

Reduction Act of 1995 (44 U.S.C. Chapter 35).

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden to F. Lamont Heppe, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Avenue, SW., Room 4034, STOP 1522, Washington, DC 20250-1522.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under numbers 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, 20402-9325.

Executive Order 12372

This program is excluded from the scope of Executive Order 12372, Intergovernmental Consultation which may require consultation with state and local offices. A final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) determined that RUS and Rural Telephone Bank loans and loan guarantees were not covered by Executive Order 12372.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

The telecommunications industry is becoming increasingly competitive. The Telecommunications Act of 1996 (Public Law 104-104) and regulatory actions by the Federal Communications Commission are drastically altering the

regulatory and business environment of all telecommunications systems, including RUS borrowers. At the same time, changes in overall business trends and technology continue to place pressure on RUS financed systems to operate more efficiently.

At the present, RUS regulations stipulate that an entity must be incorporated to be eligible for RUS financing (7 CFR 1735.14, Borrower eligibility). However, the limited liability company (LLC) structure is an increasingly used form of business organization. RUS has determined that its regulations should provide that LLCs be eligible for RUS loans if the state laws under which the LLC is organized and existing enable the LLC to effectively accomplish the purposes of the Rural Electrification Act of 1936 (7 U.S.C. 901 *et seq.*).

RUS policies are utilized by the Governor of the Rural Telephone Bank in carrying out the Rural Telephone Bank's loan program.

List of Subjects in 7 CFR Part 1735

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set forth in the preamble, 7 CFR Chapter XVII is amended as follows:

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

1. The authority citation for part 1735 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, and 6941 *et seq.*

2. In § 1735.14, paragraph (c) is revised to read as follows:

§ 1735.14 Borrower eligibility.

* * * * *

(c) RUS gives preference to those borrowers (including initial loan applicants) already providing telephone service in rural areas, and to cooperative, nonprofit, limited dividend, or mutual associations. To be eligible for a loan, a borrower:

- (1) Must provide or propose to provide the basic local exchange telephone service needs of rural areas;
- (2) Must have sufficient authority to carryout the purposes of the RE Act; and
- (3) Must be incorporated or a limited liability company.

Dated: September 10, 1999.

Inga Smulkstys,

Acting Under Secretary, Rural Development.

[FR Doc. 99-24188 Filed 9-16-99; 8:45 am]

BILLING CODE 3410-15-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 331

RIN 3064 -AC23

Asset and Liability Backup Program

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Confirmation of interim final rule with changes.

SUMMARY: This rule confirms as final the FDIC's interim rule requiring asset and liability backup programs (ALBPs) for limited deposit account and loan account information in a limited number of institutions to facilitate timely and accurate restoration of key financial records in the event that an FDIC-insured depository institution (insured depository institution) experiences a Year 2000 (Y2K) computer problem and is placed in receivership. Specifically, the rule requires those insured depository institutions receiving Y2K ratings of less than "Satisfactory" on or after July 31, 1999 (affected institutions) to follow specific programs to backup certain information concerning deposit and loan accounts. This information will be retained by each bank or savings and loan (thrift) to which the rule applies and used by the FDIC only if such an institution must be closed. This regulation will sunset on June 30, 2000 and will no longer be applicable after that date. An affected institution will be exempted from this ALBP rule if its primary federal regulator provides a written determination to the Executive Secretary, FDIC that the ALBP is not needed.

EFFECTIVE DATES: This rule is effective September 17, 1999.

FOR FURTHER INFORMATION CONTACT: Division of Resolutions and Receiverships: James E. Crum, Manager, Information Systems Section (202) 898-6698. Legal Division: Nancy Schucker Recchia, Counsel (202) 898-8885; Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the FDIC, the Board of

Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) have provided extensive Y2K-readiness guidance to the banking industry. Virtually all of the nation's banks and thrifts are prepared for the millennium. As a result of these efforts, the FFIEC agencies expect few, if any, insured depository institutions to close because of the Y2K date change. Despite best efforts to prepare for Y2K, however, there remains the possibility that some institutions may not be Y2K ready and may have to be closed. The FDIC must plan for every conceivable event. The FDIC has adopted this rule to ensure that, if an affected institution experiences a Y2K problem and is closed, the FDIC will be able to make federally insured deposits available to depositors expeditiously. The rule also will facilitate the quick acquisition or transfer of servicing of assets and help maintain public confidence in, and minimize any related disruption to, the United States of America's financial system.

The rule requires affected institutions to create standardized backup programs for their deposit and loan accounts, in addition to their own backup systems. In the unlikely event that an affected institution experiences a Y2K problem and is closed, these standardized backup programs will provide the FDIC access to essential basic account information and eliminate the need to map and convert information before account reconciliation and deposit insurance determination can begin. A Y2K problem could make an institution's systems unusable for potential purchasers, making an alternative conversion process essential for an expeditious transfer of assets and liabilities. The rule will reduce the time needed to convert a closed affected institution's information. The rule is critical to the FDIC's ability to determine quickly and accurately deposit and loan account information to permit timely and accurate access of insured depositors to their accounts and effective management of receivership assets.

II. The Interim Final Rule

The FDIC published 12 CFR part 331 in the **Federal Register** as an interim final rule and request for comment on June 9, 1999, 64 FR 30869. The comment period closed and the interim final rule became effective on July 9, 1999.

III. Summary of Comments Received

In response to the request for comment published with the interim

final rule, the FDIC received three comment letters. Two were from community bank trade associations and one was from a bank. The FDIC carefully considered each of the comment letters in light of the Y2K concerns addressed by the rule, and, for the reasons discussed below, determined to finalize the interim final rule as it became effective on July 9, 1999, with the minor formatting and deadline changes discussed below.

