

operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

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

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

##### § 39.13 [Amended]

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

**Fokker:** Docket 95-NM-29-AD.

**Applicability:** Model F28 Mark 0100 series airplanes, as listed in Fokker Service Bulletin SBF100-30-015, Revision 2, dated January 25, 1995; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area

subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

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

To prevent icing of the No. 1 pitot tube, which could cause failure of the No. 1 Air Data Computer (ADC) or output of erroneous airspeed data to all on-side subsidiary systems including the Automatic Flight Control and Augmentation System (AFCAS), accomplish the following:

(a) Within 30 days after the effective date of this AD, perform an operational test of the No. 1 pitot heating system, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100-30-015, Revision 2, dated January 25, 1995.

(1) If the pitot heating system passes the operational test, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD, as applicable, at the times specified.

(2) If any pitot tube heating element is found to be inoperative, prior to further flight, repair or replace the failed element with a serviceable element, in accordance with Fokker 100 Aircraft Maintenance Manual (AMM).

(b) Replace the pitot head with a new pitot head, replace the single DC current-sensing relay with two new DC current sensing relays, and modify the electrical wiring, in accordance with Part 2 or 3, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin SBF100-30-015, Revision 2, dated January 25, 1995. Perform these actions at the time specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes that are not equipped with an Flight Warning System (FWS) speed comparator: Within 12 months or the next 3,000 hours time-in-service after the effective date of this AD, whichever occurs first.

(2) For airplanes that are equipped with an FWS speed comparator: Within 24 months or the next 6,000 hours time-in-service after the effective date of this AD, whichever occurs first.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

**Note 2:** Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 12, 1995.

**S.R. Miller,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## UNITED STATES INFORMATION AGENCY

### 22 CFR Part 502

[Rulemaking No. 201]

### Educational, Scientific, and Cultural Material; World-Wide Free Flow (Export-Import) of Audio-Visual Materials

**AGENCY:** United States Information Agency.

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

**SUMMARY:** This proposed rule would amend existing regulations governing the United States Information Agency's administration of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character, of 1948, by permitting the issuance of serial certifications in certain circumstances. The amendment is needed to reinstate to the regulations a provision omitted in a previous revision of the regulations. The amendment will formalize the practice, long followed informally, of allowing for certification of time sensitive materials in serial format, thus facilitating the free flow of eligible materials.

**DATES:** Written comments on this proposed rule will be accepted through or until May 18, 1995 and must be submitted in duplicate. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Neila Sheahan, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547.

**FOR FURTHER INFORMATION CONTACT:** Neila Sheahan, Assistant General Counsel, Office of the General Counsel,

Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 619-5030.

**SUPPLEMENTARY INFORMATION:** The United States Information Agency implements and administers the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character ("Beirut Agreement"), enacted by the Third General Session of the United Nations Educational, Cultural and Scientific Organization (UNESCO), in Beirut, Lebanon in 1948, 17 U.S.T. 1578. In order to reconcile the terms of the Beirut Agreement with recent judicial decisions and statutory requirements, the Agency published a notice of proposed rulemaking on August 12, 1993 (58 FR 42896). After receiving and considering public comment in response to this notice of proposed rulemaking, the Agency published final regulations at 59 FR 18963 on April 21, 1994. Those regulations made changes in the substantive criteria by which the Agency evaluates the character of audio visual material for certification, and renumbered the regulations. The regulations, however, omitted the provision for serial certifications, a practice followed informally from 1963 and formally incorporated into Agency regulations in 1984, at 22 CFR 502.6(b)(6). The provision for serial certifications was not challenged by judicial decision; nor was its alteration or elimination required by statute. This proposed rule reinstates such provision, slightly reworded, by adding sections 502.3 (d) and (e).

