* DOE may award a grant or cooperative agreement on a noncompetitive basis only if the application satisfies one or more of the following selection criteria:

(1) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(4) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(5) The award implements an agreement between the United States Government and a foreign government to fund a foreign applicant.

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude competition.

(7) The proposed project was submitted as an unsolicited proposal and represents a unique or innovative idea, method, or approach that would not be eligible for financial assistance under a recent, current, or planned funding opportunity announcement, and if, as determined by DOE, a competitive funding opportunity announcement would not be appropriate.

(8) The responsible program Assistant Secretary, Deputy Administrator, or other official of equivalent authority determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) *Approval requirements.* (1) Where the amount of DOE funds is \$1 million or greater, determinations of noncompetitive awards shall be:

- (i) Documented in writing;
- (ii) Concurred in by the responsible program technical official and local legal counsel; and
- (iii) Approved, prior to award, by the responsible program Assistant Secretary, Deputy Administrator, or official of equivalent authority and the Contracting Officer. The approval authority may be delegated to one organizational level below the Assistant Secretary, Deputy Administrator, or official of equivalent authority.

(2) Where the amount of DOE funds is less than \$1 million, determinations of noncompetitive awards shall be:

- (i) Documented in writing;
- (ii) Concurred in by local legal counsel, unless for a particular award or class of awards of \$1 million or less, review is waived by legal counsel; and
- (iii) Approved by the cognizant HCA and the Contracting Officer.

§ 600.7 [Amended]

■ 7. Section 600.7, paragraph (c) is amended by removing “Section 600.111 or Section 600.236” and adding in its place “§§ 600.144, 600.236 and 600.331”.

■ 8. Section 600.8 is amended as follows:

- a. The section title is revised as set forth below.

■ b. In paragraph (a) introductory text, the first sentence is amended by removing “Program announcement” and adding “Funding Opportunity Announcements (FOA)” in its place.

■ c. In paragraph (a)(1), the last sentence is amended by removing “Solicitations” and adding “FOAs” in its place.

■ d. In paragraph (a)(2) introductory text, the first sentence is amended by removing “program announcements” and adding “FOAs” in its place.

§ 600.8 Funding Opportunity Announcement.

* * * * *

■ 9. Section 600.10 is amended as follows:

■ a. In paragraph (b), the first sentence is amended by removing “and in the number of copies”.

■ b. In paragraph (c)(1), the second sentence is amended by removing “or other approved DOE application form”.

■ c. Paragraph (c)(4) is removed.

■ d. A new paragraph (f) is added to read as follows:

§ 600.10 Form and content of applications,

* * * * *

(f) Registration is required in the Central Contractor Registration (CCR) for all applications. Information on registration can be obtained at <http://www.ccr.gov/Grantees.aspx>.

§§ 600.11 and 600.12 [Removed and Reserved]

■ 10. Sections 600.11 and 600.12 are removed and reserved.

§ 600.14 [Reserved]

■ 11. Section 600.14 is added and reserved.

§ 600.15 [Amended]

■ 12. Section 600.15, paragraph (b)(2) is amended by removing “solicitation” and adding “funding opportunity announcement” in its place.

■ 13. Section 600.16, is amended by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b) to read as follows:

§ 600.16 Legal authority and effect of an award.

* * * * *

(b) Recipients are free to accept or reject the award. A request to draw down DOE funds constitutes acceptance; however, DOE may require formal acceptance of an award.

* * * * *

■ 14. Section 600.17 is revised to read as follows:

§ 600.17 Contents of Award.

Each financial assistance award shall be made on a Notice of Financial

Assistance Award (NFAA) which contains basic identifying and funding information. The NFAA provides the contents of the award including any special terms and conditions, program regulations, the National Policy Assurances, and any other provisions necessary to establish the respective rights, duties, obligations, and responsibilities of DOE and the recipient, consistent with the requirements of this part.

§ 600.18 [Removed and Reserved]

■ 15. Section 600.18 is removed and reserved.

§ 600.19 [Amended]

■ 16. Section 600.19 is amended by removing, in the second sentence, “briefly” and “and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation upon request”.

§ 600.21 [Amended]

■ 17. Section 600.21, paragraph (a) is amended by removing “§§ 600.153 and 600.242” and adding in its place “§§ 600.153, 600.242 and 600.342”.

■ 18. Section 600.22 is amended as follows:

■ a. In the last sentence of paragraph (a), the words “available in 10 CFR Part 1024” are removed.

■ b. Paragraphs (d) and (f)(1) are revised.

■ c. Paragraph (e) is amended by removing “Board” and adding “SPE” in its place, for every occurrence.

The revisions read as follows:

§ 600.22 Disputes and appeals.