Both of the trade association commenters generally supported the FDIC's need to have available appropriate data to facilitate quick and efficient resolution of insured depository institutions in the event that there should be a Y2K related failure. One of the trade association commenters stated its belief that the rule (1) is an appropriate step for the FDIC, (2) offers an extra incentive to any banks that have made less than satisfactory progress towards being prepared for Y2K to take the necessary steps to become "satisfactory," (3) is a good step to help ensure that account records can be transferred readily to another depository institution or to a receiver should the need arise, and (4) should provide additional comfort to the banking public that its deposits will be accessible after December 31, 1999. The other trade association commenter questioned whether the implementation details properly balanced the costs and benefits of the program and provided specific suggestions, discussed below, regarding how the affected institutions are selected, the deadlines for implementing the various provisions in the rule and the costs of the program. The bank commenter was opposed to the rule, believing it would take valuable resources away from affected institutions' Y2K remediation efforts, and opined that the FDIC and other agencies should provide reasonable assistance to aid those institutions in their Y2K compliance efforts.

The FDIC has considered all comments received. As a result of such consideration and in an effort to further refine the specifications of the ALBP, the final rule makes certain minor formatting changes to the Extract File Formats and extends certain deadlines as discussed below. The final rule does not require affected institutions to provide any more information than the interim final rule required.

IV. The Final Rule

A. The Final Rule Reflects ALBP Deposit and Loan Extract File Format Changes Developed From Industry Input

The FDIC sought technical advice from a variety of sources in developing

the interim final rule. Industry programming experts have reviewed the rule and identified certain areas of either the Technical Instructions or the Deposit and Loan Extract File Formats requiring clarification to ensure consistency between the Technical Instructions and the Extract File Formats, and accurate compliance with the programming specifications. The formatting changes that address these concerns are set forth below.

1. Deposit Extract File Format

- Information Field 1: Account Status—Clarified the Definition to limit the acceptable codes to: O = Open, C = Closed, D = Dormant, I = Inactive.
- Information Field 3: Account Number—Expanded the Info Length to 20 characters.
- Information Field 8: Customer Street Address Line 1—Clarified the Definition to restrict this field to the first line of three allocated for customer street addresses.
- Information Field 9: Customer Street Address Line 2—Added a new field for the second line of three allocated for customer street addresses.
- Information Field 10: Customer Street Address Line 2—Added a new field for the third line of three allocated for customer street addresses.
- Information Field 11: Customer City—Provided technical instructions for dealing with addresses located in foreign countries.
- Information Field 30: Overdraft Account Number—Expanded the Info Length to 20 characters to match other deposit account number field lengths.
- Information Fields 26–28: Clarified the Info Length for dates to allow 10 characters to accommodate the slashes specified in the Technical Instructions.
- Information Fields 31–33: Clarified the decimal precision level (DEC) as 2 places.
- All Interest Rate Fields: Clarified Technical Instruction No. 5 to reflect the format for all interest rate fields to be displayed as xx.xxxxx.

2. Loan Extract File Format

- Information Field 3: Borrower Street Address Line 1—Clarified the Definition to restrict this field to the first line of three allocated for customer street addresses.
- Information Field 4: Borrower Street Address Line 2—Added a new field for the second line of three allocated for customer street addresses.

- Information Field 5: Borrower Address Line 2—Added a new field for the third line of three allocated for customer street addresses.

- Information Field 6: Borrower City—Provided technical instructions for dealing with addresses located in foreign countries.

- All Date Fields: Clarified the Info Length to allow 10 characters to accommodate the slashes specified in the Technical Instructions. Information Fields affected include: 28, 29, 30, 34, 36, 44, 51, 64 and 66.

- All Interest Rate Fields: Clarified Technical Instruction No. 5 to reflect the format for all interest rate fields to be displayed as xx.xxxxx. Corrected the precision level (Dec) for all such fields to reflect 5 characters. Information Fields affected include Nos. 25, 32, 33 and 48.

The final rule extends the date by which affected institutions are to complete their programming and testing of their ALBP Deposit and Loan Extract Files to October 31, 1999 and the date by which to submit their test files to the FDIC to November 15, 1999.

B. The Final Rule Implements the ALBP Requirements in the Least Burdensome Manner Possible

The Rule Applies to Only Those Insured Depository Institutions That Present the Greatest Y2K Risk

Both of the trade association commenters commented on and made suggestions regarding the implementation details of the rule. One of the trade association commenters suggested that the only institutions that should be subject to the rule are CAMELS 4, 5 and low-3 rated institutions and those that the primary federal regulators deem to pose serious data-processing-related risks. This commenter stated that well-capitalized, well-performing institutions with less than Satisfactory Y2K ratings that are not related to data processing and retention deficiencies or inadequate contingency plans are not likely to close.

Section 331.1 of the rule sets forth those insured depository institutions to which the rule applies (affected institutions). Affected institutions are all insured depository institutions as that term is defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) that have received a rating of less than Satisfactory in Y2K readiness by their primary federal regulator as of July 31, 1999. The rule also applies prospectively to any insured depository institution that received a Satisfactory rating as of July

31, 1999, and subsequently receives a rating of less than Satisfactory. The rule continues to apply to both categories of institutions until the termination date specified in § 331.3(d). Before January 1, 2000, if an affected institution's primary federal regulator changes the institution's Y2K readiness rating to Satisfactory, it will not be required to comply with the rule as of the date of the change. This permits institutions that demonstrate improvement in Y2K readiness after July 31, 1999, to avoid the requirements of the rule. After January 1, 2000, an affected institution will not be required to comply with the rule as of the date on which its primary federal regulator verifies that the institution's systems are Y2K ready. The rule sunsets on June 30, 2000.

Section 331.2 of the rule provides that an affected institution, without application, will be exempted by the FDIC from the rule upon a written determination by its primary federal regulator that the ALBP is not needed for that institution. For example, the primary federal regulator may find that an institution has ensured its systems' readiness during the testing phase and developed adequate business resumption contingency plans, but for less critical reasons was assessed a less than Satisfactory rating. A primary federal regulator's written determination should be submitted to the Executive Secretary of the FDIC. In the case of an FDIC-regulated institution, the determination would be made by the FDIC's Director of the Division of Supervision, or designee, and submitted to the Executive Secretary of the FDIC.

