

and distributed quarterly, rather than monthly.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection burden reduction contained in this rule has been submitted to the Office of Management and Budget. This action reduces existing approved burden requirements which have been assigned OMB No. 0581-0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

#### Alternatives Considered

The Committee considered alternatives to this action at meetings on March 11, April 2, and April 3, 2003. The Executive Subcommittee and Committee discussed the possibility of eliminating all reporting, but determined that this was not viable because it needs certain information to prepare its marketing policy and for other decision-making. Some industry leaders also felt that the statistics are important for grower, handler, and bargaining association decisions that need to be made each year. Finally, the Executive Subcommittee and Committee discussed disseminating the information only to members and alternates of the Committee, its subcommittees, and to California prune handlers. Ultimately, the Executive Subcommittee and Committee decided to proceed with the changes in shipment reporting requirements to reduce the frequency of the reports, and to reduce the amount of information reported to and disseminated by the Committee.

The Executive Subcommittee's March 11 and April 2, 2003, meetings and the Committee's April 3, 2003, meeting where this issue was deliberated were public and widely publicized throughout the prune industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. All entities, both large and small, were able to express their views on this issue at the meetings.

An interim final rule concerning this action was published in the **Federal Register** on June 24, 2003. Copies of the rule were provided by the Committee's staff to all who attended a June 26, 2003, Committee meeting. In addition, the rule was made available through the Internet by the Office of the Federal

Register and USDA. That rule provided for a 60-day comment period, which ended August 25, 2003. No comments were received.

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/fv/moab.html>. 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** (68 FR 37391, June 24, 2003) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

#### PART 993—DRIED PRUNES IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 993 which was published in the **Federal Register** at 68 FR 37391 on June 24, 2003, is adopted as a final rule without change.

Dated: September 16, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 03-24099 Filed 9-18-03; 12:01 pm]

**BILLING CODE 3410-02-U**

#### DEPARTMENT OF THE TREASURY

##### Office of the Comptroller of the Currency

##### 12 CFR Part 11

[Docket No. 03-23]

RIN 1557-AC75

##### Electronic Filing and Disclosure of Beneficial Ownership Reports

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is issuing this interim rule, with a request for comments, to amend our rules, policies, and procedures to require the electronic filing of beneficial ownership reports by officers, directors, and major

shareholders of national banks that have equity securities registered under the Securities Exchange Act of 1934 (registered national banks).

This interim rule also requires that all reports required to be filed with the OCC under section 16(a) of the Securities Exchange Act of 1934 (Exchange Act) must be filed electronically and posted on a registered national bank's Web site, if it has one, as soon as practicable. This rule clarifies procedures for officers, directors, and principal shareholders of registered national banks to comply with these mandated electronic filing requirements.

**DATES:** *Effective Date:* This rule is effective on September 22, 2003.

*Compliance Date:* To provide for an orderly transition to using a new interagency electronic filing system, *FDICconnect*, for section 16(a) filings, the OCC will not enforce the mandatory filing requirement or the Web-site posting requirement until beginning with reports required to be filed on or after January 1, 2004. Until that date, the OCC expects that persons filing 16(a) reports will, as instructed by the OCC, begin making electronic filings, as soon as practicable, and any such electronic filings will be posted on a registered national bank's Web site, if it has one.

*Comment Date:* Comments must be received by November 21, 2003.