The provision for serial certification allows the certification of otherwise eligible materials that (1) Are produced in series form (e.g., weekly, bi-weekly, monthly), (2) are extremely time sensitive; and therefore the normal processing of certification decisions thereon would result in unreasonable delays and monetary loss to the producer, and (3) samples are provided and the educational character of the future programs can be generally described before certification and can be verified by a post-certification review of the items or through descriptive material such as a script of the narration. This provision will therefore be of benefit to interested parties and will facilitate the administration of the program.

To the extent such serial certification may be deemed a delegation of administrative authority, the provision is a valid delegation, as the Agency retains post-certification review authority. Such provision is consistent

with relevant judicial precedent. See *United Black Fund, Inc. v. Hampton*, 352 F. Supp. 898 (D.D.C. 1972); *R.H. Johnson & Co. v. Securities & Exchange Comm'n*, 198 F.2d. 690 (2nd Cir. 1952); and *United States v. S.A. Empresa de Viacao Aerea Rio Grandense*, 467 U.S. 797 (1984). These decisions recognize the legality of sub-delegations deemed necessary in agency discretion as practical methods of accomplishing agency regulatory functions, as long as agencies retain ultimate authority to police compliance.

#### Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(5), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. No additional burden under the Paperwork Reduction Act, 44 U.S.C. Chapter 35, will result from the promulgation of this rule. The Agency will keep the rulemaking docket open for 30 days. Comments are invited on the rule through May 18, 1995. Following the close of the comment period, the Agency will respond to the comments and, if appropriate, amend the rule.

The Agency is inviting public comment on this proposed rule notwithstanding that it is under no legal requirement to do so. Agency administration of the Beirut Agreement, an international treaty, is a foreign affairs function of the United States. The Administrative Procedure Act, 5 U.S.C. 553 (a)(1), specifically exempts from application of the Act foreign affairs functions of the United States. The thirty-day period for comment provided for in this notice may not be deemed a waiver of the foreign affairs exemption extended to the Agency under the Administrative Procedure Act.

#### List of Subjects in 22 CFR Part 502

Audiovisual material, Education, Exports, Imports, Trade agreements.

For the reasons set out in the preamble, 22 CFR part 502 is proposed to be amended as follows:

#### PART 502—WORLD-WIDE FREE FLOW OF AUDIO-VISUAL MATERIALS

1. The authority citation for part 502 continues to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 2051, 22 U.S.C. 1431 *et seq*; Public Law 102-138, E.O.

11311, 31 FR 13413, 3 CFR 1966-1970 comp., page 593.

2. Section 502.2 is proposed to be amended by adding, in alphabetical order, a definition for "serial certification" to read as follows:

#### § 502.2 Definitions.

\* \* \* \* \*

Serial certification—means certification by the Agency of materials produced in series form and which, for time-sensitive reasons, cannot be reviewed prior to production; but samples are provided on application, and the materials are subject to post-certification review.

\* \* \* \* \*

3. Section 502.3 is proposed to be amended by adding new paragraphs (d) and (e) to read as follows:

#### § 502.3 Certification and authentication criteria.

\* \* \* \* \*

(d) The Agency may certify or authenticate materials which have not been produced at the time of application upon an affirmative determination that:

(1) The materials will be issued serially,

(2) Representative samples of the serial material have been provided at the time of application,

(3) Future titles and release dates have been provided to the Agency at the time of application,

(4) The applicant has affirmed that:

(i) Future released materials in the series will conform to the substantive criteria for certification delineated at paragraphs (a)-(c) of this section;

(ii) Such materials will be similar to the representative samples provided to the Agency on application; and

(iii) The applicant will provide the Agency with copies of the items themselves or descriptive materials for post-certification review.

(e) If the Agency determines through a post-certification review that the materials do not comply with the substantive criteria for certification delineated at paragraphs (a)-(c) of this section, the applicant will no longer be eligible for serial certifications. Ineligibility for serial certifications will not affect an applicant's eligibility for certification of materials reviewed prior to production.

Dated April 12, 1995.

**Les Jin,**

*General Counsel.*

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