As insurer of the nation's bank and thrift deposits, the FDIC must act in a prudent and cost effective manner. It has considered numerous variables in order to identify which institutions present the greatest Y2K risk for purposes of the ALBP rule. The FFIEC agencies expect few, if any, insured depository institutions to close because of the Y2K date change. Despite best efforts to prepare for Y2K, some institutions may not be Y2K ready and may have to be closed. The inclusion of all less than Satisfactory institutions, regardless of their CAMELS ratings, reflects the FDIC's planning for every conceivable event in order to ensure that, if an affected institution experiences a Y2K problem and is closed, the FDIC will be able to make federally insured deposits available to depositors expeditiously. The FDIC believes that the exemption available under § 331.2 will enable those affected institutions that do not present significant Y2K risk to be exempted from the requirements of the rule.

The Rule Provides for Maximum Compliance Time

The two trade association commenters commented on the compliance time table contained in the rule. One stated that July 31, 1999 is an appropriate date for determining which insured depository institutions will be subject to the rule. However, this commenter suggested that the FDIC allow some flexibility with respect to the October 31, 1999 date by which the interim final rule required affected institutions to demonstrate compliance with the rule to the FDIC. This commenter suggested that additional time be allowed where an affected institution could demonstrate reasonable cause for not meeting the October 31st deadline. This commenter also suggested that the FDIC consider shortening the June 30, 2000 sunset date for the rule.

The interim final rule established September 30, 1999 as the date by which affected institutions should complete programming and testing of ALBP Deposit and Loan Extract Files. It also established October 31, 1999 as the date by which an affected institution must submit test files containing sample data to the FDIC. These dates were chosen after consultation with institutions and service bureaus experienced in programming files similar to those required under the Rule. The FDIC requires sufficient time to process the test files and, should problems be discovered, work with the affected institution to resolve them and re-validate new test files.

The final rule establishes October 31, 1999 as the date by which affected institutions should complete programming and testing and November 15, 1999 as the date by which affected institutions should submit test files to the FDIC. These extensions of time give consideration to the clarifications to the ALBP Extract File Formats included in the final rule and the smaller number of affected institutions subject to the final rule.

The formatting changes identified in the final rule will ensure the accurate and consistent interpretation of the data contained in the ALBP Deposit and Loan Extract Files. Should an affected institution have completed its programming and testing of ALBP Extract File Formats prior to the publication of the final rule in the **Federal Register**, or should it be unable to meet the November 15, 1999 date, the FDIC will work with the affected institution and its primary federal regulator to determine the most appropriate course of action.

The FDIC considered a variety of possible sunset dates for the rule. June 30, 2000 was deemed the most appropriate date as it allowed adequate time for any major system disruption to be identified and resolved. Prior to June 30, 2000, should an affected institution establish to the satisfaction of its primary federal regulator that its systems and data are fully functional and reliable, the affected institution will no longer be subject to the rule.

The other trade association commenter suggested a timetable that would focus initially on affected institutions with CAMELS ratings of low-rated 3, 4 or 5. These institutions would make their test file data available to the FDIC by September 30, 1999. This commenter suggested that by September 7, 1999, the other federal banking agencies send to the FDIC a list of the other institutions they regulate which have "serious" Y2K compliance deficiencies as of August 31, 1999, with extract data files made available to the FDIC by October 20, 1999.

Rather than providing additional time for certain institutions to comply with the rule, as the commenter suggested, this proposal actually would accelerate the timetable for all affected institutions. However, the FDIC considered the intent of this proposal to reflect the need for more flexibility in meeting the milestones required in the Interim Rule. Therefore, the FDIC has modified § 331.4 of the rule to require each affected institution to complete its programming and testing by October 31, 1999, and to deliver a sample output file meeting the ALBP criteria to the FDIC no later than November 15, 1999. The timetable in the final rule will provide sufficient time for the FDIC to evaluate the ALBP preparations of affected institutions.

FDIC Will Limit Its Use of ALBP Information

One of the trade association commenters commended the FDIC for addressing the potential privacy concerns that this type of rule might present by assuring bank customers that the ALBP files are required solely as a precaution and that the FDIC will not see the information unless the need arises. The rule requires no new reports or transmissions of useable information to the FDIC or any other government agency. No confidential records will be released. The FDIC will use ALBPs only if an affected institution is closed and experiences a Y2K problem and to give depositors timely and accurate access to their insured deposits, help maintain loan customer relationships and facilitate the quick resolution of the

institution. Once an institution's computer systems are operating successfully in the year 2000 to the satisfaction of the institution's primary federal regulator, the rule will no longer be applicable to that institution. The rule has limited applicability because it sunsets on June 30, 2000.

C. The Benefits of the ALBP Rule Outweigh the Costs

Each of the commenters discussed the cost to the industry to comply with the rule. Each noted that compliance with the rule will divert data system programming efforts at a time when such resources might be better devoted to making satisfactory progress towards Y2K. One of the trade association commenters stated that the benefits of the rule outweigh the burdens imposed; the other questioned whether the costs and benefits of the ALBP had been properly balanced. One of the trade association commenters asked the banking regulatory agencies, when evaluating whether or not an institution should be exempt from the back-up program requirements, to carefully consider whether compliance with the rule would divert an institution's resources from preparing for Y2K and defeat the institution's Y2K efforts. This commenter also asked the banking regulatory agencies to make every effort to work with and monitor affected institutions, providing them expert guidance to help prepare for Y2K, noting that such assistance efforts would be more important to banks and their depositors than the compliance burden of a new back-up program. The other trade association and the bank commenter opined that the affected institutions would be better served by investing their time and resources in continuing their remediation efforts and developing appropriate data processing contingency plans.

The FDIC believes that for affected institutions, the minimal costs for programming and processing associated with creating and maintaining the ALBPs, including the minor changes identified in the final rule, represent a prudent investment in Y2K contingency planning.

Benefits of the Final Rule

The preamble to the interim final ALBP rule discussed in detail the many benefits of the rule. This rule will ensure that the FDIC will be able to continue to help maintain public confidence in the banking industry, if an affected institution should experience a Y2K problem and be closed, by honoring the FDIC's deposit insurance commitments in a timely and

accurate manner. If an affected institution is closed and its business systems are unable to accurately receive, process and produce deposit balances and transactions because of a Y2K problem, the FDIC will rely upon the liability backup program to efficiently determine insured deposit account balances and quickly and accurately transfer or pay out such amounts for the benefit of depositors. Similarly the asset backup programs will provide the FDIC with the loan information necessary to expeditiously value and sell an institution and its assets in the event that the institution's systems are unable to receive, process and produce loan balances and transactions, thus expediting the return of assets to the marketplace and minimizing customer disruptions.

