

# Proposed Rules

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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 AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AB96

#### Common Crop Insurance Regulations, Basic Provisions; and Various Crop Insurance Provisions

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Notice of reopening and extension of comment period.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) is reopening and extending the comment period for the proposed rule published in the **Federal Register** on Friday, July 14, 2006 (71 FR 40194-40252). The proposed rule contains certain provisions to combine and provide revenue protection and yield protection within one standard crop insurance policy, and to improve prevented planting and other provisions to better meet the needs of insured producers. During the comment period, FCIC received comments that due to the complexity of the proposed changes, sixty days was not adequate to properly address all the issues. FCIC agrees that additional time is appropriate to ensure that all interested persons have time to fully review the proposed rule and provide meaningful comments.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business October 26, 2006 and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit comments, titled "Combination Basic and Crop Provisions", by any of the following methods:

- *By mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.

- *E-mail:* [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).

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

A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Louise Narber, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, MO address listed above, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Background

On Friday, July 14, 2006, FCIC published a proposed rule in the **Federal Register**. The rule proposed changes to the Common Crop Insurance Regulations; Basic Provisions, Small Grains Crop Insurance Provisions, Cotton Crop Insurance Provisions, Coarse Grains Crop Insurance Provisions, Malting Barley Crop Insurance Provisions, Rice Crop Insurance Provisions, and Canola and Rapeseed Crop Insurance Provisions. The proposed rule contains certain provisions to combine and provide revenue protection and yield protection within one standard crop insurance policy, and to make other changes to existing policy provisions to better meet the needs of the insured.

The proposed rule public comment period of 60 days ended on September 12, 2006. Based on several requests received during the comment period, FCIC is reopening and extending the comment period until October 26, 2006. This action will allow interested persons additional time to prepare and submit comments regarding the proposed rule.

\* \* \* \* \*

Signed in Washington, DC, on September 19, 2006.

#### Eldon Gould,

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 06-8216 Filed 9-25-06; 8:45 am]

**BILLING CODE 3410-08-P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 115

RIN 3245-AF39

#### Surety Bond Guarantee Program—Preferred Surety Bond Surety Qualification, Increased Guarantee for Veteran and Service-Disabled Veteran-Owned Business, Deadline for Payment of Guarantee Fees, Denial of Liability, and Technical Amendments

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Proposed rule.

**SUMMARY:** This proposal encompasses six objectives. It would give effect to the statutory reduction in the frequency of audits required of Preferred Surety Bond (PSB) Sureties. It would obligate SBA to guarantee 90 percent of the Loss incurred by a Prior Approval Surety on bonds issued on behalf of small businesses owned and controlled by veterans, including service-disabled veterans. It would impose a 45-day deadline on Sureties for the remission of surety fees to SBA in lieu of the present requirement of payment in the ordinary course of business, and would allow SBA to deny liability if payment is not timely made. It would allow PSB Sureties to charge premiums in accordance with applicable state ceilings, as presently permitted under the Prior Approval Program. It would delete the existing reference to the expiration of the PSB Program and, finally, it would allow Affiliates of a PSB Surety to participate in the Prior Approval Program.

**DATES:** Comments must be received on or before October 26, 2006.

**ADDRESSES:** You may submit comments, identified by RIN number 3245-AF39, by any of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments; (2) Fax: 202-205-7600; (3) Mail: Barbara Brannan, Special Assistant, Office of Surety Guarantees, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or (4) Hand Delivery/Courier to Office of Surety Guarantees, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Frank Lalumiere, Associate

Administrator, Office of Surety Guarantees, (202) 205-6540 or [frank.lalumiere@sba.gov](mailto:frank.lalumiere@sba.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Small Business Administration (SBA) can guarantee bonds for contracts up to \$2 million, covering bid, performance and payment bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA's guarantee gives sureties an incentive to provide bonding for small businesses and thereby strengthens their ability to obtain bonding and greater access to contracting opportunities. SBA's guarantee is an agreement between a surety and the SBA that provides that SBA will assume a predetermined percentage of loss in the event the contractor should breach the terms of the contract.