**ADDRESSES:** You should direct comments to the Public Information Room, Office of the Comptroller of the Currency, Mailstop 1-5, Attention: Docket No. 03-23, 250 E Street, SW., Washington, DC 20219. Due to delays in paper mail delivery in the Washington, DC, area, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874-4448, or by e-mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

**FOR FURTHER INFORMATION CONTACT:** Asa Chamberlayne, Counsel, Securities and Corporate Practices Division, 202-874-5210, or Martha Vestal Clarke, Counsel, Legislative and Regulatory Activities Division, 202-874-5090.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Exchange Act seeks to protect investors by requiring accurate, reliable, and timely corporate securities disclosures. Generally, companies with equity securities that are subject to the

registration requirements under section 12 of the Exchange Act (15 U.S.C. 78J) must register these securities with the Securities and Exchange Commission (SEC). Section 16(a) of the Exchange Act (15 U.S.C. 78p(a)) requires directors, executive officers, and direct or indirect beneficial owners of more than 10 percent of a class of securities that are registered under the Exchange Act (insiders) to file beneficial ownership reports regarding their ownership and transactions in the company's securities.<sup>1</sup> Section 12(i) of the Exchange Act (15 U.S.C. 78l(i)) vests the OCC, rather than the SEC, with the power to issue regulations implementing certain Exchange Act requirements with respect to registered national banks, including section 16, and with the authority to administer and enforce these requirements.<sup>2</sup>

As amended by the Sarbanes-Oxley Act of 2002, Public Law 107-204, section 16(a) requires that insiders of a registered company, including a registered national bank, must file beneficial ownership reports (1) at the time the company registers its securities pursuant to section 12 of the Exchange Act, (2) within 10 days after becoming an insider of a registered national bank, and (3) within two business days after an insider consummates a transaction resulting in a change in ownership, or resulting in the purchase or sale of a security-based swap agreement,<sup>3</sup> in the registered securities. These provisions became effective on August 29, 2002.

Section 16(a)(4) also requires that, beginning July 30, 2003, insiders must file their change-in-ownership reports electronically. Moreover, the SEC, and the OCC in the case of registered national banks, must make these filings available to the public on the Internet not later than the end of the business day following the filing. Also, a registered company, including a registered national bank, must post its insiders' change-in-ownership reports on its Web site, if it has a Web site, not later than the end of the business day following the filing.

The SEC's final rules implementing these requirements for other public companies mandate that all beneficial ownership reports filed under section

16(a), not only the change-in-ownership reports, must be filed electronically and posted on a public company's Web site (if the company has a Web site).<sup>4</sup> In addition, the SEC will provide Internet access to all such filings that are filed with the SEC. The SEC's rules are effective for all section 16(a) filings that are made on or after June 30, 2003.

The SEC's rulemaking also amended 17 CFR 240.16a-3 which applies to registered national banks through the OCC's regulations at 12 CFR 11.2(b)(2). As recently amended by the SEC, 17 CFR 240.16a-3 provides that any issuer that has a corporate Web site must post any section 16(a) report on that Web site by the end of the business day after the filing and the filing must remain accessible on the Web site for at least 12 months. These same requirements apply to registered national banks.

The OCC is imposing similar requirements to those adopted by the SEC and is requiring that all section 16(a) reports must be filed electronically by the required due dates. To provide for the electronic filing of insiders' reports under section 16(a) of the Exchange Act, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the OCC have created an electronic filing system utilizing the FDICconnect secure Web platform. This filing system became operational beginning July 30, 2003.

In order to assure that this new system is fully functional, the OCC will not require compliance with the electronic filing and Web site posting requirements until January 1, 2004. To the extent practicable, however, registered national banks should post the section 16(a) filings on their Web sites and their insiders should file their section 16(a) reports electronically before January 1, 2004.

This short delay will give registered national banks' insiders a transition period for using the new electronic filing system so as to ensure that the new system is fully functional and accessible to the public before requiring that it be used as the only form of filing section 16(a) reports. Moreover, there will be no delay in the due date of any insider's section 16(a) report and all such reports must still be filed with the OCC within the required time frame and will continue to be publicly available as provided by the OCC's current rules.<sup>5</sup> In addition, the impact of the short

transition period is further minimized because we expect that insiders will begin using FDICconnect and registered national banks will begin posting these filings on their Web sites (if the bank maintains a Web site) as soon as practicable and will not wait until the compliance deadline.