Potential acquirers of deposits and loans from Y2K related failed institutions will be able to anticipate the type and format of insured deposit data to be provided by the FDIC in electronic media. Acquirers will be able to pre-program their business systems to receive such data. Such pre-programming will reduce the time necessary to capture and load this data into their business systems upon such an acquisition.

Maximization of the value of the closed institution and its assets and liabilities and minimization of resolution costs result in a greater return to the closed institution's creditors and the FDIC insurance funds. Backup programs are an essential part of Y2K contingency planning worldwide. The Basle Committee on Banking Supervision has stated that banking supervisors should require their banks to "maintain specified back-up records in electronically retrievable media for certain periods or key dates." (Year 2000 Supervisory Contingency Planning Process, January 1999, at 4, 5).

Costs of the Final Rule

When the cost burden of the interim final rule was estimated, 205 institutions were identified as affected institutions; as of August 24, 1999 there are 38. As institutions continue to complete their Year 2000 preparations and the number of institutions subject to the final rule declines, the FDIC has updated the information used in estimating the costs of compliance with the final rule. As of August 24, 1999 four affected institutions use in-house programming. The remaining 34 affected institutions use service providers or software vendors. 19 of these affected institutions are the sole customer of a service provider or software vendor required to comply

with the final rule. The FDIC assumed that service providers and software vendors would allocate their costs across multiple affected institutions using a given product line. With many sole customer situations, prior assumptions about cost allocations by such providers and vendors must be revised.

Overall, the estimated total cost burden to affected institutions has decreased from \$3,057,000 to \$1,388,500.

- The FDIC estimates the average cost to produce the ALBPs to be \$17,500 for institutions under \$1 billion in asset size and \$190,000 for institutions greater than \$1 billion in asset size when using in-house programming and processing.

- Service providers do the programming for most small institutions. For institutions using service providers or licensed software where the vendor provides the programming service, the FDIC estimates the cost of the ALBPs to be range from \$13,188 to \$52,750 per service provider or software vendor customer.

While the estimated cost burden for the remaining affected institutions is higher than anticipated in the interim final rule, the FDIC believes that the burden of these costs continues to be significantly outweighed by the benefits to be obtained.

Before issuing the interim final ALBP rule, the FDIC surveyed thirteen financial institutions and five major service providers of software and/or processing support to insured depository institutions (Office of Management and Budget Paperwork control number 3064-0130). The survey addressed: 1) current business practices, including number and types of clients, software development practices and backup procedures; 2) programming costs, including estimates of the hours and labor costs to program their EDP systems to produce the ALBP files; and 3) production costs, including estimates of the additional Central Processing Unit time to run the file extract routines, storage media and impacts on overall production schedules. The FDIC also discussed the ALBP rule with representatives of two financial industry trade associations, national clearinghouse authorities, a major financial information publisher and representatives of other federal financial institution regulatory agencies.

The Final Rule Places the Burden of Compliance on Those Institutions Presenting the Greatest Y2K Risk

One of the trade association commenters recognized the flexibility

provided by the rule to each affected institution to extract and retain the required information in the manner that is most cost effective for that institution. However, this commenter believed that the FDIC would be the main beneficiary of the rule, and as such should bear some of the soft dollar costs of the programming effort, possibly by working directly with major data processing service providers.

The FDIC believes that those institutions that demonstrate the greatest Y2K risk should pay for their own programming costs. If the FDIC were to pay all or part of the programming costs, such costs would ultimately be borne by all insured depository institutions as the costs would have to be paid out of the deposit insurance funds.

V. The Effective Date

The FDIC adopted this regulation as an interim final rule effective July 9, 1999, without the usual notice and comment period as provided in the Administrative Procedure Act (APA), 5 U.S.C. 551, *et seq.*, or the delayed effective date as provided in section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), 12 U.S.C. 4802(b). The APA provides that the requirement for such notice and comment periods does not apply "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest". 5 U.S.C. 553(b)(3)(B). Section 302 of CDRI provides that certain new regulations should "take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time". 12 U.S.C. 4802(b)(1)(A).

The FDIC found for good cause that promulgation of this regulation on an expedited basis was required. This rule is necessary to protect the public's interest in the continued stability of the financial system and to ensure timely and accurate access to deposits in insured depository institutions in the event that such institutions experiencing a Y2K problem are closed. All efforts to create ALBPs must be completed and operational by December 24, 1999, to ensure that public confidence in the financial system continues. The changes required by this rule would be impracticable to implement in less than six months. These backup programs must be in

place pre-millennium to ensure that all systems will function as of January 1, 2000. Programming the backup program files must have begun by early August 1999, to allow establishment of the system requirements, analysis and design, and internal testing of the file production programs. The FDIC then must have sufficient time to test the sample formats for compliance with the rule and to work with the institutions to correct any deficiencies. Delay in the effective date of this rule would have been detrimental to the efforts of the regulatory agencies and the banking industry to prepare for potential Y2K problems.

VI. Regulatory Flexibility Analysis

Section 604(a) of the Regulatory Flexibility Act, 5 U.S.C. 604(a), requires an agency to prepare a final regulatory flexibility analysis, except to the extent provided in 5 U.S.C. 605(b), whenever the agency promulgates a final rule under 5 U.S.C. 553 for which it is required to publish a general notice of proposed rulemaking. For good cause discussed above, the FDIC published this rule as an interim final rule and is now finalizing the rule, for which publication of a general notice of proposed rulemaking was not necessary. No final regulatory flexibility analysis is required.

VII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA) 44 U.S.C. 3501, *et seq.*, the FDIC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that does not display a currently valid Office of Management and Budget (OMB) control number. No comments were received explicitly in response to the PRA request for comments contained in the interim final rule. However, the comments received in response to the interim final rule generally may also be viewed as relating to PRA issues such as enhancing the quality of the information to be collected and minimizing the burden of the information collection. These issues are discussed above in the preamble. The collection of information contained in this final rule was submitted to OMB for review and approval in accordance with the PRA and has been approved under OMB control number 3064-0132, which expires on August 31, 2002. The FDIC continues to welcome comments about any of its collections of

information. Please send comments to: Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), FDIC, 550 17th Street, N.W., Washington, DC 20429.

