

**List of Subjects in 7 CFR Part 4001**

Freedom of information.

Accordingly, under the authority of U.S.C. 301 and 552, Part 4001 is removed.

Done at Washington, DC, this 29th day of January 1996.

Catherine E. Woteki,

*Deputy Under Secretary, Research, Education and Economics.*

[FR Doc. 96-2068 Filed 2-1-96; 8:45 am]

BILLING CODE 3410-03-M

**NATIONAL CREDIT UNION ADMINISTRATION****12 CFR Parts 701, 709 and 741****Organization and Operations of Federal Credit Unions**

**AGENCY:** National Credit Union Administration (NCUA).

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

**SUMMARY:** This interim rule authorizes credit unions serving predominantly low-income members to raise secondary capital from foundations and other philanthropic-minded institutional investors. Increased capital will in turn enable these credit unions to make more loans and improve other financial services for the limited income groups and communities they serve.

This rule establishes a new section in NCUA's Regulations providing authority for secondary capital accounts and amending existing regulatory provisions concerning designation of low-income status. The rule also amends an existing rule to address the authority of federally insured state credit unions to issue secondary capital accounts, and amends another rule to establish that secondary capital accounts are paid after all other claims in the event of liquidation.

Secondary capital accounts will not be issued as share accounts and will not establish voting or ownership rights. The applicability of this rule is limited to credit unions having a low-income designation from NCUA or the appropriate state regulator.

**DATES:** The interim rule is effective January 25, 1996. Comments must be received on or before April 1, 1996.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518-

6480. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:**

Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, at the above address or telephone (703) 518-6610, or David Marquis, Director, Office of Examination and Insurance, or Stephen Austin, Director of the Department of Supervision, Office of Examination and Insurance, both at the above address or telephone (703) 518-6360, or Robert M. Fenner, General Counsel, at the above address or telephone (703) 518-6540.

**SUPPLEMENTARY INFORMATION:****Background**

As of November, 1995, there were 260 federally insured credit unions designated by NCUA or the appropriate state regulator as serving predominantly low-income members. Like other credit unions serving members of limited financial means, these credit unions perform an important mission of providing loans and other financial services to individuals and communities who most need these services and most often do not have them available from other sources. Like all insured credit unions, the low-income designated credit unions are, as a group, quite healthy and financially strong. For example, the average net capital ratio for low-income designated credit unions as of May, 1995 was 9.8 percent.

Individual low-income designated credit unions find it difficult, however, in view of the limited resources of their members, to accumulate capital. (As cooperatives, credit unions build their primary capital—statutory reserves—solely by setting aside a portion of their income each accounting period.) To ease this burden, and to facilitate an additional opportunity for low-income designated credit unions to build capital that will support greater lending and financial services in their communities, the NCUA Board is issuing this interim final rule authorizing secondary capital accounts. These capital accounts, to the extent that low-income designated credit unions choose to offer them, will supplement rather than reduce existing statutory reserve requirements.

**Overview**

The Board has established certain key safety and soundness elements in this interim rule to ensure both that secondary capital accounts serve the purpose of capital—i.e. that they are available to absorb loss and thus prevent losses to members or the failure of the institution—and that there is no misunderstanding on the part of

investors as to the nature of the accounts and the risks involved.

Included are the following:

- The accounts may be offered only to organizational investors, not to natural person members or other natural person investors.

- The accounts are subordinate to all other claims on the assets of the credit union.

- The accounts are not insured by the National Credit Union Share Insurance Fund or any other government entity, and may not be offered as share accounts. It is anticipated that credit unions will issue these accounts as a form of subordinated debt.

- Funds in the accounts must be available to cover losses, after depletion of reserves and undivided earnings, but prior to liquidation of the credit union.

- The accounts must have a minimum maturity of five years.

- These and other key provisions must be reflected in an account agreement and in disclosures prescribed as an Appendix to the interim rule.

- When the remaining maturity of a secondary capital account is less than five years, the credit union will reflect through a footnote to its financial statement, and NCUA will recognize, the capital value of the account as a percentage of the account's face value, on a sliding scale ranging from 80% of face value (four years to less than five years remaining maturity) to zero (less than one year remaining maturity).

**Additional Explanation of Amendments**

This interim rule contains four separately numbered amendments. The following is an additional explanation of each.