#### Description of Rule

The interim rule revises section 11.3(a), which relates to filing requirements and the inspection of documents filed with the OCC pursuant to the Exchange Act. The rule contains a new paragraph 11.3(a)(2), which provides that statements required to be filed electronically pursuant to section 16(a) of the Exchange Act shall be filed electronically. New paragraph 11.3(a)(4) clarifies that the electronic filing and Web site posting requirements are mandatory for section 16(a) statements required to be filed on or after January 1, 2004.

The rule also adds a new subparagraph 11.3(a)(3)(ii) which provides that, an electronic filing pursuant to section 16(a) of the Exchange Act submitted by direct transmission on or before 10 p.m. eastern standard time or eastern daylight savings time, whichever is currently in effect, shall be deemed filed on the same business day. This aspect of the rule is consistent with the SEC's rules applicable to electronic filings that apply to other registered companies. See 17 CFR 232.13(a)(4).

The OCC's current rule 11.2(b)(2) incorporates by reference the requirements in the SEC's rules that a public company that has a Web site must post any filings on Forms 3, 4, or 5—the forms for filing beneficial ownership reports under section 16(a) of the Exchange Act—by the end of the business day after the filing and continue to make that form accessible on its Web site for at least 12 months. See 17 CFR 240.16a-3. Under the OCC's current rules, a registered national bank is required to post these filings on its Web site, if it has one, in accordance with the 17 CFR 240.16a-3.

#### Transition Period for Compliance

This interim final rule is effective on September 22, 2003. National bank insiders should begin to file reports electronically as soon as practicable. Section 16(a) reports must be filed electronically beginning with reports due to be filed on or after January 1, 2004. Insiders will file their section 16(a) reports on FDICconnect by submitting completed SEC Form 3 (Initial Statement of Beneficial Ownership of Securities), Form 4

<sup>1</sup> Section 16(a) also requires an entity that has registered its securities under the Exchange Act to file initial and transactional reports with any national securities exchange on which it has listed its securities.

<sup>2</sup> Under section 12(i), the other Federal banking agencies have the same authority with respect to the registered depository institutions that they supervise.

<sup>3</sup> The term "security-based swap agreement" is defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note).

<sup>4</sup> See 68 FR 25788 (May 13, 2003).

<sup>5</sup> During the transition period, paper copies of any section 16(a) reports that are not filed electronically still may be obtained as provided under the OCC's current rules. See 12 CFR 11.2(b).

(Statement of Changes in Beneficial Ownership), or Form 5 (Annual Statement of Changes in Beneficial Ownership of Securities), as recently amended by the SEC's rules.<sup>6</sup> The OCC already has provided instructions for using *FDICconnect* to affected national banks. When the forms are electronically filed on *FDICconnect*, the forms will be made available immediately on the FDIC's external public Web site (<http://www2.fdic.gov/efr>). Filings will be retrievable by bank name, insider name,<sup>7</sup> bank state, and filing date.

To assure that these reports continue to be publicly accessible until such time as we are confident that the electronic filing system is fully functional, insiders should continue to submit these reports on paper within the required time frames during the transition period and, as soon as practicable, also file their reports electronically. The paper filing requirement can be met by simply completing the on-line version of the report, then printing and faxing the electronic filing system confirmation screen (which contains the completed report). Paper reports may be faxed to the OCC at (202) 874-5279 and filed electronically with *FDICconnect* as of July 30, 2003.

During this transition period, a registered national bank whose insiders choose to file electronically (in addition to making a paper filing) may satisfy the requirement to post the report on its Web site by providing a link on its Web site to the FDIC's public Web site (<http://www2.fdic.gov/efr>). The OCC also will have a link on its Web site to the FDIC's Web site to make it easier for interested persons to retrieve *FDICconnect* filings.