Title of the collection: "Asset and Liability Backup Program."

Summary of the collection: This collection calls for affected FDIC-insured depository institutions to develop and retain extracts of deposit and loan account information maintained by such institutions, stored in electronic form, beginning December 24, 1999, and continuing until the earlier of approval by the institution's primary federal regulator or June 30, 2000 (12 CFR 331.3); to program and test the required ALBP extract files by October 31, 1999, and to submit a test file of sample information for each ALBP format to the FDIC for validation purposes (12 CFR 331.4); and to submit supporting documentation to the FDIC (12 CFR 331.5).

Need and use of the information: The FDIC needs the information to facilitate timely and accurate restoration of key financial records. The FDIC will use the information only in the event of the closure of an affected institution experiencing a Y2K problem.

Respondents: This rule applies those FDIC-insured depository institutions receiving Y2K ratings from their primary federal regulators of less than "Satisfactory" on or after July 31, 1999.

Adjusted Estimated annual burden resulting from this rulemaking:

Frequency of response: Daily, beginning December 24, 1999 and continuing until released from the rule's requirements or June 30, 2000, whichever occurs first.

Number of respondents: 38.

Average number of hours per respondent: 258.

Total annual burden hours: 10,500.

It is noted that the total annual burden includes service bureau and other contractor time, and that the actual burden experienced by individual institutions may range from 88 hours per institution to 350 hours per institution.

The final rule makes no changes in the collection of information established in the interim final rule and approved by OMB. However, the FDIC has adjusted the burden estimates associated with the information collection to reflect current expectations. Specifically, fewer institutions are expected to have to comply with the rule (from 205 at the time of the interim final rule to 38 at present) and the average number of hours that it will take those institutions to comply with the information

collection has increased from 131.4 hours to 258 hours per institution. The increase in the average hours to comply is due to the fact that the remaining institutions use in-house programming or are the only customers of their service or software providers required to comply with the rule. As a result, the time required to comply with the information collection cannot be allocated among multiple customers of a service or software provider, an assumption made at the time of the interim final rule. The FDIC has requested OMB to approve an adjustment of the estimated burden.

VIII. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that this final rule is not a "major rule" within the meaning of the relevant sections of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 801, *et seq.* As required by SBREFA, the FDIC has filed the appropriate reports with Congress and the Comptroller General, General Accounting Office so that the final rule can be reviewed.

IX. Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this regulation will not affect family well-being within the meaning of section 654 of the Treasury Department Appropriations Act, 1999, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105-277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 331

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

By order of the Board of Directors.

Dated at Washington D.C., this 9th day of September, 1999.

Federal Deposit Insurance Corporation

Robert E. Feldman,
Executive Secretary.

Accordingly, the interim rule adding 12 CFR part 331 which was published at 64 FR 30869 on June 9, 1999, is adopted as a final rule with the following changes:

PART 331—ASSET AND LIABILITY BACKUP PROGRAM

1. The authority citation for part 331 continues to read as follows:

Authority: 12 U.S.C. 1818(a) and (b), 1819(a)(Seventh and Tenth), 1821.

§ 331.4 [Amended]

2. Amend § 331.4 by removing "September 30, 1999" and adding in its place "October 31, 1999", and by removing the phrase "no later than October 31, 1999" and adding in its place the phrase "no later than November 15, 1999".

3. Revise appendix A to part 331 to read as follows:

Appendix A to Part 331—Asset and Liability Backup Program Technical Instructions and Deposit Extract File Format

Technical Instructions

FDIC Standard Deposit Extract File Format

The FDIC Standard Deposit Extract file Format

The attached "Deposit Extract File Format" is a list of fields developed as a tool for requesting information from an institution for the purposes of insurance estimation and other related functions. Please match your institution's deposit information field names to those on the "Deposit Extract File Format." For your convenience, descriptions of each field are provided.

Standard Deposit Extract File Preferences

- Information must be provided in an ASCII-flat, tab delimited file.
 - The preferred media is diskette, CD, ZIP Disk or fixed length 9-track tape.
 - All deposit records should be included in one file. Separate files are acceptable in those cases where the information will not fit on the selected media type.
 - Diskette and CD files zipped with PKZIP or WINZIP are also acceptable. If information cannot be provided on preferred media, or you cannot provide the information in ASCII format, please contact Mr. James Murphy, at the FDIC's Dallas Field Operations Branch, Telephone No. (972) 761-2226, for possible alternatives.
- Please provide ALL requested information if available.
- Provide a record layout in a printout accompanying the file. The field order and field names are indicated. The field names are under the column heading 'FDIC NAME.' Your record layout must include field order, field name, type (e.g., Character, Numeric), field length and decimal places (precision).
- Do not duplicate records within the download.
- Decimal points are to be included in the information provided, not implied (i.e., \$10,300.75 will be provided as 10300.75; an interest rate of 8.45% will be provided as 08.45000). Please do NOT include packed or zoned decimals.
- Date formats are to be MM/DD/YYYY (e.g., March 14, 2001 will be provided as 03/14/2001).
- All numeric fields are to be right justified. All character fields are to be left justified.

8. When the customer's mailing address is located in a foreign country, include the name of the country in the "Customer City" field, separated from the city by a comma and a space (e.g., Paris, France).