Several changes to the regulations governing SBA's Surety Bond Guarantee (SBG) Program are proposed in this rulemaking. The purpose of these amendments is to improve the operation of the SBG Program and to make it easier for sureties and small business concerns to participate.

Section 411(g)(3) of the Small Business Investment Act of 1958 (the Act) formerly required PSB Sureties to be audited every year. 15 U.S.C. 694b(g)(3). As amended by Public Law 108-447, Div. K, section 203, the Small Business Reauthorization and Manufacturing Assistance Act of 2004, the Act now requires audits to be made at least once every three years. The proposed rule would contain the regulations to this statutory change.

In relevant part, Section 4(b)(1) of the Small Business Act provides that SBA "shall give special consideration to veterans of the Armed Forces of the United States and their survivors and dependents." 15 U.S.C. 633(b)(1). Accordingly, the proposed rule would encourage the issuance of bonds on behalf of small business concerns owned and controlled by veterans, and small business concerns owned and controlled by service-disabled veterans, by SBA's guaranty to pay 90 percent of a Prior Approval Program Surety's Loss, thus affording such concerns more opportunity to obtain contracts generally.

Section 411(h) of the Small Business Investment Act mandates the operation of the program "on a prudent and economically justifiable basis" and authorizes SBA to impose fees on both small business concerns and sureties, "to be payable at such time as may be determined by [SBA]." In accordance with its statutory obligation, SBA

proposes to establish a clearer deadline for a Prior Approval Surety's payment of the guarantee fees owed to SBA. Under the present regulation, such fees are payable in the ordinary course of the Prior Approval Surety's business. The proposed regulation, if adopted, would require the payment of such fees within 45 calendar days of SBA's approval of the Prior Approval Agreement, and the failure to make timely payment would allow SBA to deny liability under its guarantee. No changes are contemplated in the comparable regulations covering a PSB Surety's payment of guarantee fees, since such fees are forwarded with the PSB's monthly bordereau.

The proposed rule would change one of the standards by which SBA admits Sureties to the PSB Program. PSB Program Sureties are currently required to charge no more than the Surety Association of America's advisory premium rates in effect August 1, 1987. The proposed rule would allow PSB Program Sureties to charge no more than the premium rates permitted under applicable state law, as Prior Approval Sureties are now allowed to do.

Public Law 100-590 established the Preferred Surety Bond (PSB) program on a pilot basis in 1988, meaning that its continued existence depended upon affirmative Congressional action. The initial regulations for the program specified that the premium rates charged by PSB Sureties could not exceed the Surety Association of America's advisory premium rates in effect on August 1, 1987. The Surety Association of America (SAA) is the trade association to which most, if not all, the prospective PSB Sureties belonged, and the 1987 rates were the latest rates. SAA discontinued its rate setting function shortly after promulgating the 1987 rates, and participating surety companies have been obligated to use the 1987 SAA rates for the past eighteen years despite economic and market place changes.

Now that Public Law 108-447 has put the PSB program on a permanent legal basis, SBA considers it necessary to allow PSB Sureties to charge rates that reflect present economic conditions and thereby encourage those Sureties now in the PSB program to continue their participation, and to encourage others to participate. Under the Prior Approval Program, SBA's other surety bond program, surety companies are permitted to use rates approved by the individual States. This proposed change will put the Preferred and Prior Approval Programs on the same footing by relying on the individual State oversight bodies.

As previously mentioned, from its creation in 1988 until 2004, the PSB program was a pilot program, subject to automatic termination in the absence of affirmative Congressional action. Indeed, for several months in 2004 the PSB program ceased to exist. Now that the PSB program has been made permanent, the present regulation that speaks of the termination of the program will be removed and reserved.

Finally, this proposed rule would allow Affiliates, as defined in 13 CFR Part 121, of PSB Sureties to participate in the Prior Approval program, from which they are presently barred. The term "Affiliate" is defined at length in 13 CFR Part 121, but in the context of the present discussion it means a relationship in which one Surety owns or otherwise controls another Surety, or in which two or more Sureties are commonly owned by, or under common control with, a third party. A series of mergers and acquisitions in the surety industry in recent years has caused Sureties previously eligible to participate in the Prior Approval Program to become Affiliates of PSB Sureties and, under the present regulations, to lose their eligibility. To encourage and increase participation in the Prior Approval Program by otherwise qualified Sureties that are Affiliates of PSB Sureties, SBA proposes to abolish the present prohibition on their participation.

