

Proposed Rules

Federal Register

Vol. 71, No. 69

Tuesday, April 11, 2006

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

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA92

Fees for Rice Inspection Services

AGENCY: Grain Inspection Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the regulations governing the sampling, inspection, weighing, and certification for rice by increasing certain fees charged for the services by approximately 18 percent. Further, the rice fees would be increased an additional 3 percent each year through fiscal year 2010 and establish a stowage examination fee. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing these services under the Agricultural Marketing Act of 1946 (AMA).

DATES: Comments must be received on or before June 12, 2006.

ADDRESSES: We invite you to submit comments on this proposed rule. You may submit comments by any of the following methods:

- *E-Mail:* Send comments via electronic mail to comments.gipsa@usda.gov.
- *Mail:* Send hardcopy written comments to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., room 1647-S, Washington, DC 20260-3604.
- *Fax:* Send comments by facsimile transmission to: (202) 690-2755.
- *Hand Delivery or Courier:* Deliver comments to: Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647-S, Washington, DC 20250-3604.
- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All comments should make reference to the date and page

number of this issue of the **Federal Register**.

Read Comments: All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: John Giler, Deputy Director, Field Management Division, at his E-mail address: john.c.giler@usda.gov, telephone (202) 720-0228.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

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

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA); the Grain Inspection, Packers and Stockyards Administration (GIPSA) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The proposed action described herein is being taken because additional user fee revenues are needed to cover the costs of providing current and future program operations and services.

There are approximately 135 applicants who receive rice inspection and weighing services. A small portion of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). There would be no additional reporting, recordkeeping, or other compliance requirements imposed upon small entities as a result of this proposed rule. GIPSA has not identified any other Federal rules which may duplicate, overlap or conflict with this proposed rule.

GIPSA has determined that this proposed rule does not have a significant economic impact on a substantial number of small entities as defined under the RFA. The majority of applicants that apply for services do not meet the requirements of small entities. Rice inspection and weighing services are provided upon request and the fees charged to users of these services vary with usage. However, the impact on all businesses, including small entities, is

very similar. Further, the rice industry businesses are under no obligation to use these services, and, therefore, any decision on their part to discontinue the use of the services should not prevent them from marketing their products.

GIPSA regularly reviews its user-fee financed programs to determine if the fees are adequate. GIPSA has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce its costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs while maintaining the Agency 3-month operating retained earnings. During fiscal year 2004, the rice program revenue was nearly \$4.3 million with costs at approximately \$4.4 million resulting in an approximate \$0.2 million program deficit. Current revenue for GIPSA's rice program during fiscal year 2005 was \$4.4 million with costs at \$4.7 million resulting in a \$0.3 million program deficit. GIPSA's costs of operating the rice program are expected to be approximately \$4.4 million during fiscal year 2006 and will gradually escalate to approximately \$4.9 million by fiscal year 2010. These cost increases (2006 to 2010) are due to employee salaries and benefits coupled with estimated annual cost of living adjustments, the future costs of \$50,000 to replace aging rice inspection equipment in the offices, and the need to fund \$300,000 for an information technology upgrade to improve certification efficiency and program management. The current fee structure will not fully fund the rice program this fiscal year or future fiscal years resulting in continued program deficits. GIPSA will also remain below the Agency's 3-month operating retained earnings level.

This proposed 18 percent fee increase will initially increase the revenue of the program; however, this will not cover all of GIPSA's costs. GIPSA will need to continue to increase fees by 3 percent annually through fiscal year 2010 in order to cover the program's operating cost and replenish the 3-month retained earnings balance. GIPSA believes that an initial increase in fees followed by annual incremental increases is appropriate at this time. To minimize the impact of a fee increase, GIPSA has decided to propose fee rates that will collect sufficient revenue over time to

cover operating expenses, while striving to create a 3-month operating reserve by FY 2010. The cost of living projections used in calculating future salary, benefits, and all other non-salary expenses out to FY 2010 were supplied by the Office of Management and Budget (OMB) as set forth in their **Federal Register** publication (69 FR 26900) on May 14, 2004. GIPSA will evaluate the financial status of the rice

program on a continuous basis to determine if it is meeting the goal of obtaining a 3-month operating reserve by FY 2010, and to determine if other adjustments are necessary.

