

# Proposed Rules

Federal Register

Vol. 74, No. 26

Tuesday, February 10, 2009

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 TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM398; Notice No. 25–09–01–SC]

#### Special Conditions: Model C–27J Airplane; Interaction of Systems and Structures

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions, withdrawal.

**SUMMARY:** The FAA is withdrawing a previously published notice that proposed special conditions for the Alenia Model C–27J airplane. We are withdrawing the notice in response to a White House request that appointees and designees be provided an opportunity to review new and pending regulations.

**FOR FURTHER INFORMATION CONTACT:** Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1357, facsimile 425–227–1149.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 26, 2009, the FAA published a Notice of proposed special conditions, Notice No. 25–09–01–SC, for the Model C–27J airplane on the subject of interaction of systems and structures (74 FR 4353). The C–27J airplane has novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport category airplanes. These design features include electronic flight control systems. The proposed special conditions pertain to the effects of novel or unusual design features such as effects on the structural performance of the airplane. We requested comments

on these proposed special conditions by February 25, 2009.

#### Reason for Withdrawal

We are withdrawing Notice No. 25–09–01–SC because of a White House memorandum, dated January 20, 2009, signed by the Assistant to the President and Chief of Staff as directed to the heads of executive departments and agencies. The memorandum stated the importance of the President’s appointees and designees having the opportunity to review and approve any new or pending regulations. The subject Notice of proposed special conditions was inadvertently published without this review.

#### Conclusion

Withdrawal of Notice No. 25–09–01–SC does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action.

In response to the White House memorandum, the FAA withdraws Notice No. 25–09–01–SC, published at 74 FR 4353 on January 26, 2009.

Issued in Renton, Washington, on February 2, 2009.

**Ali Bahrami,**

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

[FR Doc. E9–2754 Filed 2–9–09; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 414

[CMS–1561–NC]

RIN 0938–AP59

#### Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)

**ACTION:** Notice of proposed delay of effective date.

**SUMMARY:** In accordance with the memorandum of January 20, 2009 from the Assistant to the President and Chief

of Staff, entitled “Regulatory Review,” CMS is seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled “Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA),” published in the **Federal Register** on January 16, 2009 (74 FR 2873). That rule implements certain MIPPA provisions that delay implementation of Round 1 of the competitive bidding program; requires CMS to conduct a second Round 1 competition (the “Round 1 rebid”) in 2009; and mandates certain changes for both the Round 1 rebid and subsequent rounds of the program, including a process for providing feedback to suppliers regarding missing financial documentation and requiring contractors to disclose to CMS information regarding subcontracting relationships. CMS is considering a temporary 60-day delay in effective date to allow CMS officials the opportunity for further review of the issues of law and policy raised by this rule, consistent with the Chief of Staff’s memorandum of January 20, 2009. CMS solicits comments specifically on the contemplated delay in effective date and generally on the rule entitled “Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).”

**DATES:** Comments must be received on or before February 13, 2009.

**ADDRESSES:** You may submit comments by any of the following methods: In commenting, please refer to file code CMS–1561–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” and enter the filecode to find the document accepting comments.

2. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS-1561-NC, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201;

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

**FOR FURTHER INFORMATION CONTACT:** Martique Jones, 410-786-4674.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 5, 2009.

**Charlene Frizzera,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: February 5, 2009.

**Charles E. Johnson,**

*Acting Secretary.*

[FR Doc. E9-2839 Filed 2-6-09; 12:00 pm]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R6-ES-2008-0127; MO92210-50083-B2]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Wyoming Pocket Gopher as Threatened or Endangered With Critical Habitat

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Wyoming pocket gopher (*Thomomys clusius*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing the Wyoming pocket gopher may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species to determine if listing the species is warranted. To ensure that the review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species. At the conclusion of this review, we will issue a 12-month finding to determine if the petitioned action is warranted. We will make a determination on critical habitat for this species if, and when, we initiate a listing action.

**DATES:** The finding announced in this document was made on February 10, 2009. To facilitate a timely 12-month finding for this petition, we request that we receive data, information, and comments on or before April 13, 2009.

**ADDRESSES:** You may submit information by one of the following methods:

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

• *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2008-0127; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

#### FOR FURTHER INFORMATION CONTACT:

Brian Kelly, Field Supervisor, Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Cheyenne, WY 82009; telephone 307-772-2374. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the Wyoming pocket gopher. We request information, comments, and suggestions from the public, other governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the status of the Wyoming pocket gopher. We are seeking information regarding: (1) The species' historical and current status and distribution; (2) its population size and trend; (3) its biology and ecology; (4) its taxonomy (especially genetics of the species); and (5) ongoing conservation measures for the species and its habitat.

We are also seeking information on the following five threat factors used to determine if a species, as defined under the Act, is threatened or endangered under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*):

a. The present or threatened destruction, modification, or curtailment of the species' habitat or range;

b. Overutilization for commercial, recreational, scientific, or educational purposes;

c. Disease or predation;

d. The inadequacy of existing regulatory mechanisms; or