

need not be considered in determining the limitation contained in 12 U.S.C. 371c with respect to the aggregate amount of loans secured by stock or obligations of an affiliate.

(c) *Federal funds transactions between affiliates.* The limitations contained in 12 U.S.C. 371c apply to the sale of Federal funds by a national bank to an affiliate of such bank.

(d) *Deposits between affiliated banks.* A deposit made by a national bank in an affiliate is considered to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c, except for a deposit made in an affiliated domestic or foreign bank in the ordinary course of correspondent business or as otherwise provided in 12 U.S.C. 371c(d)(1). Loans or extensions of credit to an affiliate are required to be secured under 12 U.S.C. 371c. However, 12 U.S.C. 90 and applicable case law restrict the authority of national banks to pledge their assets to secure private deposits. Similar restrictions on securing deposits also apply to many state-chartered banks. Consequently, a national bank may not make a deposit in an affiliated national bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1). A national bank may not make a deposit in an affiliated state bank unless made in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1) or unless the affiliated state bank can legally offer collateral for such deposit in conformance with the requirements of 12 U.S.C. 371c. A national bank may not receive a deposit from an affiliated bank, except in the ordinary course of correspondent business or as provided in 12 U.S.C. 371c(d)(1), because of its legal inability to provide the required collateral.

Dated: February 17, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120 and 122

Business Loan Policy and Business Loans; Facsimiles of SBA Forms

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize SBA participating lenders to use computer generated facsimile exact copies of SBA application and closing forms in making SBA guaranteed loans.

SBA lenders, under the proposed rule, would agree to accept liability for a substantial SBA loss attributable to deficiencies in such forms. Under the proposed rule, SBA would deny liability to a lender which fails to use SBA provided forms or computerized facsimile exact copies of the SBA forms if this failure would contribute to a substantial loss by the SBA on the guaranteed loan.

DATES: Comments must be submitted on or before April 3, 1995.

ADDRESSES: Comments may be mailed to John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John R. Cox, 202/205-6490.

SUPPLEMENTARY INFORMATION: For many years, the SBA has required that its participating lenders use SBA provided forms in the SBA guaranteed business loan program. With advances in technology, SBA recognizes that such forms may be reproduced as mirror image facsimiles by computers and that such reproductions may be in the best interest of expedition of the SBA guaranteed loan program.

Under this proposed rule, lenders participating in the SBA guaranteed business loan program would be authorized to use SBA application and closing forms which are computer generated by the lenders or from software prepared by third parties with whom they have contracted. Because SBA in the past has withheld permission to computerize some identified SBA forms, the proposed new § 122.5-6 would specifically include these forms in the general authority to utilize computer generated facsimile copies: SBA Forms 147 (Note), 148 (Guaranty), 155 (Standby Agreement), 601 (Applicant's Agreement of Compliance), 928 (Mortgage), 1050 (Settlement Sheet), 1059 (Security Agreement).

SBA's guaranty to a participating lender with respect to an SBA guaranteed business loan is conditional on the lender's actions in properly and prudently making, closing, servicing, and liquidating a loan. Accordingly, SBA's rules release the agency from its obligation to the lender to purchase the guaranteed portion of a business loan under certain prescribed conditions. SBA is proposing to amend § 120.202-5 of its regulations so that it would be released from an obligation to a participating lender to purchase the guaranteed portion of a loan if the lender fails to utilize SBA provided forms or computer exact facsimile

copies thereof, and this failure contributes to a substantial loss on the loan by the SBA. This means that if the computer generated SBA forms used by a lender are not exact facsimile copies, and such lack of conformity contributes or may contribute to a substantial loss by SBA on the loan, SBA could refuse to honor its guaranty with respect to the lender. In no event could SBA refuse to purchase the guaranteed portion from a registered holder (*i.e.*, investor) in the secondary market. SBA's obligation to a registered holder always unconditional, and this proposed rule would have no effect on such obligation.

Compliance With Executive Orders 12612, 12778 and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final form, will not have a significant economic impact on a substantial numbers of small entities.

SBA certifies that this proposed rule, if promulgated in the final form, will not constitute a significant regulatory action for the purposes of Executive Order 12866, since the proposed change is not likely to result in an annual effect on the economy of \$100 million or more.

SBA certifies that the proposed rule, if promulgated in final form, would not impose additional reporting or recordkeeping requirements which could be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

SBA certifies that this proposed rule could not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Further, for purposes of Executive Order 12778, SBA certifies that this proposed rule, if promulgated in final form, is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order. (Catalog of Federal Domestic Assistance Programs, No. 59.012)

List of Subjects

13 CFR Part 120

Loan programs-business, Small Businesses.

13 CFR Part 122

Loan programs-business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend parts

120 and 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.202-5 would be amended by revising the introductory text to read as follows:

§ 120.202-5 When SBA does not purchase.

SBA shall be released from its obligation to purchase its share of the guaranteed loan if the Lender has not substantially complied with all of the provisions of these regulations, the Guaranty Agreement and the Loan Authorization; has failed to disclose material facts; has made material misrepresentations to SBA with respect to the loan; or has failed to utilize SBA provided forms or exact computerized facsimile copies thereof; provided that any of these failures contributes or may contribute to a substantial loss on the loan by SBA; or upon the happening of any one or more the following events:

* * * * *

PART 122—BUSINESS LOANS

1. The authority citation for part 122 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.5-6 would be added to read as follows:

§ 122.5-6 Facsimile Copies of SBA Application Forms.

For guaranteed loans, a Participating Lender may use computer generated SBA application or closing forms which are exact facsimile reproductions of SBA's forms. Lenders which use computer generated application or closing forms agree to accept liability for a substantial SBA loss due to deficiencies in the use of these forms. (See § 120.202-5). All SBA Business loan forms, including the following, may be computer generated: 147 (Note), 148 (Guaranty), 155 (Standby Agreement), 601 (Applicant's Agreement of compliance), 928 (Mortgage), 1050 (Settlement Sheet), 1059 (Security Agreement).

Dated: December 23, 1994.

Philip Lader,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-226-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require modification of the left and right inboard elevator servo assemblies and the hydraulic routing of the right inboard elevator power control package (PCP). This proposal is prompted by a report of an uncommanded right elevator deflection after takeoff and reports of elevator/control column bumps during landing gear retraction on these airplanes. The actions specified by the proposed AD are intended to prevent uncommanded elevator deflection, which could result in structural damage and reduced controllability of the airplane.

DATES: Comments must be received by April 28, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-226-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207; and Parker Hannifin Corporation, Customer Support Operations, 16666 Von Karman Avenue, Irvine, California 92714. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Kathi N. Ishimaru, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2674; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-226-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-226-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received one report of an uncommanded right elevator deflection after takeoff and two reports of elevator/control column bumps during landing gear retraction on Boeing Model 747-400 series airplanes equipped with certain inboard elevator Parker power control packages (PCP). Investigation revealed that hydraulic system number 4 is connected to the sensitive side of the servo valve, which may lead to an uncommanded elevator motion when the return pressure for the hydraulic system number 4 fluctuates. This condition, if not corrected, could result in structural damage and reduced controllability of the airplane.

The FAA has reviewed and approved Parker Service Bulletin 327400-27-171, dated December 2, 1994, which describes procedures for modification of