GIPSA's financial projections indicate the retained earnings balance will meet the target level by the end of fiscal year 2010 after an initial 18 percent increase in fees followed by the annual 3 percent increases. GIPSA financial projections

also considered plans to introduce program changes which will better control increases in long-term costs. These program changes will involve a realignment of staff to better control rising personnel costs in the future.

The following table reflects GIPSA's financial rice program projections through fiscal year 2010.

TABLE 1.—RICE PROGRAM PROJECTIONS
[Million Dollars]*

| | FY05 | FY06 | FY07 | FY08 | FY09 | FY10 |
|---|-------|-------|-------|-------|-------|-------|
| Revenue | \$4.4 | \$4.0 | \$4.7 | \$4.9 | \$5.0 | \$5.2 |
| Obligations | 4.7 | 4.4 | 4.5 | 4.6 | 4.7 | 4.7 |
| Retained Earnings—Projected | 0.4 | 0 | 0.3 | 0.5 | 0.8 | 1.2 |
| Retained Earnings—Target (3-months operating obligations) | 1.2 | 1.1 | 1.1 | 1.2 | 1.2 | 1.2 |

* Figures may not sum due to rounding.

This proposed rule will initially increase user fees by 18 percent and will follow with subsequent 3 percent increases until fiscal year 2010. GIPSA is also proposing a new fee for stowage examination services which are provided as a service upon request.

This action is authorized under the AMA (7 U.S.C. 1622 (h)) which provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA administrative and supervisory costs for the performance of official services, including personnel compensation and benefits, travel, rent, communications, utilities, contractual services, supplies, and equipment.

Paperwork Reduction Act and Government Paperwork Elimination Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements included in this proposed rule has been approved by the OMB under control number 0580-0013.

GIPSA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local

laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Proposed Action

The AMA of 1946 authorizes official inspection and weighing services, on a user-fee basis, of rice. The AMA of 1946 provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the costs of the services rendered. This proposed rule would amend the schedule for fees and charges for inspection and weighing services rendered to the rice industry to reflect the costs necessary to operate the program.

GIPSA regularly reviews its user-fee programs to determine if the fees are adequate. While GIPSA continues to search for opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover program costs while maintaining the Agency 3-month operating retained earnings. During fiscal year 2004, the rice program revenue was nearly \$4.3 million with costs at approximately \$4.4 million resulting in an approximate \$0.2 million program deficit. Current revenue for GIPSA's rice program during fiscal year 2005 was \$4.4 million with costs at \$4.7 million resulting in a \$0.3 million program deficit. GIPSA's costs of operating the rice program are expected to be approximately \$4.4 million during fiscal year 2006 and will escalate to approximately \$4.9 million by fiscal year 2010. These cost increases (2006 to 2010) are due to employee salaries and benefits coupled with

estimated annual cost of living adjustments, the future costs of \$50,000 to replace aging rice inspection equipment in the offices, and the need to fund \$300,000 for an information technology upgrade to improve certification efficiency and program management. The current fee structure will not fully fund the rice program this fiscal year or future fiscal years resulting in a continued program deficit. GIPSA will also remain below the Agency's 3-month operating retained earnings level.

This proposed 18 percent fee increase will initially increase the revenue of the program; however, this will not cover all of GIPSA's costs. GIPSA will need to continue to increase fees by 3 percent annually through fiscal year 2010 in order to cover the program's operating cost and replenish the 3-month retained earnings balance. GIPSA believes that an initial increase in fees followed by annual incremental increases is appropriate at this time. GIPSA's financial projections indicate the retained earnings balance will meet the target level by the end of fiscal year 2010 after an initial 18 percent increase in fees followed by the annual 3 percent increases (see Table 1 in preceding section of the document). GIPSA financial projections also considered plans to introduce program changes which will better control increases in long-term costs.