#### Notice and Comment; Effective Date

Under the Administrative Procedure Act (APA), the requirement that an agency provide public notice and an opportunity for comment does not apply to "rules of agency organization, procedure, or practice."<sup>8</sup> This exemption applies to a rule that does not itself affect the substantive rights of those affected, even though the rule "may alter the manner in which the parties present themselves or their viewpoints to the agency." *JEM Broadcasting Co., Inc. v. FCC*, 22 F.3d 320, 326-27 (D.C. Cir. 1994).

The interim rule has no effect on the substantive rights of registered national

banks or their insiders who are filing section 16(a) reports. Amendments to section 16(a)(4) of the Exchange Act require the electronic filing of change-in-ownership reports and the posting of these reports on a registered national bank's Web site. The electronic filing requirements and Web-site posting requirements imposed under this interim rule implement the statutory requirements and require the electronic filing and Web site posting of other section 16(a) reports, as well. These requirements pertain only to the form in which an insider submits his or her information to the OCC or the form in which it is publicly accessible. The electronic filing and Web-site posting requirements do not modify the substantive information in the filing, the deadlines for the filing, or the public availability of the section 16(a) reports. For these reasons, we conclude that this interim rule is not subject to the notice and comment requirements of the APA.

An agency may dispense with the delayed effective date requirement of the APA for "good cause."<sup>9</sup> As we have described, we expect that the interim rule, which itself imposes no new substantive requirements, will help produce efficiencies for and reduce burden on national banks by enabling them to save time and money in the preparation and processing of certain required filings. The rule clarifies that insiders have a transition period for compliance and, thus, provides for an orderly transition to the electronic filing requirement. For these reasons, we conclude that the benefits of the interim rule outweigh any burdens imposed by the rule and that there is good cause to dispense with the 30-day delayed effective date prescribed by the APA.

The OCC is seeking public comment on all aspects of this interim rule and will consider those comments when promulgating the final rule. The OCC will publish in the **Federal Register** a response to any significant adverse comments received, along with modifications to the rule, if any.

Finally, subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. Because the OCC will not enforce the mandatory electronic filing requirement and the Web site posting requirement

until beginning with section 16(a) reports due to be filed on or after January 1, 2004, the requirements in 12 U.S.C. 4802(b)(1) are satisfied.

#### Comment Solicitation

Although notice and comment are not required, we are nonetheless interested in receiving any comments that may improve this rule before it is adopted in final form. We therefore request comment on all aspects of this interim rule. We invite insiders to submit feedback on their use of this system.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The collections of information requirements in 12 CFR part 11 are approved under OMB Control Number 1557-0106. The information collection requirements contained in this interim rule with request for comments have been submitted to the OMB for review as a revision of a currently approved collection. The OCC is also soliciting public comments on the information collection requirements contained in this interim rule for 60 days.

12 CFR part 11 incorporates by reference the applicable SEC regulations. The OCC does not maintain its own forms for collecting information and instead requires reporting banks to file SEC forms. Part 11 ensures that publicly owned national banks provide adequate information about their operation to current and potential shareholders, depositors, and to the public. The OCC reviews the information to ensure that it complies with Federal law and makes public all information required to be filed under these rules. Investors, depositors, and the public use the information to make informed investment decisions.

The OCC is revising 12 CFR part 11 to reflect amendments to section 16(a)(4) of the Exchange Act made by the Sarbanes-Oxley Act of 2002 and, like the SEC, is also requiring insiders of registered national banks to file all of their section 16(a) reports electronically in the future.

Section 11.3(a)(2) requires that beneficial ownership reports by officers, directors, and major shareholders of national banks with equity securities that are subject to registration and disclosure requirements of the Exchange Act must be filed electronically, as directed by the OCC. The *FDICconnect* secure Web platform electronic filing

<sup>6</sup> See *supra* note 4.

<sup>7</sup> The ability to be able to retrieve the filing by insider name will be delayed but it is expected to be functional on or about January 1, 2004 if all applicable regulatory requirements are satisfied.