* * * * *

(d) *Right of appeal.* Except as provided in paragraph (f)(1) of this section, the final determination under paragraph (c) of this section may be appealed to the cognizant Senior Procurement Executive (SPE) for either DOE or the National Nuclear Security Administration (NNSA). The mailing address for the DOE SPE is Office of Procurement and Assistance Management, 1000 Independence Ave., SW, Washington, DC 20585. The mailing address for the NNSA SPE is Office of Acquisition and Supply Management, 1000 Independence Ave., SW., Washington, DC 20585.

* * * * *

(f) *Review on appeal.* (1) The SPE shall have no jurisdiction to review

(i) Any preaward dispute (except as provided in paragraph (f)(2)(ii) of this section), including use of any special restrictive condition pursuant to §§ 600.114, 600.212, or 600.304;

(ii) DOE denial of a request for a deviation under §§ 600.4, 600.103, 600.205, or 600.303 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under §§ 600.125, 600.127, 600.222, 600.230, 600.315, or 600.317 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under §§ 600.162(a)(1), (2), (3) or (5), 600.243(a)(1), (a)(3), or 600.352(a)(1), (2), (3) or (5) for suspensions only; or §§ 600.162(a)(4), 600.243(a)(4) or 600.352(a)(4) for actions disapproving renewal applications or other requests for extension of time or additional funding for the same project when related to recipient noncompliance, or such actions authorized by program rule;

(v) Any DOE decision about an action requiring prior DOE approval under §§ 600.144, 600.236, or 600.331 of this part or under another term or condition of the award;

* * * *

§ 600.23 [Removed and Reserved]

■ 19. Section 600.23 is removed and reserved.

§ 600.24 [Amended]

■ 20. Section 600.24 is amended in paragraphs (a)(3) and (b) introductory text by removing “or § 600.243(a)” and adding “§§ 600.243(a), 600.312(g), or 600.352(a)” in its place.

■ 21. Section 600.25 is amended in:

■ a. Paragraph (a)(1) by removing “or § 600.243(a)” and adding “§§ 600.243(a) or 600.352(a)” in its place.

■ b. Paragraph (a)(2) by removing “An” and adding “A” in its place and by removing “§ 600.23” and adding “2 CFR 180 and 901” in its place.

■ c. Paragraph (b) is revised.

■ d. Paragraph (b)(5) by removing “and §§ 600.250 through 600.252” and adding “§§ 600.250 through 600.252 and §§ 600.350 through 600.353” in its place.

■ e. Paragraph (d) by removing “or §§ 600.243 through 600.244” and adding “§§ 600.243 through 600.244 or §§ 600.350 through 600.353” in its place.

■ f. Paragraph (f) by removing “or §§ 600.243 through 600.244” and adding “§§ 600.243 through 600.244 or §§ 600.350 through 600.353” in its place.

The revision reads as follows:

§ 600.25 Suspension and termination.

* * * *

(b) *Notification requirements.* Except as provided in §§ 600.24, 600.162(a), 600.243(a), or 600.352(a) before

suspending or terminating an award for cause, DOE shall mail to the awardee (by certified mail, return receipt requested) a separate written notice in addition to that required by § 600.24(a) at least ten days prior to the effective date of the suspension or termination. Such notice shall include, as appropriate:

(1) The factual and legal bases for the suspension or termination;

(2) The effective date or dates of the DOE action;

(3) If the action does not apply to the entire award, a description of the activities affected by the action;

(4) Instructions concerning which costs shall be allowable during the period of suspension, or instructions concerning allowable termination costs, including in either case, instructions concerning any subgrants or contracts;

(5) Instructions concerning required final reports and other closeout actions for terminated awards (see §§ 600.170 through 600.173, §§ 600.250 through 600.252, and §§ 600.350 through 600.353);

(6) A statement of the awardee's right to appeal a termination for cause pursuant to § 600.22; and

(7) The dated signature of a DOE Contracting Officer.

* * * *

§ 600.26 [Removed and Reserved]

■ 22. Section 600.26 is removed and reserved.

§ 600.28 [Removed and Reserved]

■ 23. Section 600.28 is removed and reserved.

§ 600.29 [Amended]

■ 24. Section 600.29 is amended as follows:

■ a. In paragraph (b)(1), “\$100,000” is removed and “\$250,000” is added in its place.

■ b. In paragraphs (b)(5) and (b)(6) “Contracting Officer” is capitalized.

■ 25. Section 600.30 is revised to read as follows:

§ 600.30 Cost sharing.

In addition to the requirements of §§ 600.123, 600.224, or 600.313, the following requirements apply to research, development, demonstration and commercial application activities projects:

(a) Cost sharing is required for most financial assistance awards for research, development, demonstration and commercial applications activities initiated after the enactment of the Energy Policy Act of 2005 on August 8, 2005. This requirement does not apply to:

(1) An award under the small business innovation research program or the small business technology transfer program; or

(2) A program with cost sharing requirements defined by other than Section 988 of the Energy Policy Act of 2005 including other sections of the 2005 Act and the Energy Policy Act of 1992.

