

RESCINDED

Office of Thrift Supervision

April 23, 2001

Department of the Treasury

Transmittal

TR-243

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Federal Register, Vol. 65, No. 243, pp. 78900-78902

Number TR-243

The attached final rule contains technical and conforming amendments that affect several Office of Thrift Supervision regulations, but do not make substantive changes to them. These amendments include clarifications that reflect existing practices and provide consistency among the federal banking agencies, updated statutory and other references, and a correction of a typographical error.

The final rule was published in the Monday, December 18, 2000, edition of the Federal Register, Vol. 65, No. 243, pp. 78900-78902.

— Richard M. Riccobono
Deputy Director
Office of Thrift Supervision

Attachment

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
 [FR Doc. 00-32173 Filed 12-15-00; 8:45 am]
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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 506, 509, and 560

[No. 2000-102]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. They include clarifications to reflect existing practices and to provide consistency among the Federal banking agencies, updated statutory and other references, and a correction of a typographical error.

EFFECTIVE DATE: December 18, 2000.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, Senior Paralegal (Regulations), (202) 906-7135, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. These changes are outlined below:

Part 506—Information Collection Requirements under the Paperwork Reduction Act

OTS is updating its table displaying the OMB control numbers assigned to various OTS regulations under the Paperwork Reduction Act. See 12 CFR 506.1(b). OTS is revising the table to add and correct the references to the control numbers.

Part 509—Rules of Practice and Procedure in Adjudicatory Proceedings

OTS is making two technical amendments to the Uniform Rules of Practice and Procedure. First, OTS is amending § 509.19(c) to conform its default provisions to the rules of the other banking agencies. Under the current OTS rule, if a respondent fails to file a timely answer to a notice of charges in an administrative proceeding,

the Administrative Law Judge (ALJ), upon motion of Enforcement Counsel, "shall . . . file a recommended decision with the Director containing the findings and the relief sought in the complaint." The other banking agencies' rules are similar, but require the ALJ to make the additional determination that "no good cause exists for a respondent's failure to file a timely answer."¹ The ALJs in OTS administrative proceedings have generally given the respondents an opportunity to explain a failure to respond through this good cause process. OTS believes that this technical amendment is necessary to update the rule to reflect existing practices, to provide greater consistency with the other federal banking agencies, and to be more explicit in the requirements of the administrative law judge before recommending a decision based on a default.

OTS is also correcting a typographical error in § 509.31, which governs scheduling and prehearing conferences. The rule currently refers to the ALJ's authority to direct counsel to the parties to meet to address "matters of which *office* notice may be taken (emphasis added)." This reference is replaced with term "official notice."

Part 560—Lending and Investment

Finally, OTS is revising the lending and investment powers chart at § 560.30 to provide corrected statutory citations. The Economic Growth and Regulatory Paperwork Reduction Act of 1996, Public Law No. 104-208, removed section 5(c)(3)(A) of the Home Owners' Loan Act and redesignated sections 5(c)(3)(B) through (D) as 5(c)(3)(A) through (C). OTS has made corresponding changes to the powers chart.

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

The OTS has found good cause to dispense with both prior notice and comment on this final rule and a 30-day delay of its effective date mandated by the Administrative Procedure Act.² OTS believes that it is contrary to public interest to delay the effective date of the rule, as it corrects and clarifies provisions that have caused confusion. Because the amendments in the rule are not substantive, making them effective immediately will not detrimentally affect savings associations.

In addition, this document is exempt from the requirement found in section 302 of the Riegle Community

Development and Regulatory Improvement Act of 1994³ that regulations must not take effect before the first day of the quarter following publication, as it imposes no new requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,⁴ it is certified that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a "significant regulatory action" for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 509

Administrative practice and procedure, Penalties.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations as set forth below.

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. Section 506.1 is amended in paragraph (b) by removing the entry for § 563.134 and adding three new entries in numerical order to read as follows:

¹ See *e.g.*, 12 CFR 19.19(c)(OCC).

² 5 U.S.C. 553.

³ Pub. L. No. 103-325, 12 U.S.C. 4802.

⁴ Pub. L. No. 96-354, 5 U.S.C. 601.

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(b) *Display.*

* * * * *

| 12 CFR part or section where identified and described | Current OMB control No. |
|---|-------------------------|
| 536.40 | 1550-0106 |
| 563.143 through 563.146 | 1550-0059 |
| Part 573 | 1550-0103 |

PART 509—RULES OF PRACTICE AND PROCEDURE IN ADJUDICATORY PROCEEDINGS

3. The authority citation for part 509 continues to read as follows:

Authority: 5 U.S.C. 504, 554-557; 12 U.S.C. 1464, 1467, 1467a, 1468, 1817(j), 1818, 3349, 4717; 15 U.S.C. 78(l), 78o-5, 78u-2; 31 U.S.C. 5321; 42 U.S.C. 4012a.

4. Section 509.19 is amended by revising the second sentence of paragraph (c)(1) and by adding a new sentence following it to read as follows:

§ 509.19 Answer.

* * * * *

(c) *Default—(1) Effect of failure to answer.* * * * If no timely answer is filed, Enforcement Counsel may file a

motion for entry of an order of default. Upon a finding that no good cause has been shown for the failure to file a timely answer, the administrative law judge shall file with the Director a recommended decision containing the findings and the relief sought in the notice. * * *

* * * * *

5. Section 509.31(b)(3) is revised to read as follows:

§ 509.31 Scheduling and prehearing conferences.