<sup>8</sup> 5 U.S.C. 553(b)(A).

<sup>9</sup> Id. at 553(d)(3).

system will accept beneficial ownership reports that are designated as Forms 3, 4, and 5. These forms contain the same information as currently required on SEC Forms 3, 4, and 5. National banks currently file these SEC forms in paper form with the OCC.

The FDICconnect secure Web platform became operational on a voluntary basis beginning July 30, 2003. However, 12 CFR 11.3(a)(4) clarifies that the electronic filing requirement will become mandatory for section 16(a) statements required to be filed on or after January 1, 2004.

National banks will continue to file SEC forms 8-K, 10, 10-K, 10-Q, Schedules 13D, 13G, 14A, 14B, and 14C, as required by part 11, in paper form.

*Title:* (MA)-Securities Exchange Act Disclosure Rules (12 CFR 11).

*OMB Number:* 1557-0106.

*Form Numbers:* Forms 3, 4, 5, SEC Forms 8-K, 10, 10-K, 10-Q, Schedules 13D, 13G, 14A, 14B, and 14C.

*Estimated number of respondents* (Forms 3, 4, and 5): 65.

*Estimated number of responses* (Forms 3, 4, and 5): 185.

*Average hours per response* (Forms 3, 4, and 5): Ranges from ½ hour to one hour.

*Estimated total annual burden hours* (Forms 3, 4, and 5): 97.5 hours.

The likely respondents are national banks and individuals.

### Comments

The OCC invites comments on:

(1) Whether the collection of information contained in the interim rule is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments should be sent to the OCC and to the OMB Desk Officer:

Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: Docket No. 03-23, 250 E Street, SW., Washington, DC

20219. Due to delays in paper mail delivery in the Washington, DC, area, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874-4448, or by e-mail to

*regs.comments@occ.treas.gov.*

Joseph F. Lackey, Jr., Desk Officer, Office of Information and Regulatory Affairs, Attention: 1557-0106, Office of Management and Budget, Room 10235, Washington, DC 20503. Comments may also be sent by e-mail to *jlackeyj@omb.eop.gov.*

### Community Bank Comment Request

In addition, we invite your comments on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of this proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposed regulation could be achieved, for community banks, through an alternative approach.

### Solicitation of Comments on Use of Plain Language

The OCC also requests comment on whether the interim rule is written clearly and is easy to understand. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106-102 requires each Federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comments on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

### Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C.

553(b).<sup>10</sup> Because the OCC has determined for good cause that the APA does not require public notice and comment on this final rule, we are not

publishing a general notice of proposed rulemaking. Thus, the Regulatory Flexibility Act does not apply to this interim rule.

### Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-04 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the interim rule will not result in expenditures by State, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

### Executive Order 12866

The OCC has determined that this rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

### List of Subjects in 12 CFR Part 11

Confidential business information, National banks, Reporting and recordkeeping requirements, Securities.

### Authority and Issuance

■ For the reasons set forth in the preamble, the OCC amends part 11 of chapter I of title 12 of the Code of Federal Regulations as follows:

### PART 11—SECURITIES EXCHANGE ACT DISCLOSURE RULES

■ 1. The authority citation for part 11 is revised to read as follows:

**Authority:** 12 U.S.C. 93a; 15 U.S.C. 78l, 78m, 78n, 78p, 78w, 7241, 7242, 7243, 7244, 7261, 7262, 7264 and 7265.

■ 2. Section 11.3(a) is revised to read as follows:

#### § 11.3 Filing requirements and inspection of documents.

(a) *Filing requirements.* (1) *General.* Except as otherwise provided in this section, all papers required to be filed with the OCC pursuant to the 1934 Act or regulations thereunder shall be submitted in quadruplicate to the

<sup>10</sup> *Id.* at 553(d).

Securities and Corporate Practices Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. Material may be filed by delivery to the OCC through the mail, by fax (202-874-5279), or otherwise.