Amendment 1 removes from Section 701.32 of NCUA's rules the provisions concerning designation of low-income status. Those provisions are now placed in new Section 701.34. As a result, Section 701.32 now deals solely with the limitations on federally insured credit unions receiving nonmember shares above certain levels without prior NCUA approval. Such shares include public unit shares in all federally insured credit unions and other nonmember shares in the case of low-income designated credit unions. Section 701.34 contains the provisions related solely to low-income designated credit unions: The rules concerning designation of low-income status and the new provisions concerning receipt of secondary capital accounts.

Because secondary capital accounts are not share accounts, they are not subject to the Section 701.32 limitations. A reference in Section 701.32(b)(1) to "accounts" is replaced

with "shares" to eliminate any possible confusion over the fact that Section 701.32 is limited in its applicability to nonmember *share* accounts.

Amendment 2 establishes the new Section 701.34. Section 701.34(a) contains the provisions concerning designation of low-income status, Section 701.34(b) contains the provisions authorizing secondary capital accounts and setting forth the terms and conditions for these accounts, and Section 701.34(c) establishes the sliding scale capital values for accounts with remaining maturities of less than five years.

As previously discussed, the Board has established a number of requirements in this interim rule to ensure both that these accounts actually serve as capital and that there is no misunderstanding on the part of investors as to the risks involved. A credit union offering these accounts must adopt a written plan addressing how the credit union will use the funds and how the credit union will meet liquidity needs to repay the funds upon maturity. The plan must be submitted to the appropriate NCUA Regional Director. The submission is for purposes of notice to NCUA; the credit union need not await NCUA approval.

Other requirements include that the accounts may be offered only to nonnatural person investors, that the accounts have a minimum maturity of five years, that they are not insured, that they may not be provided as security on other obligations of the accountholder, that the accounts will not "carry over" in the event of merger into a credit union that is not low-income designated, that claims represented by these accounts are subordinate to all other claims on the credit union, and that they are available to cover losses. The accounts may not be offered as share accounts. Low-income designated Federal credit unions that choose to offer these accounts will do so pursuant to their borrowing authority, and this will presumably be the case for federally-insured state chartered credit unions as well, depending on their authority under state law.

Funds in secondary capital accounts must be available to cover losses in an *operating* credit union, i.e. the funds are available without having to liquidate the credit union. The funds must be available to cover losses that exceed available "reserves and undivided earnings". For this purpose, reserves and undivided earnings are *exclusive* of all allowance accounts for loan and investment losses, inasmuch as such allowance accounts are already

earmarked to cover other anticipated losses.

To avoid overreliance on the availability of these temporary accounts to cover future operating losses, the rule establishes a declining scale for the capital value of accounts with less than five years remaining maturity. (All of the funds, however, will continue to be at risk to cover losses that exceed reserves and undivided earnings.) Accounts with remaining maturities of at least four years but less than five are counted as capital at 80 percent of face value, remaining maturities of at least three but less than four years are counted at 60 percent, and so on, to the point of less than one year remaining maturity, where the account reflects no capital value. In addition to preventing overstatement of the true value of these accounts as continuing capital, this feature will encourage credit unions to continually replenish their sources of maturing secondary capital to the extent such funds are needed to support ongoing lending programs and other operations. The reduced capital value of the accounts will be shown through a footnote to the credit union's financial statement.

The interim rule sets forth prescribed disclosures, as Appendix A to section 701.34, that must be provided to investors in secondary capital accounts, and requires that signed originals of the disclosure and account agreement be retained by the credit union at least for the life of the agreement.

Amendment 3 updates NCUA's regulatory provisions for federally insured state credit unions related to low-income designation and receipt of secondary capital accounts. This amendment revises Part 741 *Requirements for Insurance* by adding a new 741.204(c) and making conforming amendments to Section 741.204(b). The new 741.204(c) establishes that state chartered federally insured credit unions may offer secondary capital accounts on the same terms and conditions as Federal credit unions, as long as the credit union has a low-income designation pursuant to 741.204(b) and the accounts are not inconsistent with state law or regulation. State chartered credit unions must submit their plan to both the Regional Director and their state supervisor, and should coordinate with the state supervisor to confirm that these accounts are permissible under state law and to determine whether preapproval of the state supervisor is required.

Amendment 4 revises Section 709.5 *Payout Priorities in Involuntary Liquidation* by adding a new Section

709.5(b)(8) to establish that secondary capital accounts in low-income designated credit unions are paid after all other claims in the event of involuntary liquidation. Also, Section 709.5(e) is revised to specify that, in the unlikely event of a liquidation surplus, secondary capital holders would be repaid before payment of a liquidation dividend.

Effective Date; Interim Rule; Comment Period

Although this amendment is being issued as an interim final rule and is effective immediately, the NCUA Board encourages credit unions to submit comments. Comments may be submitted on or before April 1, 1996.

Because this rule provides a new authority to low-income designated credit unions and use of the authority is voluntary, the NCUA Board finds that good cause exists for an immediate effective date. Moreover, the Board finds it necessary and appropriate to act quickly in this matter in order to allow credit unions an additional avenue to meet the matching fund requirements established by the Community Development Financial Institutions (CDFI) Fund. 60 FR 54110, 54112 (October 19, 1995).

Institutions, including credit unions, seeking funds under the CDFI Program are to submit applications to CDFI by January 29, 1996. NCUA is aware of several low-income credit unions that have submitted or will submit applications to CDFI. CDFI will in turn grant funding in the form of loans, deposits/shares, or capital grants to qualifying institutions. However, one of the major qualifications of the CDFI Program is the requirement that the institution "obtain matching funds from sources other than the Federal government." 60 FR at 54112. Institutions must have "firm commitments for the matching funds requirements \* \* \* not later than July 1, 1996." 60 FR 54136.

This interim rule will provide low-income credit unions that have applied for CDFI funds with a method of raising secondary capital that may be counted as matching funds for either capital grants or loans, depending on the approach ultimately followed by the CDFI Fund. If this was a proposed rule and not an interim rule with an immediate effective date, federally-insured credit unions would have a very limited window of opportunity from the date of a final rule to solicit secondary capital funds. Any delay in the effective date of this rule is contrary to the best interests of federally-insured credit

unions which qualify under the CDFI Program.

#### Request for Comments

Although this interim rule is effective immediately, the NCUA Board welcomes comment on any aspect of the rule. After the close of the comment period and analysis of the comments, the Board will determine whether any changes in the rule are necessary or appropriate.

#### Regulatory Procedures

##### *Regulatory Flexibility Act*

The NCUA Board certifies that this rule will not have a significant impact on a substantial number of small credit unions. The rule affects only low-income designated credit unions, and imposes no mandatory regulatory burden on those credit unions. Rather, it increases flexibility by providing a new method of raising capital through secondary capital accounts. Accordingly, a Regulatory Flexibility Analysis is not required.

##### *Paperwork Reduction Act*

NCUA has determined that the requirements that low-income designated credit unions choosing to offer secondary capital accounts must adopt a written plan, send a copy of the plan to their NCUA Regional Director, and have account contract documents and disclosure forms constitute collection of information requirements under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. NCUA believes that these requirements are essential both to ensure the safe and sound operation of a secondary capital program and to ensure that account holders fully understand the nature of their investment in the credit union and the risks involved.

NCUA estimates that the increase in paperwork requirements will affect less than 50 credit unions. The requirements will affect only those credit unions that have a low-income designation and voluntarily choose to offer secondary capital accounts. NCUA estimates that it should reasonably take no more than three hours to comply with the paperwork requirements. This translates to 150 burden hours. The NCUA Board invites comment on: (1) Whether the collection of information is necessary for the proper performance of the

functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Suzanne Beauchesne, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428. Comments should be postmarked by April 2, 1996.

NCUA will, after 60 days from the effective date of the interim rule, submit the paperwork requirements to OMB for review under the Paperwork Reduction Act and publish a notice to that effect in the Federal Register. NCUA will also publish a notice in the Federal Register once OMB takes action on the submission. Federally insured credit unions are not required, pursuant to the terms of the Paperwork Reduction Act, to comply with paperwork requirements until OMB approval and an OMB control number are received. Low-income designated credit unions that choose to offer secondary capital accounts will be expected, however, as a matter of safety and soundness, to adopt written plans, forward a copy of the credit union's plan to the Regional Director (and state supervisor in the case of state credit unions) and use account contract documents and disclosure forms that meet the requirements of this rule in every respect. Failure to do so may jeopardize the ability of low-income designated credit unions to use this authority pending completion of the rulemaking process.

##### *Executive Order 12612*

Executive Order 12612 requires NCUA to consider the effects of its actions on state interests. This rule has no adverse effects on state interests. The rule provides additional authority for federally insured state chartered credit unions, but only to the extent not inconsistent with state law and regulations. The NCUA Board, however, specifically requests the comments of State credit union regulators to obtain their guidance in how the rule may affect their credit unions.

List of Subjects in 12 CFR Parts 701, 709 and 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 25, 1996.  
Becky Baker,  
*Secretary of the Board.*

Accordingly, NCUA amends 12 CFR chapter VII as follows:

#### **PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS**

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Public Law 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601, et seq., 42 U.S.C. 1981 and 42 U.S.C. 3601-3610. Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

2. Section 701.32 is amended by revising the section heading and paragraphs (a) and (b)(1) to read as follows:

##### **§ 701.32 Payment on shares by public units and nonmembers.**

(a) *Authority.* A Federal credit union may, to the extent permitted under Section 107(6) of the Act and this section, receive payments on shares, (regular shares, share certificates, and share draft accounts) from public units and political subdivisions thereof (as those terms are defined in § 745.1) and nonmember credit unions, and to the extent permitted under the Act, this section and § 701.34, receive payments on shares (regular shares, share certificates, and share draft accounts) from other nonmembers.

(b) *Limitations.* (1) Unless a greater amount has been approved by the Regional Director, the maximum amount of all public unit and nonmember shares shall not, at any given time, exceed 20% of the total shares of the federal credit union or \$1.5 million, whichever is greater.

\* \* \* \* \*

3. Section 701.34 is added by redesignating paragraph (d) of § 701.32 as paragraph (a) of § 701.34, by revising the third sentence of newly designated paragraph (a)(1) and by adding new paragraphs (b) and (c) and an Appendix as follows:

##### **§ 701.34 Designation of low-income status; receipt of secondary capital accounts by low-income designated credit unions.**

(a) *Designation of low-income status.* (1) \* \* \* The designation may be removed by the Regional Director upon notice to the federal credit union if the definitions set forth in paragraphs (a)(2)

and (3) of this section are no longer met.

\* \* \*

\* \* \* \* \*

(b) *Receipt of secondary capital accounts by low-income designated credit unions.* A Federal credit union having a designation of low income status pursuant to paragraph (a) of this section may offer secondary capital accounts to nonnatural person members and nonnatural person nonmembers on the following conditions:

(1) Prior to offering secondary capital accounts, the credit union shall adopt, and forward to the appropriate NCUA Regional Director, a written plan for use of the funds in the secondary capital accounts and subsequent liquidity needs to meet repayment requirements upon maturity of the accounts.

(2) The secondary capital account must be established as a subordinated debt account or other form of non-share account.

(3) The maturity of the secondary capital account must be for a minimum of five years.

(4) The secondary capital account must not be redeemable prior to maturity.

(5) The secondary capital account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

(6) The secondary capital account holder's claim against the credit union must be subordinate to all other claims including those of shareholders, creditors and the National Credit Union Share Insurance Fund.

(7) Funds in the secondary capital account (including both principal and interest) must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings (i.e., reserves and undivided earnings exclusive of allowance accounts for loan and investment losses), and to the extent funds are so used, the credit union shall under no circumstances restore or replenish the account. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time the losses are realized.

(8) The secondary capital account may not be pledged or provided by the account-holder as security on a loan or other obligation with the credit union or any other party.

(9) In the event of merger or other voluntary dissolution of the credit union, other than merger into another low-income designated credit union, the secondary capital accounts will, to the extent they are not needed to cover losses at the time of merger or

dissolution, be closed and paid out to the account-holder.

(10) A secondary capital account contract agreement must be executed between an authorized representative of the account holder and the credit union accurately establishing the terms and conditions of this section and containing no provisions inconsistent therewith.

(11) A disclosure and acknowledgment as set forth in the Appendix to this section must be provided to and executed by an authorized representative of the secondary capital account holder at the time of entering into the account agreement, and original copies of the account agreement and the disclosure and acknowledgment must be retained by the credit union for the term of the agreement.

(c) *Accounting treatment; weighted value for purposes of recognizing capital value of secondary capital accounts.* A low-income designated credit union that issues secondary capital accounts pursuant to paragraph (b) of this section shall record the funds on its balance sheet in an equity account entitled "secondary capital account". For such accounts with remaining maturities of less than five years, the credit union shall reflect the capital value of the accounts in a footnote to its financial statement in accordance with the following scale:

1. Four to less than five years remaining maturity—80 percent.
2. Three to less than four years remaining maturity—60 percent.
3. Two to less than three years remaining maturity—40 percent.
4. One to less than two years remaining maturity—20 percent.
5. Less than one year remaining maturity—0 percent

#### Appendix to § 701.34

Disclosures and acknowledgment in the following form must be provided to any investor in secondary capital accounts in a low-income designated credit union.

An original, signed copy must be retained by the credit union.

#### Disclosure and Acknowledgment

I, \_\_\_\_\_ (name of signatory), hereby acknowledge and agree to the following in my capacity as \_\_\_\_\_ (official position or title) of \_\_\_\_\_ (name of institutional investor):

- \_\_\_\_\_ (name of institutional investor) has committed \_\_\_\_\_ (amount of funds) to a secondary capital account with \_\_\_\_\_ (name of credit union).
- The funds committed to the secondary capital account are committed for a period of \_\_\_\_\_ years and are not redeemable prior to \_\_\_\_\_.
- The secondary capital account is not a share account and the funds committed to

the secondary capital account are not insured by the National Credit Union Share Insurance Fund or any other governmental or private entity.

The funds committed to the secondary capital account and any interest paid to the account may be used by \_\_\_\_\_ (name of credit union) to cover any and all operating losses that exceed the credit union's net available reserves and undivided earnings (i.e., reserves and undivided earnings exclusive of allowance accounts for loan and investment losses), and in the event the funds are so used \_\_\_\_\_ (name of credit union) will under no circumstances restore or replenish those funds to \_\_\_\_\_ (organization).

- In the event of liquidation of \_\_\_\_\_ (name of credit union), the funds committed to the secondary capital account shall be subordinate to all other claims on the assets of the credit union, including claims of member shareholders, creditors and the National Credit Union Share Insurance Fund.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(official title)

### PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

4. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1766; Public Law 101-73, 103 Stat. 183, 530 (1989) (12 U.S.C. 1787 *et seq.*).

5. Section 709.5 is amended by revising paragraphs (b)(6) and (b)(7), by adding a new paragraph (b)(8) and by revising the last sentence of paragraph (e) to read as follows:

#### § 709.5 Payout priorities in involuntary liquidation.

(a) \* \* \*

(b) \* \* \*

(6) Shareholders to the extent of their respective uninsured shares and the National Credit Union Share Insurance Fund to the extent of its payment of share insurance;

(7) In a case involving liquidation of a corporate credit union, membership capital share deposits of corporate credit unions; and

(8) In a case involving liquidation of a low-income designated credit union, any outstanding secondary capital accounts issued pursuant to the authority of §§ 701.34 or 741.204(c) of this chapter.

\* \* \* \* \*

(e) \* \* \* If a surplus remains after making distribution in full on all allowed claims described in paragraphs (b)(1) through (b)(8) of this section, such

surplus shall be distributed pro rata to the credit union's shareholders.

## PART 741—REQUIREMENTS FOR INSURANCE

6. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, and 1781–1790.

7. Section 741.204 is amended by revising the third sentence of paragraph (b) and adding a new paragraph (c) to read as follows:

### § 741.204 Maximum public unit and nonmember accounts, and low-income designation.

\* \* \* \* \*

(a) \* \* \*

(b) \* \* \* The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.34(a) of this chapter for federal credit unions. \* \* \*

(c) Receive secondary capital accounts only if the credit has a low-income designation pursuant to paragraph (b) of this section, and then only in accordance with the terms and conditions authorized for Federal credit unions pursuant to § 701.34 of this chapter and to the extent not inconsistent with applicable state law and regulation. State chartered federally insured credit unions offering secondary capital accounts must submit the plan required by § 701.34 to both the state supervisory authority and the NCUA Regional Director.

[FR Doc. 96–2018 Filed 2–1–96; 8:45 am]

BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95–NM–12–AD; Amendment 39–9506; AD 96–03–09]

### Airworthiness Directives; De Havilland Model DHC–8–102, –103, –106, –301, –311, –314, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8 series airplanes, that requires modification of a certain battery temperature monitor. This amendment is prompted by reports of failure of the battery temperature monitor, which resulted in smoke in the

flight compartment. The actions specified by this AD are intended to prevent failure of the battery monitor, which could result in smoke in the flight compartment.

**DATES:** Effective March 4, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1996.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Peter Cuneo, Electrical Engineer, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8 series airplanes was published in the Federal Register on February 21, 1995 (60 FR 9647). That action proposed to require modification of a certain battery temperature monitor.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Since issuance of the NPRM, Transport Canada Aviation has issued Canadian airworthiness directive CF–94–22R1, dated June 30, 1995, which revises the effectivity of the original version of the Canadian airworthiness directive by adding Model DHC–8–315 series airplanes.

The FAA has revised the applicability of the final rule to include these additional airplanes. These additional airplanes currently are operated by non-U.S. operators under foreign registry; therefore, they are not affected directly

by this AD action. However, the FAA considers that the revision to the applicability of the rule is necessary to ensure that the unsafe condition is addressed in the event that these subject airplanes are imported and placed on the U.S. Register in the future.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 137 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$8,220, or \$60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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.