#### *Section-by-Section Analysis:*

In connection with its proposed amendment of § 115.31(a)(2), SBA proposes to amend § 115.10 by adding definitions of "Service-Disabled Veteran", "Small Business Owned and Controlled by Service-Disabled Veterans", "Small Business Owned and Controlled by Veterans", and "Veteran".

In connection with its proposed establishment of a clear deadline for payment of a Prior Approval Surety's guaranty fee to SBA, SBA proposes to amend § 115.19(g) to make the lack of timely payment of this fee a ground for denial of liability on the same terms as the regulation now allows such denials by reason of the Surety's failure to make timely remittance of the Principal's fee.

Current § 115.21(a)(2) subjects PSB Sureties to annual audits. As revised, the paragraph would require audits at least once every three years, as the Act now requires.

Current § 115.31 limits SBA's liability on bonds issued by a Prior Approval Surety to 80 percent of the Surety's loss, unless the total amount of the contract in question does not exceed \$100,000 or the small business concern falls within one of the classes enumerated in § 115.31(a)(2). SBA is proposing to

expand the enumerated classes to include small businesses owned and controlled by veterans or by service-disabled veterans. SBA believes this action is consistent with the special consideration of veterans expressed in Section 4(b)(1) of the Small Business Act, as amended. Accordingly, this rule would amend § 115.31(a)(2) to add such small business concerns to the list of small business concerns for which SBA will obligate itself to pay 90 percent of the Prior Approval Surety's Loss in the event of a contract default. This proposed amendment would not apply to bonds issued by PSB Sureties because the Act does not allow SBA's guarantee on such bonds to exceed 70 percent.

Current § 115.32 (c) requires the Surety to pay a guarantee fee to SBA "in the ordinary course of business." The effect of subsequent increases in the Contract amount or the bond amount on the fees payable to SBA "in the ordinary course of business" is covered in § 115.32(d)(2) and (3), respectively. SBA proposes to revise these paragraphs to impose a 45-day deadline upon the Surety for payment of the initial guarantee fee and for subsequent payments when increases in the Contract or bond amounts require payment to SBA.

SBA proposes to revise § 115.60(a) to permit PSB Sureties to charge premiums no higher than those approved by the applicable state regulatory body, as is the practice with the Prior Approval Surety Bond Program. Sureties applying to participate as PSB Sureties are now required to agree to charge Principals premiums no higher than those recommended by the Surety Association of America and in effect August 1, 1987. 13 CFR 115.60(a)(2). These premiums differ from the premiums approved by the various States today in response to inflation, and changes in the economy and in the nature of the surety business. The proposed change will encourage PSB Sureties to remain in the PSB program and will make the PSB program attractive to prospective new participants. SBA will allow PSB Sureties that have previously agreed to adhere to the Surety Association's recommended 1987 rates to impose premium charges approved by the applicable state regulatory body if they wish.

SBA proposes to remove and reserve present § 115.61, in conformity with the language of Public Law 108-447 making the PSB program permanent and to revise § 115.62 to allow Affiliates of PSB Sureties to participate in the Prior Approval Program. A series of mergers and acquisitions in the surety industry in recent years has caused Sureties

previously eligible to participate in the Prior Approval Program to become Affiliates of PSB Sureties and, under the present regulations, to lose their eligibility. To encourage and increase participation in the Prior Approval Program by otherwise qualified Sureties that are Affiliates of PSB Sureties, SBA proposes to abolish the present prohibition on their participation.

**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)**

*Compliance With Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this rule constitutes a significant regulatory action for purposes of Executive Order 12866. A general discussion of the need for this regulatory action and its potential costs and benefits follows.

