

# Rules and Regulations

Federal Register

Vol. 69, No. 84

Friday, April 30, 2004

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1792

RIN 0572-AB74

#### Seismic Safety

**AGENCY:** Rural Utilities Service, USDA.  
**ACTION:** Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, is amending its regulations to update the seismic safety requirements of the agency. These amendments will provide RUS borrowers, grant recipients, Rural Telephone Bank (RTB) borrowers, and the public with updated rules for compliance with seismic safety requirements for new building construction using RUS or RTB loan, grant or guaranteed funds or funds provided through lien accommodations or subordinations approved by RUS or RTB.

**DATES:** This rule will become effective June 14, 2004, unless we receive written adverse comments or a written notice of intent to submit adverse comments on or before June 1, 2004. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held.

Written comments must be received by RUS or carry a postmark or equivalent no later than June 1, 2004.

**ADDRESSES:** Submit adverse comments or notice of intent to submit adverse comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

- **Agency Web site:** <http://www.usda.gov/rus/index2/Comments.htm>. Follow the instructions for submitting comments.

- **E-mail:** [RUSComments@usda.gov](mailto:RUSComments@usda.gov). Include in the subject line of the message "Seismic Safety".

- **Mail:** Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250-1522.

- **Hand Delivery/Courier:** Addressed to Richard Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 5168 South Building, Washington, DC 20250-1522.

**Instructions:** All submissions received must include that agency name and the subject heading "Seismic Safety". All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to <http://www.usda.gov/rus/index2/Comments.htm>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Donald Heald, Structural Engineer, Transmission Branch, Electric Staff Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1569, Washington, DC 20250-1569. Telephone: (202) 720-9102. Fax: (202) 720-7491.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This 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).

#### Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A notice of final rule entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) exempted RUS loans and loan guarantees to from coverage under this order.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule and in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeal procedures, if any, must be exhausted before an action against the Department or its agencies may be initiated.

#### Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications to require preparation of a Federalism Assessment.

#### Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator of RUS certifies that this rule, if adopted, will not have significant economic impact on a substantial number of small entities. The rule serves to clarify the existing regulation and to generally streamline the review process for such actions. Most of the changes in this rule should result in modest cost savings and ease the regulatory compliance burden for affected applicants.

#### Information Collection and Recordkeeping Requirements

The reporting and record keeping requirements contained in the rule has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572-0099, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

#### National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

#### Catalog of Federal Domestic Assistance

The programs covered by this proposed rule are listed in the Catalog of Federal Domestic Assistance programs under numbers 10.850, Rural Electrification Loans and Loan Guarantees; 10.851, Rural Telephone Loans and Loan Guarantees; 10.852, Rural Telephone Bank Loans; 10.857, Rural Broadband Access Loans and Loan Guarantees, 10.760, Water and Waste Disposal System for Rural Communities; 10.764, Resource Conservation Development Loans, and 10.765, Watershed Protection and Flood Prevention Loans.

This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Telephone: (202) 512-1800.

#### Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) 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 Unfunded Mandates Reform Act.

#### Background

RUS requires borrowers and grant recipients to meet applicable requirements mandated by Federal statutes and regulations to obtain RUS financing. One such requirement is compliance with building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 *et seq.*) as implemented pursuant to Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (3 CFR, 1990 Comp., pg. 269).

Subpart C of this part codifies the policies and requirements that RUS and RTB borrowers and grant recipients must meet for new building construction when using funds provided or guaranteed by RUS or RTB, or when obtained through a lien accommodation or subordination approved by RUS or RTB.

The Executive Order requires all Federal agencies to ensure that any new building which is leased for Federal uses or purchased or constructed with Federal assistance is designed and

constructed in accordance with appropriate seismic design standards. Those standards must be equivalent to or exceed the seismic safety levels in the National Earthquake Hazards Reduction Program (NEHRP) recommended provisions for the development of seismic regulations for new buildings. The Executive Order charges the Interagency Committee on Seismic Safety in Construction (ICSSC) with recommending appropriate and cost-effective seismic design, construction standards and practices.

According to a recent study commissioned by the ICSSC, the model codes and standards that are equivalent to the 1997 NEHRP Recommended Provisions are the 2000 International Building Code and the ASCE 7-98 Minimum Design Loads for Buildings and Other Structures. These codes will be added to the list of codes equivalent to the 1994 or 1997 NEHRP Recommended Provisions. In addition, clarification is added to the acknowledgment.

#### List of Subjects in 7 CFR Part 1792

Buildings and facilities, Electric power, Grant programs, Loan programs, Reporting and recordkeeping requirements, Rural area, Seismic safety, Telephone.

■ For reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations is amended as follows:

#### PART 1792—COMPLIANCE WITH OTHER FEDERAL STATUTES, REGULATIONS, AND EXECUTIVE ORDERS

■ 1. The authority citation for this part is revised to read as follows:

**Authority:** 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*; 42 U.S.C. 7701 *et seq.*; E.O. 12699 (3 CFR, 1990 Comp., p. 269).