(b) A cost share of at least 20 percent of the cost of the activity is required for research and development except where:

(1) A research or development activity of a basic or fundamental nature has been excluded by an appropriate officer of the Department, generally an Under Secretary; or

(2) The Secretary has determined it is necessary and appropriate to reduce or eliminate the cost sharing requirement for a research and development activity of an applied nature.

(c) A cost share of at least 50 percent of the cost of a demonstration or commercial application program or activity is required unless the Secretary has determined it is necessary and appropriate to reduce the cost sharing requirements, taking into consideration any technological risk relating to the activity.

(d) Cost share shall be provided by non-Federal funds unless otherwise authorized by statute. In calculating the amount of the non-Federal contribution:

(1) Base the non-Federal contribution on total project costs, including the cost of work where funds are provided directly to a partner, consortium member or subrecipient, such as a Federally Funded Research and Development Center;

(2) Include the following costs as allowable in accordance with the applicable cost principles:

(i) Cash;

(ii) Personnel costs;

(iii) The value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(iv) Indirect costs or facilities and administrative costs; and/or

(v) Any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act);

(3) Exclude the following costs:

(i) Revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(ii) Proceeds from the prospective sale of an asset of an activity; or

(iii) Other appropriated Federal funds.

(iv) Repayment of the Federal share of a cost-shared activity under Section 988 of the Energy Policy Act of 2005 shall not be a condition of the award.

§ 600.31 [Amended]

■ 26. Section 600.31 is amended as follows:

■ a. In paragraph (c), the phrase “Contracting Officer” is capitalized in all occurrences.

■ b. In paragraph (d), the phrase “Contracting Officer” is capitalized.

■ c. In paragraph (f)(5), the phrase “Contracting Officer” is capitalized.

■ 27. Section 600.112 is revised to read as follows:

§ 600.112 Forms for applying for Federal assistance.

(a) *General.* An application for an award shall be on the form or in the format specified in a program rule or in the funding opportunity announcement. When a version of the Standard Form 424 is not used, DOE shall indicate whether the application is subject to review by the State under Executive Order 12372.

(b) *Budgetary information.* DOE may request and the applicant shall submit the minimum budgetary information necessary to evaluate the costs of the proposed project.

(c) DOE may, subsequent to receipt of an application, request additional information from an applicant when necessary for clarification or to make informed preaward determinations.

(d) *Continuation and renewal applications.* DOE may require that an application for a continuation or renewal award be made in the format or on the forms authorized by paragraphs (a) and (b) of this section.

§ 600.113 [Amended]

■ 28. Section 600.113 is amended by removing “10 CFR part 1036” and adding “2 CFR 180 and 901” in its place.

§ 600.117 [Removed and Reserved]

■ 29. Section 600.117 is removed and reserved.

§ 600.305 [Amended]

■ 30. Section 600.305 is amended by removing “10 CFR part 1036” and adding “2 CFR 180 and 901” in its place.

PART 1024—[REMOVED]

■ 31. Under the authority of 42 U.S.C. 7254, part 1024 is removed.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM398; Special Conditions No. 25–390–SC]

Special Conditions: Alenia Aeronautica Model C–27J Airplane; Interaction of Systems and Structures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Alenia Model C–27J airplane. This airplane will have novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport-category airplanes. These special conditions pertain to the effects of novel or unusual design features such as effects on the structural performance of the airplane.

The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* September 28, 2009.

FOR FURTHER INFORMATION CONTACT:

Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1357, facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 2006, the European Aviation Safety Agency (EASA) forwarded to the FAA an application from Alenia Aeronautica of Torino, Italy, for U.S. type certification of a twin-engine commercial transport designated as the Alenia model C–27J. The Alenia model C–27J is a twin-turbopropeller, cargo-transport aircraft with a maximum takeoff weight of 67,240 pounds.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17 and the bilateral agreement between the U.S. and Italy, Alenia Aeronautica must show that the Alenia model C–27J meets the applicable provisions of 14 CFR part

25, as amended by Amendments 25–1 through 25–87. Alenia also elects to comply with Amendment 25–122, effective September 5, 2007, for § 25.1317.

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

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

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

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

Novel or Unusual Design Features

The Alenia model C–27J incorporates several novel or unusual design features. Because of rapid improvements in airplane technology, the existing airworthiness regulations do not adequately or appropriately address safety standards for these design features. These special conditions for the Alenia model C–27J contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

These special conditions were derived initially from standardized requirements developed by the Aviation Rulemaking Advisory Committee (ARAC), comprised of representatives of the FAA, Europe’s Joint Aviation Authorities (JAA), now replaced by the European Aviation Safety Agency (EASA), and industry. From the initial proposal, the JAA proposed these special conditions in Notice of Proposed Amendment (NPA) 25C–199. When Ente Nazionale per l’Aviazione Civile (ENAC) certified the Alenia model C–27J they applied NPA 25C–199, issued July 3, 1997.