*Regulatory Impact Analysis*

A. Regulatory Objective of Proposed Rule

Program Objectives

The objectives of the Surety Bond Guarantee (SBG) Program are: (1) To strengthen the competitive free enterprise system by assisting qualified small and disadvantaged contractors obtain bid, performance, payment and ancillary bonds who would otherwise be unable to obtain them without the SBA guarantee; (2) to enable surety companies to reach more small businesses; and (3) to manage the tax payers' dollars at risk. The purpose of the program is to assist small, disadvantaged, and competitive opportunity gap contractors obtain bonding for public and private contracts. SBA's guarantee provides incentives for sureties (companies that guarantee the performance of a contractor) to bond contractors that are skilled, but lack the financial strength or bonded track record to obtain bonding on reasonable terms in the standard market. Federal contracts valued at \$100,000 or more and many State, local and private contracts require bonds. Many small and emerging contractors are unable to secure necessary bonding because surety companies are unwilling to take 100% of the risk in writing their bonds. Emerging small businesses lack the track record or financial strength to meet standard surety bonding requirements. SBA's guarantee provides the incentive necessary for sureties to issue bonds for these contractors, who could not otherwise compete in the

contracting industry. As a result, small businesses can establish and grow their businesses.

The amendments proposed in this rulemaking would provide fee structure parity between Prior Approval Surety (Prior Approval) and Preferred Surety Bond (PSB) sureties, thus encouraging PSB sureties to remain in the program and promote the SBA-guaranteed bonds. Similarly, an amendment allowing affiliates of a PSB to participate in the Prior Approval Program provides needed flexibility to surety bond participants in the SBG Program to remain in the Program and promote its products. The amendments also obligate SBA to reimburse a higher percentage of loss incurred by a Prior Approval on bonds issued on behalf of a veteran-owned small business, including service-disabled veterans. The rulemaking also deletes an obsolete reference to the pilot nature of the PSB Program, which became permanent in 2004 legislation.

The Program

The SBG Program evolved from a pilot project created in 1971. Since its inception, the SBG Program has enabled thousands of small businesses to obtain Federal, State and private contracts that they would not otherwise have been able to obtain. These small business contracts have resulted in the creation of thousands of jobs. The Office of Surety Guarantees administers the SBG program through a private-public partnership between the Federal Government and the surety industry. SBA guarantees bonds issued by surety companies for construction, service and supply contracts and reimburses the sureties a percentage of the losses sustained if the contractor defaults. SBA's guarantee provides the incentive necessary for sureties to issue bonds to qualified small businesses.

The SBG program consists of the Prior Approval Program and the PSB Program. The Prior Approval program guarantees up to 90% of a surety's loss. Participants must obtain SBA's approval for each bond guarantee issued. Under the PSB program, sureties receive a 70% guarantee and are empowered to issue, service and monitor bonds without SBA's prior approval. The surety bond guarantee programs are acknowledged as a major factor in the surety reinsurance and construction industries and are recognized as a primary stabilizing influence by those industries.

Cost of an SBA Guaranteed Bond

The SBA charges fees to both the contractor and the surety company, as described in the most recent edition of

13 CFR Part 115. SBA does not charge an application or bid bond guarantee fee. If SBA guarantees a final bond, the contractor and the surety each must pay a guarantee fee equal to a certain percentage of the contract amount. The percentages are determined by SBA and are published in notices in the **Federal Register** from time to time. The fees were most recently changed in the **Federal Register**, effective April 3, 2006. 71 FR 9632 (February 24, 2006). When the bond is issued, the small business also pays the surety company's bond premium. Currently, this charge cannot exceed the level approved by the appropriate state regulatory body for a Prior Approval Surety or the 1987 SAA rates for a PSB Surety.

The rates assessed small businesses will generally increase, as surety companies will adopt the rates that are currently filed and approved by the individual States, and utilized on their accounts. Because different surety companies have different rate structures, it is difficult to estimate precisely the cost impact to small businesses. Other program costs will decrease, as there will be one not two rate structures to track by surety companies and the Government. Additionally, this change will have a positive impact on the program through increased bond activity for the small business community and increased participation in the program by surety companies.

#### B. Baseline Costs of Existing Regulatory Framework

In FY2002, the Office of Management and Budget (OMB) developed the Program Assessment Rating Tool (PART) to establish a systematic, consistent process for rating the performance of programs across the Federal government. The SBG Program was evaluated under the PART criteria in FY2005. The PART review revealed that program enhancements are needed to maximize the effectiveness of the SBG Program and achieve performance goals. In particular, it was recommended that the SBG Program develop an internet-based electronic application and claims processing system, and restructure program outreach. The proposed rule is an important component of implementing the PART recommendations. These measures will contribute to the sustainability and growth of existing and competitive opportunity gaps confronting small businesses by increasing their contract revenue and job creation rates. Both of these actions are well underway.