This proposed rule will initially increase user fees by 18 percent and will follow with subsequent 3 percent increases until fiscal year 2010. GIPSA is also proposing a new fee for stowage examination services which are provided as a service upon request.

Based on the aforementioned analysis of this program's costs, GIPSA proposes

to increase the fees for services under the rice program. GIPSA will review its cost, revenue, and operating reserve levels to ensure that the fee increases for the noted calendar years are required at the levels specified and sufficient to

maintain official rice inspection and weighing services, upon request. In the event a change in the fees is necessary, GIPSA will engage in notice and comment rulemaking before making any changes.

The following table compares current fees and charges with the proposed 18 percent fee increase as found in 7 CFR 868.91. This table also reflects the additional fees for stowage examination services that are provided upon request.

TABLE 2

| Hourly rates/unit rate per CWT | Current fees and charges | | Proposed fees and charges | |
|---|-----------------------------------|-------------------------------------|-----------------------------------|-------------------------------------|
| | Regular workday (Monday–Saturday) | Nonregular workday (Sunday–Holiday) | Regular workday (Monday–Saturday) | Nonregular workday (Sunday–Holiday) |
| Contract (per hour per Service representative) | \$46.40 | \$64.40 | \$54.80 | \$76.00 |
| Noncontract (per hour per Service representative) | 56.60 | 78.00 | 66.80 | 92.10 |
| Export Port Services (per hundredweight) | .056 | .056 | 0.066 | 0.066 |

| Unit Rates | Current fees and charges | Proposed fees and charges |
|---|--------------------------|---------------------------|
| Rough Rice: | | |
| Inspection for quality (per lot, subplot, or sample inspection) | \$35.50 | \$41.90 |
| (a) Milling yield (per Sample) | 27.50 | 32.50 |
| (b) All other factors (per factor) | 13.20 | 15.60 |
| Brown Rice for Processing: | | |
| Inspection for quality (per lot, subplot, or sample inspection) | 30.50 | 36.00 |
| (a) Milling yield (per Sample) | 27.50 | 32.50 |
| (b) All other factors (per factor) | 13.20 | 15.60 |
| Total oil and free fatty acid | 43.00 | 50.80 |
| Milled Rice: | | |
| Inspection for quality (per lot, subplot, or sample inspection) | 22.00 | 26.00 |
| All other factors (per factor) | 13.20 | 15.60 |
| Total oil and free fatty acid | 43.00 | 50.80 |
| Interpretive line samples: | | |
| (a) Milling degree (per set) | 94.00 | 111.00 |
| (b) Parboiled light (per sample) | 23.00 | 27.20 |
| Stowage Examination (service on request): | | |
| Ship (per stowage space) (minimum \$252.50 per ship) | | 50.50 |
| Subsequent ship examinations (same as original) (minimum \$151.50 per ship): | | |
| Barge (per examination) | | \$40.50 |
| All other carriers (per examination) | | \$15.50 |

A 60-day comment period is provided for interested persons to comment on this proposed action.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities

For reasons set out in the preamble, 7 CFR Part 868 is proposed to be amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087 as amended (7 U.S.C. 1621, *et seq.*)

2. Section 868.91 is revised to read as follows:

868.91 Fees for certain Federal rice inspection services.

The fees shown in Tables 1 and 2 apply to Federal rice inspection services.

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT

| Service ¹ | Regular workday (Monday–Saturday) | Nonregular workday (Sunday–Holiday) |
|---|-----------------------------------|-------------------------------------|
| Effective October 1, 2006 | | |
| Contract (per hour per Service representative) | \$54.80 | \$76.00 |
| Noncontract (per hour per Service representative) | 66.80 | 92.10 |
| Export Port Services (per hundredweight) ² | 0.066 | 0.066 |
| Effective October 1, 2007 | | |
| Contract (per hour per Service representative) | \$56.40 | \$78.30 |
| Noncontract (per hour per Service representative) | 68.80 | 94.80 |
| Export Port Services (per hundredweight) ² | 0.068 | 0.068 |