(2) *Statements filed pursuant to section 16(a) of the 1934 Act.* Statements required under section 16(a) of the 1934 Act shall be filed electronically, as directed by the OCC.

(3) *Date of filing.* (i) *General.* The date on which papers are actually received by the OCC shall be the date of filing, if the person or bank filing the papers has complied with all applicable requirements.

(ii) *Electronic filings.* An electronic filing of a statement required under section 16(a) of the 1934 Act that is submitted by direct transmission on or before 10 p.m. Eastern Standard Time or Eastern Daylight Savings Time, whichever is currently in effect, shall be deemed filed on the same business day.

(4) *Mandatory compliance date.* Compliance with paragraph (a)(2) of this section and any applicable requirements that such statements must be posted on a registered national bank's Web site are mandatory for statements required to be filed on or after January 1, 2004.

\* \* \* \* \*

Dated: September 8, 2003.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 03-24057 Filed 9-18-03; 12:01 pm]

BILLING CODE 4810-33-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2003-NM-179-AD; Amendment 39-13305; AD 2003-09-04 R1]

RIN 2120-AA64

**Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment revises an existing airworthiness directive (AD), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet series 100 & 440) airplanes, that currently requires revising the airworthiness limitations section of the Instructions for Continued Airworthiness by incorporating new

structural inspection intervals for the pressure floor skin of the center fuselage at fuselage stations 460 and 513; repair if necessary; and submission of inspection findings to the airplane manufacturer. This amendment terminates the reporting requirement and includes a provision to allow removal of the referenced service information when the information specified in it is included in the general revisions of the maintenance manual. The actions specified in this AD are intended to detect and correct in a timely manner fatigue cracks of the pressure floor skin of the center fuselage at fuselage stations 460 and 513, which could result in failure of the pressure floor skin and consequent rapid decompression of the airplane during flight. This action is intended to address the identified unsafe condition.

**DATES:** Effective October 7, 2003.

The incorporation by reference of a certain publication, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 14, 2003 (68 FR 22587, April 29, 2003).

Comments for inclusion in the Rules Docket must be received on or before October 22, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2003-NM-179-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain "Docket No. 2003-NM-179-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7505; fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:** On April 21, 2003, the FAA issued AD 2003-09-04, amendment 39-13133 (68 FR 22587, April 29, 2003), applicable to certain Bombardier Model CL-600-2B19 (Regional Jet series 100 & 440) airplanes, to require revising the airworthiness limitations (AWL) section of the Instructions for Continued Airworthiness by incorporating new structural inspection intervals for the pressure floor skin of the center fuselage at fuselage stations 460 and 513; repair if necessary; and submission of inspection findings to the airplane manufacturer. That action was prompted by a report of fatigue cracks on the pressure floor skin of the center fuselage at fuselage stations 460 and 513. The actions required by that AD are intended to detect and correct in a timely manner fatigue cracks of the pressure floor skin of the center fuselage at fuselage stations 460 and 513, which could result in failure of the pressure floor skin and consequent rapid decompression of the airplane during flight.

**Comments**

Interested persons were afforded an opportunity to submit comments in response to AD 2003-09-04. Due consideration has been given to the comments received.

**Request To Specify the Provisions of Referenced Temporary Revision (TR)**

One commenter requests that AD 2003-09-04 be revised to specify the provisions of Canadair TR 2B-1230, Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, "Airworthiness Limitations," approved on July 26, 2002, by Transport Canada Civil Aviation (TCCA) as a method of compliance, rather than specifying insertion of the TR into the AWL section as the only means of compliance. The commenter states that there is no provision to maintain compliance when revising the maintenance manual with a formal revision that incorporates the TR text.

We agree. We have added a new paragraph (b) (subsequent paragraphs have been redesignated) stating, "When the information in Canadair TR 2B-1230, Canadair Regional Jet