

# Rules and Regulations

Federal Register

Vol. 74, No. 187

Tuesday, September 29, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 585

[Docket No. OTS–2009–0018]

RIN 1550–AC14

#### Prohibited Service at Savings and Loan Holding Companies; Extension of Expiration Date of Temporary Exemption

**AGENCY:** Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Final rule.

**SUMMARY:** OTS is revising its rules implementing section 19(e) of the Federal Deposit Insurance Act (FDIA), which prohibits any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering (or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense) from holding certain positions with respect to a savings and loan holding company (SLHC). Specifically, OTS is extending the expiration date of a temporary exemption granted to persons who held positions with respect to a SLHC as of the date of the enactment of section 19(e). The revised expiration date for the temporary exemption is September 30, 2010.

**DATES:** *Effective Date:* The final rule is effective on September 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Donna Deale, Director, Holding Companies and International Activities, Examinations, Supervision and Consumer Protection, (202) 906–7488, Marvin Shaw, Senior Attorney, Regulations and Legislation Division, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** On May 8, 2007, OTS published an interim final rule adding 12 CFR part 585. This new part implemented section 19(e) of the FDIA, which prohibits any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering (or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense) from holding certain positions with a SLHC. Section 19(e) also authorizes the Director of OTS to provide exemptions from the prohibitions, by regulation or order, if the exemption is consistent with the purposes of the statute.

The interim final rule described the actions that are prohibited under the statute and prescribed procedures for applying for an OTS order granting a case-by-case exemption from the prohibition. The rule also provided regulatory exemptions to the prohibitions, including a temporary exemption for persons who held positions with respect to a SLHC on October 13, 2006, the date of enactment of section 19(e). This temporary exemption is set to expire on September 30, 2009, unless a case-by-case exemption is filed prior to that expiration date.<sup>1</sup>

OTS is extending the expiration date of the temporary exemption to September 30, 2010. This extension will avoid needless disruptions of SLHC operations while OTS continues to review the public comments and develop a final rule addressing these comments. OTS has concluded that this extension of the exemption is consistent with the purposes of section 19(e) of the FDIA.

#### Regulatory Findings

##### *Notice and Comment and Effective Date*

For the reasons set out in the interim final rule,<sup>2</sup> OTS has concluded that: notice and comment on this extension are unnecessary and contrary to the public interest under section 552(b)(B) of the Administrative Procedure Act; there is good cause for making the extension effective immediately under section 553(d) of the APA; and the

<sup>1</sup> This temporary exemption originally was scheduled to expire on September 5, 2007. OTS has extended the expiration date several times, most recently to September 30, 2009 (74 FR 14457, March 31, 2009).

<sup>2</sup> 72 FR at 25953.

delayed effective date requirements of section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) do not apply.

##### *Regulatory Flexibility Act*

For the reasons stated in the interim final rule,<sup>3</sup> OTS has concluded that this extension does not require an initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), and that this extension should not have a significant impact on a substantial number of small entities, as defined in the RFA.

##### *Paperwork Reduction Act*

OTS has determined that this extension does not involve a change to collections of information previously approved under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

##### *Unfunded Mandates Act of 1995*

For the reasons stated in the interim final rule,<sup>4</sup> OTS has determined that this extension will not result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year.

##### *Executive Order 12866*

OTS has determined that this extension is not a significant regulatory action under Executive Order 12866.

##### *Plain Language*

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the Agencies to use “plain language” in all final rules published after January 1, 2000. OTS believes that the final rule containing the extension is presented in a clear and straightforward manner.

#### List of Subjects in 12 CFR Part 585

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations.

#### Authority and Issuance

■ For the reasons in the preamble, OTS is amending part 585 of chapter V of title 12 of the Code of Federal Regulations as set forth below:

<sup>3</sup> 72 FR at 25953–54.

<sup>4</sup> 72 FR at 25954.

