

TABLE 2—FOSSIL FUEL REDUCTION MULTIPLIER BY FISCAL YEAR FOR WHICH DESIGN FOR CONSTRUCTION BEGAN

Fiscal year	Reduction multiplier
2012–2014 .....	0.45
2015–2019 .....	0.35
2020–2024 .....	0.20
2025–2029 .....	0.10
2030 and beyond .....	0.00

(5) All building energy usage, including estimated receptacle and plug loads, must be included in the calculation in Table 2 of this section.

(f)(1) Upon petition by an agency subject to this section, the Secretary may adjust the applicable numeric requirement in paragraph (e) of this section with respect to a specific building, if:

(i) The head of the agency designing the building certifies in writing that meeting such requirement would be technically impracticable in light of the agency's specified functional needs for that building;

(ii) The head of the agency designing the building demonstrates that the requested adjustment is the largest feasible reduction in fossil fuel-generated consumption that can reasonably be achieved; and

(iii) The Secretary concurs with the agency's conclusion.

(2) This adjustment shall not apply to the General Services Administration.

12. Section 435.5 is revised to read as follows:

**§ 435.5 Performance level determination.**

(a) For new Federal low-rise residential buildings whose design for construction started on or after January 3, 2007, each Federal agency shall determine energy consumption levels for both the baseline building and proposed building by using the Simulated Performance Alternative found in section 404 of the ICC International Energy Conservation Code, 2004 Supplement Edition, January 2005 (incorporated by reference; see § 435.3).

(b) Subject to § 435.4(d), each Federal agency shall calculate the fossil fuel-generated energy consumption of a proposed design by the following formula:

Proposed Design Fossil Fuel-Generated Energy Consumption = (Proposed Design Electricity Consumption × Electricity Source Energy Factor × Electricity Fossil Fuel-Generation Ratio) + Direct Fossil Fuel Consumption of Proposed Design

(c) Subject to § 435.4(d), if the fossil fuel-generated energy consumption of

the proposed design is equal to or less than the applicable maximum allowable fossil fuel-generated energy consumption value in § 435.4(e), the proposed design complies with the fossil fuel-generated energy consumption reduction requirement in § 435.4. If the fossil fuel-generated energy consumption of the proposed design is greater than the applicable maximum allowable fossil fuel-generated energy consumption value in § 435.4(e), the building does not comply with the fossil fuel-generated energy consumption reduction requirement in § 435.4, and the agency must either modify the design until the design complies with the requirement, or request and receive approval from the Secretary for a downward adjustment of the requirement.

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 115

#### RIN 3245–AG14

#### Surety Bond Guarantee Program; Timber Sales

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Small Business Administration (SBA) proposes to amend its Surety Bond Guarantee Program rules to guarantee performance bonds for timber sale contracts awarded by the Federal Government or other public or private landowners.

**DATES:** Comments must be received on or before November 15, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 3245–AG14, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* Office of Surety Guarantees, Suite 8600, 409 Third Street, SW., Washington, DC 20416.

*Hand Delivery/Courier:* Office of Surety Guarantees, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit information to Ms. Barbara Brannan, Special Assistant, Office of Surety Guarantees, 409 Third Street, SW., Washington, DC 20416 or send an e-mail to [Barbara.brannan@sba.gov](mailto:Barbara.brannan@sba.gov). Highlight the

information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Brannan, Office of Surety Guarantees, 202–205–6545, e-mail: [Barbara.brannan@sba.gov](mailto:Barbara.brannan@sba.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

The Forest Service of the U.S. Department of Agriculture (USDA) manages the National Forest System, and may permit the harvesting of timber on National Forest System lands in exchange for the payment of an agreed upon sum of money. More information on that program is available at the Web site of the USDA Forest Service at <http://www.fs.fed.us>. Under regulations issued by the Forest Service, these timber sale contracts may require the purchaser to furnish a performance bond for satisfactory compliance with the contract terms. 36 CFR 223.35. Generally, the Performance Bond, as defined in 13 CFR 115.10, ensures that the Principal, as defined in 13 CFR 115.10, complies with all contract terms and conditions associated with forest management, such as the protection of natural resources, soil, water, erosion control, and road maintenance, as well as to ensure the Principal does not cut any trees that are expressly excluded from harvesting in the contract. In the process of cutting and transporting the logs, for example, forest roads may be damaged and the Principal is responsible for repairing the roads. The performance period for most timber sale contracts ranges from one to three years, and some can exceed five years.