* * * * *

(b) *Prehearing conferences.* * * *

(3) Matters of which official notice may be taken;

* * * * *

PART 560—LENDING AND INVESTMENT

6. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

7. Section 560.30 is amended by revising the following three entries in the Lending and Investment Powers Chart and Note 3 following the chart to read as follows:

§ 560.30 General lending and investment powers of Federal savings associations.

* * * * *

LENDING AND INVESTMENT POWERS CHART

| Category | HOLA authorization | Statutory investment limitations (Endnotes contain applicable regulatory limitations) |
|---|--------------------|--|
| Community development loans and equity investments. | 5(c)(3)(A) | 5% of total assets, provided equity investments do not exceed 2% of total assets. ³ |
| Construction loans without security | 5(c)(3)(C) | In the aggregate, the greater of total capital or 5% of total assets. |
| Nonconforming loans | 5(c)(3)(B) | 5% of total assets. |

Notes:

* * * * *

³The 2% of assets limitation is a sublimit for investments within the overall 5% of assets limitation on community development loans and investments. The qualitative standards for such loans and investments are set forth in HOLA section 5(c)(3)(A) (formerly 5(c)(3)(B)), as explained in an opinion of the OTS Chief Counsel dated May 10, 1995 (available at www.ots.treas.gov).

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By the Office of Thrift Supervision.
Dated: December 8, 2000.

Ellen Seidman,

Director.

[FR Doc. 00-31871 Filed 12-15-00; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-CE-69-AD; Amendment 39-12035; AD 2000-25-01]

RIN 2120-AA64

Airworthiness Directives; The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation) PA-31 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 80-26-05, which currently requires you to repetitively inspect the main landing gear (MLG) inboard door hinges and attachment angles for cracks on certain The New Piper Aircraft, Inc. (Piper) PA-31 series airplanes. AD 80-26-05 also requires you to replace any cracked MLG inboard door hinge or attachment angle with parts of improved design. This AD results from the Federal Aviation Administration's policy on aging commuter-class aircraft and the determination that an improved design MLG inboard door hinge and attachment assembly, when incorporated, will eliminate the need for the currently required repetitive short-interval inspections; however, we have received reports of cracks in the improved design MLG inboard door hinge assemblies on the affected airplanes. This AD retains the current repetitive inspections contained in AD 80-26-05, and requires inspections on the improved design parts. The actions specified by this AD are intended to detect and correct cracked MLG inboard door hinge assemblies. These cracked door hinge assemblies could result in the MLG becoming jammed, with consequent loss of control of the airplane during landing operations.

DATES: This AD becomes effective on January 19, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 19, 2001.

ADDRESSES: You may get the service information referenced in this AD from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96-CE-69-AD, 901 Locust, Room 506, 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: William O. Herderich, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703-6082; facsimile: (770) 703-6097; e-mail: william.o.herderich@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

What prior AD action did FAA take on this subject? In 1980, FAA issued AD 80-26-05, Amendment 39-3994, in order to detect and correct cracked main landing gear (MLG) inboard door hinge assemblies on certain Piper PA-31 series airplanes. AD 80-26-05 currently requires you to repetitively inspect the MLG inboard door hinges and attachment angles for cracks; and requires you to replace any cracked MLG inboard door hinge or attachment angle.

On December 1, 1995, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Piper PA-31 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 7, 1995 (60 FR 62774), and proposed to supersede AD 80-26-05, Amendment 39-3994. The NPRM proposed to:

- Retain the requirement of repetitively inspecting the MLG inboard door hinge assemblies for cracks, and replacing any cracked MLG inboard door hinge assembly; and
- Require incorporating a MLG inboard door hinge assembly of improved design (part number (P/N) 47529-32) or FAA-approved equivalent part number, as terminating action for the repetitive inspection requirement.

Accomplishment of the proposed inspections would have been required in accordance with Piper Service Bulletin (SB) No. 682, dated July 24, 1980.

This NPRM was consistent with FAA's aging commuter-class aircraft policy, which briefly states that, when a modification exists that could

eliminate or reduce the number of required critical inspections, the modification should be incorporated. This policy is based on FAA's determination that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. The alternative to installing the improved design hinge assemblies on the affected airplanes would be to rely on the repetitive inspections required by AD 80-26-05 to detect cracks in these areas.

Was the public invited to comment on the NPRM? The FAA invited interested persons to participate in the making of this amendment. Due consideration was given to the one comment received.

What issue did this comment address? The comment received on the NPRM contained information that the improved design MLG inboard door hinge assemblies, P/N 47529-32, are also susceptible to fatigue cracking, and that installing this assembly should not eliminate the need for the repetitive inspections currently required by AD 80-26-05. The commenter stated that its airplane fleet has experienced three failures and three incidents related to fatigue cracking of the P/N 47529-32 hinge assemblies.

What action did FAA take? We conducted a review of the manufacturer's service history and service difficulty reports in FAA's database associated with the P/N 47529-32 MLG inboard door hinge assembly. Based on a review of this information, including the information received from the commenter, we determined that more information and analysis were needed before mandating MLG inboard door hinge assembly replacements through an AD.

We then issued an advance notice of proposed rulemaking (ANPRM) on February 11, 1997. The ANPRM was published in the **Federal Register** on February 19, 1997 (62 FR 7375). The purpose of the ANPRM was to encourage interested persons to provide information that describes what they consider the best action (if any) for FAA to take regarding the P/N 47529-32 MLG inboard door hinge assembly issue. The FAA also withdrew the NPRM. We received no information or comments regarding the ANPRM.

We then re-evaluated the information in our service difficulty database. The database, at that time, contained 10 reports of failure or cracks found in the MLG inboard door hinge assembly on the affected airplanes. The commenter to the original NPRM had submitted six