**PART 585—PROHIBITED SERVICE AT SAVINGS AND LOAN HOLDING COMPANIES**

■ 1. The authority citation for 12 CFR part 585 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, and 1829(e).

■ 2. Amend § 585.100(b)(2) introductory text to read as follows:

**§ 585.100 Who is exempt from the prohibition under this part?**

\* \* \* \* \*

(b) \* \* \*

(2) This exemption expires on September 30, 2010, unless the savings and loan holding company or the person files an application seeking a case-by-case exemption for the person under § 585.110 by that date. If the savings and loan holding company or the person files such an application, the temporary exemption expires on:

\* \* \* \* \*

Dated: September 23, 2009.

By the Office of Thrift Supervision.

**John Bowman,**  
*Acting Director.*

[FR Doc. E9-23432 Filed 9-28-09; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2008-1117; Directorate Identifier 2008-NM-106-AD; Amendment 39-16026; AD 2009-20-03]

RIN 2120-AA64

**Airworthiness Directives; Boeing Model 727 Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Boeing Model 727 airplanes. This AD requires inspections for cracking of the left- and right-side shear ties and web posts of the kickload beam and the adjacent structure in the vertical stabilizer, and corrective actions if necessary. This AD results from a report of cracking of the left- and right-side web posts and shear ties of the kickload beam. We are issuing this AD to detect and correct cracking of the left- and right-side web posts and shear ties of the kickload beam, which, when coupled with failures in the adjacent structure, could result in structural

failure of the vertical stabilizer, and loss of control of the airplane.

**DATES:** This AD is effective November 3, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 3, 2009.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6577; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 727 airplanes. That NPRM was published in the **Federal Register** on October 29, 2008 (73 FR 64284). That NPRM proposed to require inspections for cracking of the left- and right-side shear ties and web posts of the kickload beam and the adjacent structure in the vertical stabilizer, and corrective actions if necessary.

**Comments**

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the commenters.

**Support for the AD**

Boeing concurs with the contents of the NPRM.

**Request To Revise Method of Determining Compliance Times**

ASTAR Air Cargo (ASTAR) states that the flight hours/flight cycles compliance methods are inconsistent. ASTAR states that it will have 24 airplanes that will need to be initially inspected within 4,000 flight hours or 3,000 flight cycles if it uses the flight-hour compliance method specified in the NPRM. However, ASTAR asserts that it will have only eight airplanes that will need to be initially inspected within 4,000 flight hours or 3,000 flight cycles if it uses the flight-cycles compliance method.

From this comment, we infer that ASTAR requests that we revise the method we used to determine the compliance times proposed in the NPRM. We disagree. We acknowledge that the time each airplane will reach the required compliance time will vary depending on each operator's particular utilization. However, we have confirmed that there is no inconsistency with the method used to determine the compliance time.

We point out that the manufacturer recommended the flight-cycle/flight-hour method for determining the compliance time in Boeing Special Attention Service Bulletin 727-55-0093, dated March 12, 2008. This recommendation was based on the average utilization rate and age of the affected airplanes yet to be inspected, as well as the age of the airplanes on which the subject unsafe condition was identified.

In developing an appropriate compliance time, we considered the safety implications, the manufacturer's recommendation, the time necessary to complete the rulemaking process, and the operators' normal maintenance schedules for timely accomplishment of the required actions. In light of these items, we have determined that the method for determining the initial compliance time is appropriate. However, paragraph (l) of the final rule provides an affected operator the opportunity to apply for an adjustment of the compliance time if the operator also presents data that justify the adjustment. We do not find it necessary to change the final rule in this regard.

Also, from this comment, we infer there is a misunderstanding that an operator has a choice between using the total flight cycles or the total flight hours on an airplane to determine the applicable compliance time. This AD does not provide such an option. To clarify, the "Condition" column of Table 1 in paragraph 1.E. of Boeing Special Attention Service Bulletin 727-