#### Subpart C—Seismic Safety

##### § 1792.102 [Amended]

■ 2. Section 1792.102 is amended by removing the definition “seismic factor”.

■ 3. Sections 1792.103 and 1792.104 are revised to read as follows:

##### § 1792.103 Seismic design and construction standards for new buildings.

(a) In the design and construction of federally assisted buildings, the borrowers and grant recipients must utilize the seismic provisions of the most recent edition of those standards and practices that are substantially equivalent to or exceed the seismic safety level in the 1994, 1997, or 2000 editions of the NEHRP Recommended

Provisions for the Development of Seismic Regulation for New Buildings.

(b) Each of the following model codes or standards provides a level of seismic safety substantially equivalent to that provided by the 1994 or 1997 NEHRP Recommended Provisions and are appropriate for federally assisted new building construction:

(1) 1997 International Conference of Building Officials (ICBO) Uniform Building Code. Copies of the book or CD-ROM are available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298, phone: 1-800-284-4406, fax: 1-888-329-4226.

(2) 1995 or 1998 American Society of Civil Engineers (ASCE) 7, *Minimum Design Loads for Buildings and Other Structures*. Copies are available from the American Society of Civil Engineers, Publications Marketing Department, 1801 Alexander Bell Drive, Reston, VA 20191-4400, e-mail: [marketing@asce.org](mailto:marketing@asce.org), fax: 1-703-295-6211.

(3) 2000 International Code Council (ICC) *International Building Code*. Copies of the book or CD-ROM are available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298, phone: 1-800-284-4406, fax: 1-888-329-4226.

(c) The NEHRP Recommended Provisions for the Development of Seismic Regulations for New Buildings is available from the Office of Earthquakes and Natural Hazards, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

##### § 1792.104 Seismic acknowledgments.

For each applicable building, borrowers and grant recipients must provide RUS a written acknowledgment from a registered architect or engineer responsible for the building design stating that seismic provisions pursuant to § 1792.103 of this subpart will be used in the design of the building.

(a) For projects in which plans and specifications are required to be submitted to RUS, this acknowledgement shall be on the title page of the drawings included with the final plans and specifications. This acknowledgement will include the identification and date of the model code or standard that is used in the seismic design of the building project. The plans and specifications must be dated, signed, and sealed by the registered architect or engineer.

(b) For projects in which plans and specifications are not submitted, this acknowledgement shall be in the form

of a statement from the architect or engineer responsible for the building design. The statement shall identify the model code or standard identified that is used in the seismic design of the building or buildings and, shall be dated and signed.

Dated: April 15, 2004.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 04-9611 Filed 4-29-04; 8:45 am]

BILLING CODE 3410-15-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-130-AD; Amendment 39-13597; AD 2004-09-08]

RIN 2120-AA64

#### **Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, that requires relocating the most outboard latch in the right-hand leading edge of the refueling panel, and sealing of the original latch-mounting cutout. This action is necessary to prevent wear of the signal conditioner wiring harness behind the refueling panel, which could result in a short circuit and consequent smoke or fire behind the refueling panel. This action is intended to address the identified unsafe condition.

**DATES:** Effective June 4, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of June 4, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rosanne Ryburn, Aerospace Engineer;

International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2139; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes was published in the **Federal Register** on March 5, 2004 (69 FR 10374). That action proposed to require relocating the most outboard latch in the right-hand leading edge of the refueling panel, and sealing of the original latch-mounting cutout.

#### **Comments**

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

#### **Conclusion**

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### **Cost Impact**

The FAA estimates that 273 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Required parts will cost approximately \$310 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$120,120, or \$440 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### **Regulatory Impact**

The regulations adopted herein will 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. Therefore, it is

determined that this final rule does not have federalism implications under Executive Order 13132.

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

#### **List of Subjects in 14 CFR Part 39**

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

#### **Adoption of the Amendment**

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

#### **PART 39—AIRWORTHINESS DIRECTIVES**

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2004-09-08 Saab Aircraft AB:** Amendment 39-13597. Docket 2003-NM-130-AD.

**Applicability:** Model SAAB SF340A series airplanes, serial numbers (S/N) 004 through 159 inclusive; and Model SAAB 340B series airplanes, S/Ns 160 through 459 inclusive; certificated in any category.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent wear of the signal conditioner wiring harness behind the refueling panel, which could result in a short circuit and consequent smoke or fire behind the refueling panel, accomplish the following:

#### **Corrective Action**

(a) Within 24 months from the effective date of this AD, relocate the most outboard latch in the right-hand leading edge of the refueling panel, and seal the original latch-mounting cutout in the refueling panel; in accordance with the Accomplishment Instructions of Saab Service Bulletin 340-57-042, dated May 7, 2003.

#### **Alternative Methods of Compliance**

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116,