9. All numeric value are deemed positive unless signed as negative (-).

DEPOSIT EXTRACT FILE FORMAT

Information field	Definition	FDIC name	Info type	Info length	Dec
1 Account Status	Code defining account status (O = Open, C = Closed, D = Dormant, I = Inactive).	STATUS	C	4	
2 Branch Number	Branch Number	BRANCH	C	4	
3 Account Number.	Unique account number. Include all fields required to avoid duplicate account numbers.	ACCTNO	C	20	
4 Tax ID Number	Taxpayer identification number of the primary account holder (ex: 428-78-1992 or 58-2345679 Include Hyphens).	TAXID	C	11	
5 Customer Short Name.	Alpha sort key used to create an alpha list of accounts	SHORTNAME	C	20	
6 Customer Name.	Full name line 1 as it appears on deposit account	NAME1	C	40	
7 Joint Customer Name.	Full name line 2 as it appears on deposit account	NAME2	C	40	
8 Customer Street Address Line 1.	The first line of the customer's street address as it appears on the statement.	ADDR1	C	40	
9 Customer Street Address Line 2.	The second line of the customer's street address as it appears on the statement.	ADDR2	C	40	
10 Customer Street Address Line 3.	The third line of the customer's street address as it appears on the statement.	ADDR3	C	40	
11 Customer City	Address city as it appears on statement. If this city is located in a foreign country, include the name of the country in this field, separated from the city by a comma and a space.	CITY	C	25	
12 Customer State.	State postal abbreviation as it appears on statement	STATE	C	2	
13 Customer Zip	Address zip code as it appears on statement—no hyphens	ZIP	N	9	
14 Financial Institution's Account Type.	The Financial Institution's account types. Use any pertinent codes relevant to identifying the type of account.	FITYPE	C	4	
15 Account Type Description.	Description of the Financial Institution's account types. May also be used to describe class codes.	FIDESC	C	20	
16 FDIC Account Type.	FDIC Claim Types (e.g., DDA, SAV, CD, NOW, MMA, IRA, KEO (KEOGH), TRU (TRUST)).	FDICTYPE	C	4	
17 GL Code	Financial Institution's GL code that the account is aggregated to for GL accounting.	GLCODE	C	6	
18 GL Code Description.	Description of Financial Institution's GL code that the account is aggregated to for GL accounting.	GLDESC	C	20	
19 Class Code ...	All codes identifying deposit account products on bank's system (may be the same as FITYPE).	CLASS	C	4	
20 Municipality ...	Indicates account of state, county or municipal entity	MUNICIPAL	C	4	
21 Current Account Balance.	Current principal account balance	CURRBAL	N	15	2
22 Accrued Interest.	Accrued interest earned but not paid on the account. Enter zero if not interest bearing.	ACCRINT	N	15	2
23 Per Diem	Daily accrual amount or per diem. Enter zero if blank or null	PERDIEM	N	9	5
24 Interest Paid Year-to-Date.	Interest paid year-to-date. Enter zero if not interest bearing	INTPYTD	N	15	2
25 Interest Rate	Current interest rate applicable to account on cutoff date. Rate is based on the current balance, not base rate. If minimum balance requirements are not met, rate is zero.	RATE	N	8	5
26 Original Date	Date account opened	ORIGDATE	D	10	
27 Maturity Date	Maturity date for all CDs and IRA accounts	MATDATE	D	10	
28 Interest Paid Through Date.	Date interest is paid through	PDTHRU DT	D	10	
29 Collateral Account Number.	Loan account number for which this deposit account is serving as collateral.	LOANACCT	C	16	
30 Overdraft Account Number.	Overdraft Protection account number this account is tied to	OPDACCT	C	20	
31 Available Overdraft Protection Amount.	Current available Overdraft Protection Balance	AVAILOD	N	15	2
32 Average Daily Balance.	Average daily balance, maintained for the current statement period (monthly, quarterly).	DAILYBAL	N	15	2

DEPOSIT EXTRACT FILE FORMAT—Continued

Information field	Definition	FDIC name	Info type	Info length	Dec
33 Available Balance.	Current available balance	AVAILBAL	N	15	2
34 Hold Code	Hold code(s)/flag(s) indicating account secures a loan(s)	HOLDCODE	C	4	
35 Hold Description.	Description of hold code(s)/flag(s) indicating account secures a loan(s) etc.	HOLDDESC	C	20	
36 Hold Amount	Amount of hold(s)	HOLDAMT ...	N	15	2

3. Revise appendix B to part 331 to read as follows:

Appendix B to Part 331—Asset and Liability Backup Program Technical Instructions and Loan Extract File Format

Technical Instructions

FDIC Standard Loan Extract File Format

The FDIC Standard Loan Extract File Format

The attached "Loan Extract File Format" is a list of fields developed as a tool for requesting information from an institution for the purposes of categorizing, analyzing and transmitting the loan portfolio and other related functions. Please match your institution's loan information field names to those on the "Loan Extract File Format." For your convenience, descriptions of each field are provided.

Standard Loan Extract File Preferences

- Information must be provided in an ASCII-flat, tab delimited file.
 - The preferred media is diskette, CD, ZIP Disk or fixed length 9-track tape.
 - All loan records should be included in one file. Separate files are acceptable in

those cases where the information will not fit on the selected media type.
 (c) Diskette and CD files zipped with PKZIP or WINZIP are also acceptable.
 If information cannot be provided on preferred media, or you cannot provide the information in ASCII format, please contact Mr. James Murphy, at the FDIC's Dallas Field Operations Branch, Telephone No. (972) 761-2226, for possible alternatives.

- Please provide ALL requested information if available.
- Provide a record layout in a printout accompanying the file. The field order and field names are indicated. The field names are under the column heading 'FDIC NAME'. Your record layout must include field order, field name, type (e.g. Character, Numeric), field length and decimal places (precision).
- Do not duplicate records within the download.
- Decimal points are to be included in the information provided, not implied (i.e., \$10,300.75 will be provided as 10300.75; an interest rate of 8.45% will be provided as 08.45000). Please do NOT include packed or zoned decimals.

- Date formats are to be MM/DD/YYYY and include the slashes (e.g., March 14, 2001 will be provided as 03/14/2001).
- All information for each loan must be contained within one record.
 - Participation sold information is *not* to be provided as a separate record (provide as separate field).
 - Partial charge-off information is *not* to be provided as a separate record (provide as separate field).
 - Completely charged-off loans and paid-off loans are *not* to be included in the download.
 - Loans with partial charge-off are to be provided with balances net of partial charge-off.
- All numeric fields are to be right justified. All character fields are to be left justified.
- When the customer's mailing address is located in a foreign country, include the name of the country in the "Borrower City" field, separated from the city by a comma and a space (e.g., Paris, France).
- All numeric value are deemed positive unless signed as negative (-).