The SBG program routinely tracks the number of surety bond guarantees approved, contract revenue, and the number of jobs created to measure its progress toward achieving program long-term outcomes. In FY 2003, SBA guaranteed a total of 8,974 bonds, which represented \$594 million in final bond contract revenue and 5,123 jobs created. Although a temporary expiration of the PSB program in Fiscal Years (FY) 2004 and 2005 impacted goal accomplishment, SBA guaranteed a total of 7,803 bonds in FY 2004, which represented \$598 million in final bond contract revenue and 5,154 jobs created. In FY 2005, SBA guaranteed a total of 5,678 bonds, which represented \$488 million in final bond contract revenue and 4,203 jobs.

The SBG program has specific values assigned for annual program targets. The SBG program is included in the Cost Allocation Model that SBA has implemented. A cost per bond is calculated using information from that model, and is included in the annual Performance and Accountability Report (PAR). The increased contract revenue and jobs created will contribute to the survivability and growth of the small contractors that received SBG assistance. The program's cost per bond decreased from \$570 in 2002 to \$408 in 2003. In FY 2004, the program's cost per bond increased slightly to \$489 since the program activity significantly decreased with the expiration of the PSB program. In FY 2005, the program's cost per bond increased to \$860. The shutdown of the PSB Program during the first quarter of FY2005 and the proposed surety bond fee increase adversely affected program activity. The total cost of the SBG Program to the Federal Government is as follows: FY2002—\$4.2 million; FY2003—\$3.6 million; FY2004—\$3.8 million; FY2005—\$4.8 million.

The only other Federal bond guarantee program is the Department of Transportation's (DOT) Bonding Assistance program authorized under 49 U.S.C. 332 (Pub. L. 97-449). Under that program, the bonds must be issued for transportation related contracts and on behalf of certified minority, women-owned, and disadvantaged businesses. SBA guarantees bonds for construction, service, and supply contracts not exceeding \$2 million. SBA assistance is not limited to minority, women-owned, and disadvantaged contractors. Few states have bonding assistance programs. There are no similar programs in the private sector.

SBA's FY2007 Budget discusses the SBG Program's goals of 7,725 bond guarantees in both FY2006 and FY2007,

resulting in \$447 million in final bond contract revenue and creating 3,852 jobs each year. To achieve these goals, the FY2007 Budget states that SBA will continue to seek increased nationwide program visibility, making the SBG Program accessible to more small contractors.

#### C. Potential Benefits and Costs of the Proposed Rule

The amendments proposed all offer significant benefits. The rule offers incentives to PSB and Prior Approval Sureties to expand participation in the SBG Program. Most importantly, the proposed rule would allow PSB Sureties to charge the premium rates permitted by applicable state law rather than the Surety Association of America's advisory premium rates as of August 1, 1987. This provides parity of compensation for the PSB Sureties with the Prior Approval Sureties. Currently, the PSB Sureties are not able to charge current rates for the SBG bonds, as they are limited to rates that are nineteen years old. If this proposed rule is adopted without change and PSB Sureties take advantage of it, Small Concerns bonded by PSB Sureties will be paying the same premium rates as the Small Concerns that receive bonding from Prior Approval Sureties. Rate parity means that Prior Approval and PSB Sureties will be charging similar rates for the same SBG bond. In addition, the other amendments offer a greater SBG bonding guarantee to veteran-owned contractors and allow PSB and Prior Approval Sureties to be held together in a holding company structure as affiliates. These regulatory flexibilities should ensure continued surety bond participation in the SBG Program to allow small contractors to continue to receive the SBG Program guarantees in the future.