TABLE 1.—HOURLY RATES/UNIT RATE PER CWT—Continued

| Service ¹ | Regular workday (Monday–Saturday) | Nonregular workday (Sunday–Holiday) |
|---|--------------------------------------|---|
| Effective October 1, 2008 | | |
| Contract (per hour per Service representative) | \$58.10 | \$80.70 |
| Noncontract (per hour per Service representative) | 70.90 | 97.70 |
| Export Port Services (per hundredweight) ² | 0.070 | 0.070 |
| Effective October 1, 2009 | | |
| Contract (per hour per Service representative) | \$59.90 | \$83.10 |
| Noncontract (per hour per Service representative) | 73.00 | 100.60 |
| Export Port Services (per hundredweight) ² | 0.072 | 0.072 |
| Effective October 1, 2010 | | |
| Contract (per hour per Service representative) | \$61.70 | \$85.60 |
| Noncontract (per hour per Service representative) | 75.20 | 103.60 |
| Export Port Services (per hundredweight) ² | 0.074 | 0.074 |

¹ Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.

² Services performed at export port locations on lots at rest.

TABLE 2.—UNIT RATES SERVICE ^{1, 3}

| | |
|---|---------|
| Effective October 1, 2006 | |
| Inspection for quality (per lot, subplot, or sample inspection): | |
| (a) Rough rice | \$41.90 |
| (b) Brown rice for processing | 36.00 |
| (c) Milled rice | 26.00 |
| Factor analysis for any single factor (per factor): | |
| (a) Milling yield (per sample) (Rough or Brown rice) | 32.50 |
| (b) All other factors (per factor) (all rice) | 15.60 |
| Total oil and free fatty acid | 50.80 |
| Interpretive line samples: ² | |
| (a) Milling degree (per set) | 111.00 |
| (b) Parboiled light (per sample) | 27.20 |
| Faxed and extra copies of certificates (per copy) | 3.00 |
| Stowage Examination (service-on-request): ⁴ | |
| (a) Ship (per stowage space) (minimum \$252.50 per ship) | 50.50 |
| (b) Subsequent ship examination (same as original) minimum \$151.50 per ship) | |
| (c) Barge (per examination) | 40.50 |
| (d) All other carriers (per examination) | 15.50 |
| Effective October 1, 2007 | |
| Inspection for quality (per lot, subplot, or sample inspection): | |
| (a) Rough rice | \$43.20 |
| (b) Brown rice for processing | 37.10 |
| (c) Milled rice | 26.80 |
| Factor analysis for any single factor (per factor): | |
| (a) Milling yield (per sample) (Rough or Brown rice) | 33.50 |
| (b) All other factors (per factor) (all rice) | 16.10 |
| Total oil and free fatty acid | 52.30 |
| Interpretive line samples: ² | |
| (a) Milling degree (per set) | 114.30 |
| (b) Parboiled light (per sample) | 28.00 |
| Faxed and extra copies of certificates (per copy) | 3.00 |
| Stowage Examination (service-on-request): ⁴ | |
| (a) Ship (per stowage space) (minimum \$252.50 per ship) | 50.50 |
| (b) Subsequent ship examination (same as original) minimum \$151.50 per ship) | |
| (c) Barge (per examination) | 40.50 |
| (d) All other carriers (per examination) | 15.50 |
| Effective October 1, 2008 | |
| Inspection for quality (per lot, subplot, or sample inspection): | |
| (a) Rough rice | \$44.50 |
| (b) Brown rice for processing | 38.20 |
| (c) Milled rice | 27.60 |
| Factor analysis for any single factor (per factor): | |

TABLE 2.—UNIT RATES SERVICE ^{1, 3}—Continued

| | |
|---|--------|
| (a) Milling yield (per sample) (Rough or Brown rice) | 34.50 |
| (b) All other factors (per factor) (all rice) | 16.60 |
| Total oil and free fatty acid | 53.90 |
| Interpretive line samples: ² | |
| (a) Milling degree (per set) | 117.70 |
| (b) Parboiled light (per sample) | 28.80 |
| Faxed and extra copies of certificates (per copy) | 3.00 |
| Stowage Examination (service-on-request): ⁴ | |
| (a) Ship (per stowage space) (minimum \$252.50 per ship) | 50.50 |
| (b) Subsequent ship examination (same as original) minimum \$151.50 per ship) | |
| (c) Barge (per examination) | 40.50 |
| (d) All other carriers (per examination) | 15.50 |