LOAN EXTRACT FILE FORMAT

Information field	Definition	FDIC name	Info type	Info length	Dec
1 Borrower Name ...	The full legal name (Last Name, First Name, MI) of the borrower (preferred). The information may also be provided in multiple fields (Last Name in field called NAME1, First Name in a field called NAME2, MI in a field called NAME3).	NAME	C	50	
2 Borrower Short Name.	Abbreviated name assigned to each borrower	SHORTNAME ...	C	50	
3 Borrower Street Address Line 1.	The first line of the Borrower's street address where the borrower's home or head office is located.	ADDR1	C	50	
4 Borrower Street Address Line 2.	The second line of the Borrower's street address where the borrower's home or head office is located.	ADDR2	C	50	
6 Borrower Street Address Line 3.	The third line of the Borrower's street address where the borrower's home or head office is located.	ADDR3	C	50	
6 Borrower City	The city where the borrower's home or head office is located. If this city is located in a foreign country, include the name of the country in this field, separated from the city by a comma and a space.	CITY	C	40	
7 Borrower State	The state where the borrower's home or head office is located	STATE	C	2	
8 Borrower Zip	The zip code where the borrower's home or head office is located.	ZIP	C	10	
9 CIF Number	Central Information File identifier. The number that links all loan, deposit, and other accounts to the borrower. (This number may be the same as the Borrower ID Number).	CIF	C	15	
10 Insider	Indicates if the borrower is either an insider of the bank or a related interest of an insider of the bank. If possible, indicate the type of insider (e.g., director, executive officer, principal shareholder, non-executive officer, or employee).	INSIDER	C, Y/N	1	
11 Tax ID Number	Taxpayer identification number of the primary account holder (e.g., 428-78-1992 or 58-2345679 Include Hyphens).	TAXID	C	11	

LOAN EXTRACT FILE FORMAT—Continued

Information field	Definition	FDIC name	Info type	Info length	Dec
12 Accrued Interest	Total amount of interest accrued and unpaid on a note/credit facility.	ACCRINT	N	14	2
13 Amortizing or Non Amortizing Status.	Indicates if the note/credit facility is amortizing or non-amortizing.	AMORTCD	C, Y/N	1	
14 Branch ID	Identifies the branch location where the note/credit facility was originated or is managed. Please indicate in your supporting documentation if this identification number is part of the note/credit facility number.	BRANCH	N	3	
15 Charged-Off Amount.	The amount associated with the note/credit facility that has been charged off. If the note/credit facility balances reported elsewhere are not net of charged-off amounts, please indicate this in your supporting documentation.	CHGOFFAMT ...	N	14	2
16 Co-Maker or Joint Maker.	The name of the co-maker(s) or joint maker(s) whose signature(s) appears on the promissory note or loan agreement.	COMAKER	C	50	
17 Current Balance	The portion of the note/credit facility that appears as an asset on the bank's General Ledger. This balance is net of all participations sold, charge-off, and specific reserves.	CURRBAL	N	14	2
18 Number of Days Past Due.	If interest or principal is delinquent, indicate the number of days delinquent. If both are delinquent, indicate the larger of the two numbers.	DAYSLATE	N	4	
19 Dealer Code	The code identifying loans accepted from auto, mobile home, or other sales agents.	DEALERCD	C	5	
20 Dealer Name	Dealer Name	DEALNAME	C	50	
21 Dealer Reserve Balance.	The amount of the dealer reserve held in conjunction with the applicable account.	DEALERRES ...	N	14	2
22 Escrow Balance	The amount currently held in escrow for payment to third parties, such as insurance and real estate taxes.	ESCRBAL	N	14	2
23 Guarantor or Endorser Name.	Name of the individual or entity that guarantees, in part or in full, the borrower's note.	GTYNAME	C	50	
24 Index	The specific underlying market index used to calculate the interest rate of an adjustable rate note/credit facility (i.e. LIBOR, Wall Street Prime, Cost of Funds Index, One-Year Treasury Bill).	INDEX	C	10	
25 Interest Rate	The interest rate currently applicable to the note/credit facility. If the interest rate is variable, indicate the current rate (e.g., 7.25%, not Prime + 1).	RATE	N	8	5
26 Interest Paid to Date.	Amount of interest collected since origination or other institution-defined time period.	INTPAID	N	14	2
27 Interest Rate Reset Interval.	The time between periodic reset dates for variable or adjustable rate loans.	RTCHGFRQ	N	3	
28 Interest Rate Reset Date.	The next periodic reset date for variable or adjustable rate loans.	RESETDTE	D	10	
29 Last Payment Date.	Date the last payment was made	LASTPMT	D	10	
30 Last Renewal ...	Date on which the legally binding note/credit facility was extended or renewed, even if principal reductions have been made.	LASTRENEW ...	D	10	
31 Late Charges	Late charges that are currently due	LTCHGBAL	N	14	2
32 Lifetime Interest Rate Cap.	The upper limit on the interest rate that can be charged over the life of the loan.	RTCEIL	N	8	5
33 Lifetime Interest Rate Floor.	The lower limit on the interest rate that can be charged over the life of the loan.	RATEFL	N	8	5
34 Maturity Date ...	The date on which the legally binding note/credit facility matures.	MATDATE	D	10	
35 Mortgage Loan Type.	For real estate loans, indicates if the note/credit facility is secured by a first lien on single-family residential real estate.	MTGTYPE	C	15	
36 Next Payment Date.	Date the next scheduled payment is due	NXTDUEDT	D	10	
37 Non-accrual	Indicates if the note/credit facility is on non-accrual status	NONACCRCD ..	C Y/N	1	
38 Note Number or Credit Facility Number.	The number used by the bank to uniquely identify a note/credit facility.	ACCTNO	C	15	
39 Note Type or Credit Facility Type.	A code representing the type of loan. May correspond to the FFIEC Report of Condition.	LOANTYPE	C	5	
40 Note Type or Credit Facility Type Description.	A description of the code representing the type of loan	TYPEDESC	C	15	
41 Number of Payments.	The number of payments specified in the loan agreement or note.	PAYNUM	N	3	
42 Number of Extensions.	The number of times the loan has been extended beyond original maturity date.	EXTENDS	N	2	