#### D. Proposed Rule Alternatives

SBA has analyzed several alternatives to this proposed rule. First, SBA could do nothing. SBA believes, however, that this would not further the objective of the SBG Program as it could lead to surety departures from the SBG Program, directly leading to fewer small businesses able to receive a SBG bond. Second, SBA could completely overhaul the SBG Program. SBA believes that most of the regulatory framework of the SBG Program is working and that drastic changes are not needed. As stated in the PART review and FY2007 Budget, the SBG Program and the small businesses it serves would most benefit from an internet-based application system and more program outreach, not regulatory overhaul. Third, SBA could act as it has,

by proposing amendments conforming the rules to our commitments in the PART review and our FY2007 Budget. These amendments will allow SBA to retain the surety bond participation it needs in order to operate the program and continue providing bonding benefits to small contractors in need of bid, payment, performance or ancillary bonds necessary to obtain Federal and State contracts.

#### E. Request for Comments

SBA requests comment on this Regulatory Impact Analysis (RIA), in particular the assumptions made and the projections of costs and benefits of this proposed regulatory action. SBA also requests comments on all aspects of the RIA.

#### *Compliance With 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.

#### *Compliance With Executive Order 13132*

For purposes of E.O. 13132, the 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, SBA determines that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

#### *Compliance With 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.

#### *Compliance With the 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 the RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of the 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. Consequently, this rule does not meet the substantial number of small businesses criterion anticipated by the Regulatory Flexibility Act. There are about a dozen Sureties that participate in the SBA program, and no part of this proposed rule would impose any additional cost or any significant burden on them. The proposal to allow PSB Sureties to charge the highest premium rates permitted by applicable state law raises the possibility of an economic impact on those contractors that now receive their bonding from PSB Sureties, but out of 843 contractors participating in the SBA program in FY2005, about 143 were bonded by PSB Sureties. Prior Approval Sureties are already allowed to charge the premium rates permitted by the individual State law, so the economic effect, if any, of this proposed rule would be to subject approximately 17 percent of the contractors in the SBA program to the risk that they might have to pay the same premium rates that their fellow participating contractors must pay.

#### **List of Subjects in 13 CFR Part 115**

Claims, Reporting and recordkeeping requirements, Small businesses, Surety bonds.

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

#### **PART 115—SURETY BOND GUARANTEE**

1. The authority citation for Part 115 is revised to read as follows:

**Authority:** 5 U.S.C. app. 3; 15 U.S.C. 687b, 687c, 694a, 694b note, Pub. L. 106–554; Pub. L. 108–447, Div. K, § 203.

2. Amend § 115.10 by adding the following definitions at the appropriate places:

#### **§ 115.10 Definitions.**

\* \* \* \* \*

*Service-Disabled Veteran* means a veteran with a disability that is service-connected, as defined in Section 101(16) of Title 38, United States Code.

*Small Business Owned and Controlled by Service-Disabled Veterans* means:

(1) A Small Concern of which not less than 51 percent is owned by one or more Service-Disabled Veterans; or a publicly-owned Small Concern of which

not less than 51 percent of the stock is owned by one or more Service-Disabled Veterans; and

(2) The management and daily business operations of which are controlled by one or more Service-Disabled Veterans, or in the case of a Service-Disabled Veteran with permanent and severe disability, the spouse or permanent caregiver of such Veteran.

*Small Business Owned and Controlled by Veterans* means:

(1) A Small Concern of which not less than 51 percent is owned by one or more Veterans; or a publicly-owned Small Concern of which not less than 51 percent of the stock is owned by one or more Veterans; and

(2) The management and daily business operations of which are controlled by one or more Veterans.

\* \* \* \* \*

*Veteran* has the meaning given the term in Section 101(2) of Title 38, United States Code.

3. Revise § 115.19(g) to read as follows:

#### **§ 115.19 Denial of Liability.**

\* \* \* \* \*

(g) *Delinquent fees.* The Surety has not remitted to SBA the Principal's payment for the full amount of the guarantee fee within the time period required under § 115.30(d) for Prior Approval Sureties or § 115.66 for PSB Sureties, or has not made timely payment of the Surety's fee within the time period required by § 115.32(c). SBA may reinstate the guarantee upon a showing that the contract is not in default and that a valid reason exists why a timely remittance or payment was not made.