Effective October 1, 2009

| | |
|---|---------|
| Inspection for quality (per lot, subplot, or sample inspection): | |
| (a) Rough rice | \$45.80 |
| (b) Brown rice for processing | 39.40 |
| (c) Milled rice | 28.40 |
| Factor analysis for any single factor (per factor): | |
| (a) Milling yield (per sample) (Rough or Brown rice) | 35.50 |
| (b) All other factors (per factor) (all rice) | 17.10 |
| Total oil and free fatty acid | 55.50 |
| Interpretive line samples: ² | |
| (a) Milling degree (per set) | 121.30 |
| (b) Parboiled light (per sample) | 29.70 |
| Faxed and extra copies of certificates (per copy) | 3.00 |
| Stowage Examination (service-on-request): ⁴ | |
| (a) Ship (per stowage space) (minimum \$252.50 per ship) | 50.50 |
| (b) Subsequent ship examination (same as original) minimum \$151.50 per ship) | |
| (c) Barge (per examination) | 40.50 |
| (d) All other carriers (per examination) | 15.50 |

Effective October 1, 2010

| | |
|---|---------|
| Inspection for quality (per lot, subplot, or sample inspection): | |
| (a) Rough rice | \$47.20 |
| (b) Brown rice for processing | 40.60 |
| (c) Milled rice | 29.30 |
| Factor analysis for any single factor (per factor): | |
| (a) Milling yield (per sample) (Rough or Brown rice) | 36.60 |
| (b) All other factors (per factor) (all rice) | 17.60 |
| Total oil and free fatty acid | 57.20 |
| Interpretive line samples: ² | |
| (a) Milling degree (per set) | 124.90 |
| (b) Parboiled light (per sample) | 30.60 |
| Faxed and extra copies of certificates (per copy) | 3.00 |
| Stowage Examination (service-on-request): ⁴ | |
| (a) Ship (per stowage space) (minimum \$252.50 per ship) | 50.50 |
| (b) Subsequent ship examination (same as original) minimum \$151.50 per ship) | |
| (c) Barge (per examination) | 40.50 |
| (d) All other carriers (per examination) | 15.50 |

¹ Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or in combination at other than at the applicant's facility.

² Interpretive line samples may be purchased from the U.S. Department of Agriculture, GIPSA, FGIS, Technical Services Division, 10383 North Ambassador Drive, Kansas City, Missouri 64153-1394. Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Director, Field Management Division, USDA, GIPSA, FGIS, 1400 Independence Avenue, SW., STOP 3630, Washington, D.C. 20250-3630. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

³ Fees for other services not referenced in Table 2 will be based on the noncontract hourly rate listed in § 868.91, Table 1.

⁴ If performed outside of normal business hours, 1½ times the applicable unit fee will be charged.

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 06-3507 Filed 4-10-06; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM317; Notice No. 25-05-12-SC]

Special Conditions: Airbus Model A380-800 Airplane, Reinforced Flightdeck Bulkhead

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Airbus A380-800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck.

For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding a reinforced flightdeck bulkhead. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish an appropriate level of safety for a reinforced flightdeck bulkhead and are equivalent to the standards established by existing airworthiness regulations for the flightdeck door. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380-800 airplane.

DATES: Comments must be received on or before May 26, 2006.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM317, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM317. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Holly Thorson, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1357; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this document between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late, if it is possible to do so without incurring expense or delay. We may change the proposed special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

Airbus applied for FAA certification/validation of the provisionally designated Model A3XX-100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and

novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR-100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE-A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380-800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 Issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380-800 airplane, and no changes are required based on the new application date.

The Model A380-800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380-800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380-800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380-800 airplane 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 section 611 of Public Law 93-574, the "Noise Control Act of 1972."

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate