

Chapter 301 be amended to read as follows:

**PART 301-10—TRANSPORTATION ALLOWABLE**

1. The authority citation for 41 CFR part 301-10 continues to read as follows:

**Authority:** 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

2. Amend § 301-10.135, by revising paragraph (b) to read as follows:

**§ 301-10.135 When must I travel using U.S. Flag air carrier service?**

\* \* \* \* \*

(b) The transportation is provided under a bilateral or multilateral air transportation agreement to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act.

(1) *United States-European Union Open Skies Agreement:* Under this Agreement, community airlines have the right to transport passengers on scheduled and charter flights funded by the U.S. Government, including transportation provided to or for a foreign country or international or other organization without reimbursement, when the transportation is between a point in the United States and any point in a Member State or between any two points outside the United States except when:

(i) Transportation is between points for which there is a city-pair contract fare in effect for air passenger transportation services, or

(ii) Transportation is obtained or funded by the Secretary of Defense or the Secretary of a military department;

(2) A listing of the Member States as found in the U.S.-EU Open Skies Agreement may be accessed via the Department of State's Web site at <http://www.state.gov/e/eeb/rls/othr/2007/84475.htm>; or

\* \* \* \* \*

[FR Doc. E8-3970 Filed 3-3-08; 8:45 am]

BILLING CODE 6820-14-P

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**45 CFR Part 1160**

**RIN 3134-AA01**

**Technical Amendments To Reflect the New Authorization for a Domestic Indemnity Program**

**AGENCY:** Federal Council on the Arts and the Humanities.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Council on the Arts and the Humanities proposes to amend its regulations to reflect Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December 26, 2007). The proposed rule includes examples of exhibitions eligible for indemnification which are intended to provide further guidance to applicants considering applying for indemnification of exhibitions with domestic or foreign-owned objects.

**DATES:** Comments are invited and must be received by no later than April 3, 2008.

**ADDRESSES:** You may submit comments, identified by RIN number "3134-AA01," using any of the following methods:

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

*E-mail:* [gencounsel@neh.gov](mailto:gencounsel@neh.gov). Include "RIN 3134-AA01, Domestic Indemnity" in the subject line of the message.

*Fax:* (202) 606-8600.

*Mail:* Heather C. Gottry, Counsel to the Federal Council on Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506.

*Hand Delivery/Courier:* Heather C. Gottry, Counsel to the Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

The Federal Council on the Arts and the Humanities will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:**

Heather C. Gottry, Counsel to the Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506. (Phone: (202) 606-8322, facsimile (202) 606-8600, or e-mail to [gencounsel@neh.gov](mailto:gencounsel@neh.gov)). Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

**SUPPLEMENTARY INFORMATION:**

**I. Background on Domestic Indemnity Program Technical Amendments**

In 1975, the United States Congress enacted the Arts and Artifacts Indemnity Act, 20 U.S.C. Sections 971-977, as amended, which established the Arts and Artifacts Indemnity Program administered by the Federal Council on the Arts and the Humanities (Federal Council). The Federal Council is comprised of the heads of nineteen agencies and was created by Congress, among other things, to coordinate the policies and operations of the National Endowments for the Arts and the Humanities, and the Institute of Museum Services, including the joint support of activities (20 U.S.C. 971).

Under the Arts and Artifacts Indemnity Program, the United States Government guarantees to pay claims for loss or damage, subject to certain limitations, arising from exhibitions of foreign and domestic-owned objects determined by the Federal Council to be of educational, cultural, historical or scientific value. The Arts and Artifacts Indemnity Program is administered by the Museum Program at the National Endowment for the Arts, on behalf of the Federal Council, per "Indemnities Under the Arts and Artifacts Act" regulations (hereinafter "the Regulations"), which are set forth at 45 CFR part 1160.

Since 1975, the Regulations have been promulgated and amended by the Federal Council pursuant to the express and implied rulemaking authorities granted by Congress to make and amend rules needed for the effective administration of the Indemnity Program. Among other things, Congress expressly granted the Federal Council authorities to establish the terms and conditions of indemnity agreements; to set application procedures; and to establish claims' adjustment procedures. (20 U.S.C. 971(a)(2), 973(a), 975(a). In 1995, the Federal Council amended the Regulations to permit the indemnification of domestic-owned objects on exhibition in the United States when they are part of international exhibitions, so long as the foreign loans were integral to the exhibition as a whole.

On December 26, 2007, through Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161, the Arts and Artifacts Indemnity Act was amended in part to expand coverage of the Arts and Artifacts Indemnity program to up to \$5,000,000,000 at any one time for domestic exhibitions. (20 U.S.C. 974(b)). The Federal Council proposes to make

technical amendments to the Regulations to reflect this authorization of a Domestic Indemnity Program. These technical amendments will fulfill the Federal Council's responsibility to its applicants by ensuring that all regulations are up-to-date and consistent with Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December 26, 2007).

## II. Public Comment Procedures

The technical amendments proposed in this rulemaking reflect Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December 26, 2007). The public is invited to make comments on any of the proposed changes.

Comments should be submitted as set forth in the **ADDRESSES** section of this document. Comments, including names, street addresses, and other contact information of respondents, will be available upon request for public review at National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 529, Washington, DC 20506, during regular business hours (8:30 a.m. to 5 p.m.), Monday through Friday, except Federal holidays. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, please be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

All written comments received by the date indicated in the **DATES** section of this document and all other relevant information in the record will be carefully assessed and fully considered prior to publication of the final rule. Written comments on the proposed rule should be specific, confined to issues pertinent to the proposed technical amendments, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the comment addresses. The Federal Council may not necessarily consider or include in the Administrative Record comments that the Federal Council receives after the close of the comment period (see **DATES**), unless they are postmarked or electronically dated before the deadline, or comments

delivered to an address other than those listed above (See **ADDRESSES**).

## III. Matters of Regulatory Procedure

### *Regulatory Planning and Review (E.O. 12866)*

Under Executive Order 12866, the Federal Council on the Arts and the Humanities must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Proposed rule makes technical amendments to reflect Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December 26, 2007). As such, it does not impose a compliance burden on the economy generally or on any person or entity. Accordingly, this rule is not a "significant regulatory action" from an economic standpoint, and it does not otherwise create any inconsistencies or budgetary impacts to any other agency or Federal Program.

### *Regulatory Flexibility Act*

Because this proposed rule would make certain technical amendments, the Federal Council has determined in Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) review that this proposed rule will not have a significant economic impact on a substantial number of small entities.

### *Paperwork Reduction Act*

This rule is exempt from the requirements of the Paperwork Reduction Act, since it makes only minor technical amendments to reflect Congress' authorization of a Domestic Indemnity Program under Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December

26, 2007). An OMB form 83-1 is not required.

### *Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this proposed rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more as adjusted for inflation in any one year.

### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### *Takings (E.O. 12630)*

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. No rights, property or compensation has been, or will be, taken. A takings implication assessment is not required.

### *Federalism (E.O. 13132)*

In accordance with Executive Order 13132, this proposed rule does not have federalism implications that warrant the preparation of a federalism assessment.

### *Civil Justice Reform (E.O. 12988)*

In accordance with Executive Order 12988, the Federal Council has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### *Consultation With Indian Tribes (E.O. 13175)*

In accordance with Executive Order 13175, the Federal Council has evaluated this proposed rule and determined that it has no potential negative effects on federally recognized Indian tribes.

### *National Environmental Policy Act*

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

**List of Subjects in 45 CFR Part 1160**

Administrative practice and procedure, Art, Indemnity payments, Museums, Nonprofit organizations.

Dated: February 27, 2008.

**Heather C. Gottry,**

*Counsel to the Federal Council on the Arts and the Humanities.*

For the reasons stated in the preamble and under the authority of Section 426 of The Consolidated Appropriations Act of 2008, Public Law 110-161 (December 26, 2007), the Federal Council on the Arts and the Humanities proposes to amend 45 CFR part 1160 as follows:

**PART 1160—INDEMNITIES UNDER THE ARTS AND ARTIFACTS INDEMNITY ACT**

1. The authority citation for 45 CFR part 1160 continues to read as follows:

**Authority:** 20 U.S.C. 971-977.

2. Revise Section 1160.4 to read as follows:

**§ 1160.4 Eligibility for international exhibitions.**

An indemnity agreement for an international exhibition made under these regulations shall cover:

(a) Eligible items from outside the United States while on exhibition in the United States;

(b) Eligible items from the United States while on exhibition outside this country, preferably when they are part of an exchange of exhibitions; and

(c) Eligible items from the United States while on exhibition in the United States, in connection with other eligible items from outside the United States which are integral to the exhibition as a whole.

(d)(1) *Example.* An American art museum is organizing a retrospective exhibition which will include more than 150 works of art by Impressionist painter Auguste Renoir. Museums in Paris and London have agreed to lend 125 works of art, covering every aspect of his career, many of which have not been seen together since the artist's death in 1919. The organizer is planning to include 25 masterpieces by Renoir from American public and private collections. The show will open in Chicago and travel to San Francisco and Washington.

(2) *Discussion.* This example is a common application for coverage of both foreign and domestic-owned objects in an international exhibition. The foreign-owned objects are eligible for indemnity coverage under paragraph (a) of this section, and the domestic-owned objects may be eligible for indemnity coverage under paragraph (c)

of this section if the foreign-owned objects are integral to the purposes of the exhibition as a whole. In reviewing this application, the Federal Council would evaluate the exhibition as a whole and determine whether the loans of 125 foreign-owned objects are integral to the educational, cultural, historical or scientific significance of the exhibition on Renoir. It would also be necessary for the U.S. Department of State to determine whether or not the exhibition was in the national interest.

**§§ 1160.6 through 1160.12 [Redesignated as §§ 1160.7 through 1160.13]**

3. Sections 1160.76 through 1160.12 are redesignated as §§ 1160.7 through 1160.13.

**§ 1160.5 [Redesignated as § 1160.6]**

4. Section 1160.5 is redesignated as § 1160.6 and a new § 1160.5 is added to read as follows:

**§ 1160.5 Eligibility for domestic exhibitions.**

An indemnity agreement for a domestic exhibition made under these regulations shall cover eligible items from the United States while on Exhibition in the United States.

(a)(1) *Example 1.* An American museum is undergoing renovation and will be closed to the public for one year. During that time, masterpieces from the collection will go on tour to three other museums in the United States. Many of these works have never been lent for travel, and this will be a unique and the last opportunity for museum visitors in other parts of the country to see them exhibited together. Once the new building opens, they will be permanently installed and dispersed throughout the museum's galleries.

(2) *Discussion.* (i) This is a straightforward example of a domestic exhibition which would be eligible for consideration for indemnity coverage. Under the previous regulations, eligibility was limited to:

(A) Exhibitions in the United States of entirely foreign-owned objects;

(B) Exhibitions outside of the United States of domestic-owned objects; or

(C) Exhibitions in the United States of both foreign and domestic-owned objects, with the foreign-owned objects having integral importance to the exhibition.

(ii) In this example, the Federal Council will consider the educational, cultural, historical, or scientific significance of the proposed domestic exhibition of the domestic-owned objects. It would not be necessary for the U.S. Department of State to

determine whether or not the exhibition was in the national interest.

(b)(1) *Example 2.* An American museum is organizing an exhibition of works by 20th century American artists, which will travel to one other U.S. museum. There are more than 100 objects in the exhibition. The majority of the paintings, drawings and sculpture, valued at more than \$500,000,000, are from galleries, museums and private collections in the United States. The organizing curator has selected ten works of art, mostly drawings and preparatory sketches relating to paintings in the exhibition, valued at less than \$5,000,000, which will be borrowed from foreign lenders.

(2) *Discussion.* (i) This example raises the question of whether this applicant should submit an application for indemnity coverage for a domestic exhibition or an international exhibition. If the applicant submitted an application for an international exhibition requesting coverage for only the foreign-owned objects eligible under Section 1160.4(a), the Federal Council would evaluate whether the ten foreign-owned objects further the exhibition's educational, cultural, historical, or scientific purposes. It would also be necessary for the U.S. Department of State to determine whether or not the exhibition was in the national interest. In this case, the applicant would have to insure the loans of the domestic-owned objects by other means.

(ii) In the case of an application for an international exhibition requesting coverage for both domestic-owned and foreign-owned objects eligible under Section 1160.4(a) and (c), the Federal Council would evaluate the exhibition as a whole to determine if the ten foreign-owned objects are integral to achieving the exhibition's educational, cultural, historical, or scientific purposes. It would also be necessary for the U.S. Department of State to determine whether or not the exhibition was in the national interest.