\* \* \* \* \*

4. Revise § 115.21(a)(2) to read as follows:

#### **§ 115.21 Audits and investigations.**

(a) \* \* \*

(1) \* \* \*

(2) *Frequency of PSB Audits.* Each PSB Surety is subject to audit at least once every three years by examiners selected and approved by SBA.

\* \* \* \* \*

5. Revise § 115.31(a)(2) to read as follows:

#### **§ 115.31 Guarantee percentage.**

(a) \* \* \*

(1) \* \* \*

(2) The bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals or on behalf of a qualified HUBZone small business concern, or on behalf of a small business

owned and controlled by veterans or a small business owned and controlled by service-disabled veterans.

\* \* \* \* \*

6. Revise § 115.32(c) and (d)(2) to read as follows:

**§ 115.32 Fees and Premiums.**

\* \* \* \* \*

(c) *SBA charge to Surety.* SBA does not charge Sureties application or Bid Bond guarantee fees. Subject to § 115.18(a)(4) the Surety must pay SBA a guarantee fee on each guaranteed bond (other than a Bid Bond) within 45 calendar days after SBA's approval of the Prior Approval Agreement. The fee is a certain percentage of the bond premium determined by SBA and published in Notices in the **Federal Register** from time to time. The fee is rounded to the nearest dollar. SBA does not receive any portion of a Surety's non-Premium charges. See paragraph (d) of this section for additional requirements when the Contract or bond amount changes.

(d) \* \* \*

(1) \* \* \*

(2) *Increases; fees.* Notification of increases in the Contract or bond amount under this paragraph (d) must be accompanied by the Principal's check for the increase in the Principal's guarantee fee computed on the increase in the Contract amount. If the increase in the Principal's fee is less than \$40 no payment is due until the total amount of increases in the Principal's fee equals or exceeds \$40. The Surety's check for payment of the increase in the Surety's guarantee fee, computed on the increase in the bond Premium, must be submitted to SBA within 45 calendar days of SBA's approval of the supplemental Prior Approval Agreement, unless the amount of such increased guarantee fee is less than \$40. When the total amount of increases in the guarantee fee equals or exceeds \$40, the Surety's check must be submitted to SBA within 45 calendar days.

\* \* \* \* \*

7. Revise § 115.60(a)(2) to read as follows:

**§ 115.60 Selection and admission of PSB Sureties.**

(a) \* \* \*

(1) \* \* \*

(2) An agreement that the Surety will neither charge a bond premium in excess of that authorized by the appropriate state insurance department, nor impose any non-premium fee unless such fee is permitted by applicable state law and approved by SBA.

\* \* \* \* \*

**§ 115.61 [Removed & Reserved]**

- 8. Remove and reserve § 115.61.
- 9. Revise § 115.62 to read as follows:

**§ 115.62 Prohibition on participation in Prior Approval program.**

A PSB Surety is not eligible to submit applications under subpart B of this part. This prohibition does not extend to an Affiliate, as defined in 13 CFR § 121.103, of a PSB Surety that is not itself a PSB Surety provided that the relationship between the PSB Surety and the Affiliate has been fully disclosed to SBA and that such Affiliate has been approved by SBA to participate as a Prior Approval Surety pursuant to section 115.11.

Dated: August 29, 2006.

Steve C. Preston,

Administrator.

[FR Doc. 06-8205 Filed 9-25-06; 8:45 am]

BILLING CODE 8025-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2006-25891; Directorate Identifier 2006-NM-186-AD]

RIN 2120-AA64

**Airworthiness Directives; Airbus Model A300 and A310 Airplanes; and Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airplanes)**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A300 and A310 airplanes; and Model A300 B4-600, B4-600R, and F4-600R series airplanes, and Model C4-605R Variant F airplanes (collectively called A300-600 series airplanes). This proposed AD would require replacing the pressure limiter of the parking brake system with a new or modified pressure limiter. This proposed AD results from a report indicating that failure of the parking brake system occurred on a Model A300-600 airplane. We are proposing this AD to prevent failure of the parking braking system and interference with emergency use of the brake pedals, which could lead to airplane collision with surrounding objects or departure from the runway.

**DATES:** We must receive comments on this proposed AD by October 26, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Tom Stafford, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1622; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA-2006-25891; Directorate Identifier 2006-NM-186-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register**