With respect to a Performance Bond involving the sale of timber on land managed by USDA, the Federal Government is the Obligor, as defined in 13 CFR 115.10, and the purchaser of the timber is the Principal. Unlike the typical contract for supplies or services where the Obligor pays the Principal for providing supplies or rendering services, the Principal in the timber sale contract is paying the Obligor for the right to cut the designated trees. However, under the definition of "Contract" in 13 CFR 115.10, a contract for which SBA may issue a Surety Bond Guarantee cannot include a contract requiring any payment by the Principal to the Obligor. Thus, SBA cannot presently guarantee a bond for a timber sales contract.

SBA is proposing to amend this definition to permit SBA to issue a bond guarantee for a contract that requires the Principal to pay the Oblige for the harvesting of timber. This action is being taken in response to concerns expressed by small businesses that have experienced difficulty obtaining the required bonds for public and private timber sale contracts. Discussions with representatives of the United States Forest Service confirm the need for increased bonding support for small businesses in this area, and it is estimated that approximately 150 small businesses would be eligible for bond guarantee assistance as a result of implementing this Proposed Rule. This change would apply to contracts involving forests managed by the Federal Government or other public or private landowners. SBA invites comments from public and private entities and individuals on how this proposed rule would affect them.

II. Section-by-Section Analysis

Section 115.10. SBA is proposing to revise the definition of the term "Contract" to allow SBA to issue a performance bond guarantee for a contract that requires the Principal to pay the Oblige for the harvesting of timber on the land of the Oblige. The current definition excludes any contract that requires payment by the Oblige to the Principal. Because this kind of payment is inherent in timber sale contracts, the proposed change makes it clear that timber sale contracts are eligible for performance bond guarantees.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601-612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866. This rule is also not a major rule under the Congressional Review Act.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that the rule will not have substantial, direct effects

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purpose of Executive Order 13132, Federalism, SBA has determined that this Proposed Rule has no federalism implications warranting preparation of a federalism assessment; however, SBA invites comments from the public on this issue.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

SBA has determined that this Proposed Rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Regulatory Flexibility Act, 5 U.S.C. 601-612

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of this rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Within the meaning of RFA, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. It is estimated that approximately 150 small businesses would now be eligible for bond guarantee assistance from SBA as a result of implementing this Proposed Rule. Additionally, there are 17 Sureties that participate in the SBG Program, and no part of this Proposed Rule would impose any significant additional cost or burden on them.

List of Subjects in 13 CFR Part 115

Claims, Small businesses, Surety bonds.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 115 as follows:

PART 115—SURETY BOND GUARANTEE

1. The authority citation for part 115 continues to read as follows:

Authority: 5 U.S.C. app. 3, 15 U.S.C. 687b, 687c, 694b, 694b note, Pub. L. 106-554; and Pub. L. 108-447, Div. K, Sec. 203.

2. Amend § 115.10 by revising the third sentence of the definition "Contract" to read as follows:

§ 115.10 Definitions.

\* \* \* \* \*

Contract \* \* \* A Contract does not include a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (e.g., a contract requiring any payment by the Principal to the Oblige, except for contracts for the sale of timber that require the Principal to pay the Oblige), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond).

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Dated: October 8, 2010.

Karen G. Mills, Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2010-0959; Directorate Identifier 2010-NM-119-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier, Inc. Model BD-700-1A10 and BD-700-1A11 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

There have been two in-service reports of main landing gear (MLG) tire failure on landing, during which a flailing tire tread caused damage to No. 2 and No. 3 hydraulic system lines in the wing auxiliary spar area on the left side of the aircraft. This damage resulted in the loss of supply pressure to the inboard and outboard brakes, as the only remaining braking source available was the No. 3 hydraulic system accumulator. The degradation of the brake system performance could adversely affect the aircraft during landing.

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