(iii) If the applicant submitted an application for a domestic exhibition, however, only the loans of domestic-owned objects, the highest valued part of the exhibition, would be eligible for coverage. The Federal Council would consider if the U.S. loans were of educational, cultural or historic interest. It would not be necessary for the U.S. Department of State to determine whether or not the exhibition was in the national interest. In this case, the applicant would have to insure the loans of the foreign-owned objects by other means.

**§ 1160.6 [Amended]**

5. Amend paragraph (j)(2) of newly redesignated § 1160.6 by removing “Director of the United States Information Agency that the exhibition” and adding in its place “Secretary of State or his designee that the international exhibition with eligible items under § 1160.4”.

**§ 1160.7 [Amended]**

6. Amend newly redesignated § 1160.7 by removing “the application will be submitted to the Director of the United States Information Agency” and adding in its place “applications for international exhibitions with eligible items under § 1160.4 will be submitted to the Secretary of State or his designee”.

[FR Doc. E8-4065 Filed 3-3-08; 8:45 am]

BILLING CODE 7036-01-P

---

**FEDERAL COMMUNICATIONS COMMISSION**
**47 CFR Parts 32, 36 and 54**

[WC Docket No. 05-337; CC Docket No. 96-45; FCC 08-4]

**High-Cost Universal Service Support; Federal-State Joint Board on Universal Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission seeks comment on the Commission’s rules governing the amount of high-cost universal service support provided to competitive eligible telecommunications carriers (ETCs), and tentatively concludes that it should eliminate the existing “identical support” rule—also known as the “equal support” rule—which provides competitive ETCs with the same per-line high-cost universal service support amounts that incumbent local exchange carriers receive.

**DATES:** Comments are due on or before April 3, 2008 and reply comments are due on or before May 5, 2008.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05-337 and CC Docket No. 96-45, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission’s Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *E-mail:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the

message, “get form.” A sample form and directions will be sent in response. Include the docket number in the subject line of the message.

- *Mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20544.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by *e-mail:* [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or *phone:* 202-418-0530 or *TTY:* 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ted Burmeister or Katie King, Wireline Competition Bureau, Telecommunications Access Policy Division, 202-418-7400 or TTY: 202-418-0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Notice of Proposed Rulemaking (NPRM) in WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-4, adopted January 9, 2008, and released January 29, 2008. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554.

The document may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at <http://www.bcpweb.com>. It is also available on the Commission’s Web site at <http://www.fcc.gov>.

**Initial Paperwork Reduction Act of 1995 Analysis**

This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

**Synopsis of the Notice of Proposed Rulemaking**
**Introduction**

1. In this NPRM, we seek comment on the Commission’s rules governing the

amount of high-cost universal service support provided to competitive eligible telecommunications carriers (ETCs). As discussed below, we tentatively conclude that we should eliminate the Commission’s current “identical support” rule—also known as the “equal support rule”—which provides competitive ETCs with the same per-line high-cost universal service support amounts that incumbent local exchange carriers (LECs) receive. We seek comment on this tentative conclusion. We also seek comment on our tentative conclusion to provide support to a competitive ETC based on its own costs of providing the supported services. We then seek comment on methodologies for determining a competitive ETC’s relevant costs for universal service support purposes, and other matters related to how the support should be calculated, including the appropriate reporting obligations, and whether we should cap such support at the level of the incumbent LECs.

**Background**

2. Section 254(b) of the Communications Act of 1934, as amended, (the Act) directs the Federal-State Joint Board on Universal Service (Joint Board) and the Commission to base policies for the preservation and advancement of universal service on several general principles, including the principle that there should be specific, predictable, and sufficient federal and state universal service support mechanisms. Public Law 104-104. The Commission adopted the additional principle that federal support mechanisms should be competitively neutral. Consistent with this principle and with the Joint Board’s recommendation, the Commission determined in 1997 that federal universal service support should be made available, or “portable,” to all ETCs that provide supported services, regardless of the technology used. *Federal-State Joint Board on Universal Service*, 62 FR 32862, June 17, 1997 (*First Report and Order*). Section 254(e) of the Act requires that a carrier that receives support “shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” Furthermore, pursuant to section 214(e) of the Act, an ETC must provide service and advertise its service throughout the entire service area. In order to receive universal service support, competitors must obtain ETC status from the relevant state commission, or the Commission in cases where the state commission lacks jurisdiction.