LOAN EXTRACT FILE FORMAT—Continued

Information field	Definition	FDIC name	Info type	Info length	Dec
43 Original Balance	The amount of the note or credit facility that has been executed. If a note/credit facility has been renewed one or more times and the original amount is not available, provide the amount most recently executed.	ORIGAMT	N	14	2
44 Original Date	The date your institution extended credit to the borrower. Date should be consistent with the information provided for original balance.	ORIGDATE	D	10	
45 Payment Amount.	Amount of regularly scheduled payments	PAYAMT	N	14	2
46 P&I Payment	Amount of regularly scheduled P&I payments	PIAMT	N	14	2
47 Payment Frequency.	The frequency payments are due to the bank (i.e. monthly, quarterly, annually).	PAYFREQ	C	15	
48 Periodic Interest Rate Cap.	For variable or adjustable rate loans, the maximum percentage points that the rate may change each reset interval.	PRTCAP	N	8	5
49 Basis Code	Day basis on which interest calculations are made (e.g., 3/360, Actual/360, etc.).	BASIS	C	12	
50 Revolving Line of Credit.	Indicates if the loan is a revolving line of credit	REVCODE	C	5	
51 Security Perfection Date.	The date that the last security interest, lien, or UCC-1 was perfected.	PERFDATE	D	10	
52 Times Past Due 30-59 Days.	Number of times the note/credit facility has been past due 30-59 days during the last 12 months of the loan.	LATE30	N	4	
53 Times Past Due 60-89 Days.	Number of times the note/credit facility has been past due 60-89 days during the last 12 months of the loan.	LATE60	N	4	
54 Times Past Due 90+ Days.	Number of times the note/credit facility has been past due 90 or more days during the last 12 months of the loan.	LATE90	N	4	
55 Total Commitment.	The sum of the outstanding balance and the undisbursed amount legally available to be drawn upon.	CREDLMT	N	14	2
56 Troubled Debt Restructured Code.	Code indicating if the note/credit facility is considered to be a troubled debt restructure.	RTDCODE	C Y/N	1	
57 Unfunded or Undisbursed Balance.	The amount legally available under a note/credit facility that has not been disbursed.	UNFUNDED	N	14	2
58 Variable Rate Code.	Code indicating adjustable, floating, or variable interest rate	RATECODE	C	5	
59 Variable Rate Description.	Description of code indicating adjustable, floating or variable interest rate.	RATEDESC	C	15	
60 Collateral Code ...	The code associated with a unique collateral type (i.e. commercial real estate, 1-4 family real estate, UCC filings, marketable securities).	COLLCODE	C	5	
61 Collateral Description.	The narrative description of collateral or a description Referencing a collateral code. The collateral code for each description must be included in a separate table.	COLLDESC	C	50	
62 Collateral State ...	State in which the collateral is located	COLSTATE	C	2	
63 Collateral Value ..	The total value assigned to the collateral. If the bank has adjusted this value, please indicate this in your supporting documentation.	APPRLAMT	N	14	2
64 Collateral Valuation or Appraisal Date.	Date collateral was last appraised or valued	APPRDATE	D	10	
65 Insurance Code/Flag.	A code indicating the status of insurance covering collateral for a note/credit facility.	INSCODE	C	5	
66 Insurance Expiration Date.	The date that the related insurance policy covering bank collateral expires.	INSEXP	D	10	
67 Lien Status	The priority lien held by this bank (i.e. 1st lien, 2nd lien)	LIENCODE	C	10	
68 Participating Institution Code.	Code indicating the institution participating in the credit. If the credit is sold to multiple institutions, please indicate this in your supporting documentation.	INVESTOR	C	5	
69 Participating Institution Description.	Description of the code indicating the institution participating in the credit. If the credit is sold to multiple institutions, please indicate this in your supporting documentation.	INVDESC	C	50	
70 Participation Amount.	The current outstanding dollar amount of the loan sold to or purchased from another institution.	PARTSOLD	N	14	2
71 Participation Code.	A code indicating that the loan/credit facility involves a participation purchased or sold. Please identify the purchased and sold codes.	PARTTYPE	C	5	
72 Participation Code Description.	Description of the code indicating that the loan/credit facility involves a participation purchased or sold.	PARTDESC	C	15	
73 Participation Sold Original Amount.	The original amount of the loan participation sold or purchased	PARTORG	N	14	2

LOAN EXTRACT FILE FORMAT—Continued

Information field	Definition	FDIC name	Info type	Info length	Dec
74 Rebate Flag	Flag indicating there is any kind of rebate associated with the account. (i.e. insurance, interest etc.).	REBATE	C Y/N	1	

[FR Doc. 99-24225 Filed 9-16-99; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-119-AD; Amendment 39-11319; AD 99-19-32]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC-12 and PC-12/45 airplanes. This AD requires inspecting all flap actuator internal gear systems to assure that correct end-play and backlash measurements exist, and accomplishing any corrective adjustments as necessary. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent premature wear of the internal gear system caused by excessive backlash in the flight control flap actuators, which could eventually result in loss of actuator output with possible reduced or loss of airplane control.

DATES: Effective November 8, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 8, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH-6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-119-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North

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

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Models PC-12 and PC-12/45 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 23, 1999 (64 FR 33445). The NPRM proposed to require inspecting all flap actuator internal gear systems to assure that correct end-play and backlash measurements exist, and accomplishing any corrective adjustments as necessary.

The affected airplanes could incorporate one of the following flight control flap actuators:

- Pilatus part number (P/N) 978.71.20.302—Actuator, Linear (951D100-5);
- Pilatus P/N 978.71.20.303—Actuator, Linear (951D100-7); and
- Pilatus P/N 978.71.20.304—Actuator, Linear (951D100-9).

Accomplishment of the proposed inspection as specified in the NPRM would be required in accordance with Pilatus Service Bulletin No. 27-005, dated November 18, 1998.

Accomplishment of the proposed adjustments, if necessary, would be required in accordance with the maintenance manual.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor

editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 69 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per airplane to accomplish this action, and that the average labor rate is approximately \$60 an hour. The manufacturer will provide parts free-of-charge to the owners/operators of the affected aircraft. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$24,840, or \$360 per airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation