Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1720

RIN 2550–AA22

Safety and Soundness Regulation

AGENCY: Office of Federal Housing Enterprise Oversight, HUD

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) solicits comments on a proposed regulation that would support increased transparency and public awareness of minimum supervisory standards as may from time to time be adopted by OFHEO and applied in overseeing the safety and soundness of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises). The format of the proposal reflects that used by other Federal regulators to delineate supervisory standards in a manner consistent with the United States Supreme Court rulings affecting such agency pronouncements. OFHEO will adopt and publish supervisory policy guidances as appendices to the proposed rule as it deems appropriate to illuminate areas of particular interest or potential concern.

DATES: Written comments on the proposed rule must be received by July 22, 2002.

ADDRESSES: All comments concerning the proposed rule should be addressed to Alfred M. Pollard, General Counsel, Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW, Fourth Floor, Washington, DC 20552. Copies of all communications received will be available for public inspection and copying at the address above. All comments will be posted on the OFHEO Web site at *http://www.ofheo.gov.* OFHEO requests that written comments submitted in hard copy also be accompanied by an electronic version in MS Word or in portable document format (PDF) on a 3.5'' disk. Alternatively, comments may be submitted via electronic mail to *RegComments@ofheo.gov*.

FOR FURTHER INFORMATION CONTACT: David W. Roderer, Deputy General Counsel, or Marvin Shaw, Senior Counsel, at (202) 414–6924 (not a toll-free number), Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Fourth Floor, Washington, DC 20552. The telephone number for the Telecommunications for the Deaf is: (800) 877–8339 (TTD *only*).

SUPPLEMENTARY INFORMATION: The Federal Housing Enterprises Safety and Soundness Act of 1992, Title XIII of Public Law 102–550 (the Act), empowers OFHEO to take any such action as the Director determines to be appropriate to ensure that the federally sponsored housing enterprises, the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), are adequately capitalized and operating safely by, among other things, adopting supervisory policies and standards by regulation or other guidance or process. On December 19, 2000, OFHEO issued Policy Guidance PG–00–001 setting forth minimum supervisory standards in eight broad areas of particular regulatory interest and potential concern.[1] One year later, a second policy guidance was adopted that specifically sets out the minimum safety and soundness standards for information systems and security.[2] That policy guidance, entitled ''Safety and Soundness Standards for Information,'' focused narrowly on safety and soundness concerns with the adequacy of the Enterprises' respective policies and procedures affecting the security of their information systems and integrity of such information, including borrower information maintained by the Enterprises.

Under those or any subsequently adopted policy guidances, if OFHEO finds that an Enterprise fails to meet specified requirements or standards, the Director may, among other things, require the Enterprise to submit to the agency and to implement a written plan to achieve timely compliance with the requirement or standard. If the Enterprise fails to submit such an adequate plan in the format and within the time specified by the agency or fails in some material respect to implement the plan, the agency may take additional supervisory action. The Director may at any time initiate an action to cease or prescribe conduct by the Enterprise as the agency deems to be appropriate to remedy or correct conditions resulting from an unsafe or unsound practice or condition. Agency actions may include, but are not limited to, issuance of a notice of charges or order, imposition of civil money penalties, or such other remedial actions or sanctions as determined by the Director.

The minimum standards set forth in OFHEO's policy guidances are designed to identify key safety and soundness concerns regarding operation and management of an Enterprise, and to ensure that conduct and practices of the Enterprises reasonably avoid the emergence of problems that might entail serious risks. The minimum standards also reflect the need for internal policies and procedures in particular areas that, if not appropriately addressed by the Enterprises, may warrant supervisory action by OFHEO in order to reduce risks of loss and corresponding capital impairment. The minimum standards set out in such guidances are intended to effect these purposes without dictating how the Enterprises must be operated and managed; moreover, the guidances do not purport to set out detailed operational and managerial procedures that an Enterprise must have in place. Rather, the guidances identify the ends that proper operational and management policies and procedures are to achieve, while leaving the means to be devised by each Enterprise as it designs and implements its own policies and procedures. To the limited extent that OFHEO does specify particular requirements, each Enterprise's management is left with substantial flexibility to fashion and implement those requirements.

[1] OFHEO Policy Guidance PG–00–001, Minimum Safety and Soundness Requirements (Dec. 19, 2000) (available on OFHEO's Web site at *http://www.ofheo.gov*).

[2] OFHEO Policy Guidance PG–01–002, Safety and Soundness Standards for Information (Dec. 19, 2001) (available at *http://www.ofheo.gov*).

In this notice of proposed rulemaking, OFHEO is proposing to issue a rule to provide regulatory support for the adoption and publication of such guidances, and thereby to increase the transparency and public awareness of the supervisory standards employed by OFHEO in the oversight of the Enterprises. The format of the proposed regulation, as a formal agency pronouncement delineating the parameters of the supervisory standards applicable to the Enterprises, mirrors that used by the Office of Comptroller of the Currency (OCC) in promulgating safety and soundness standards for national banks [3] pursuant to Section 39 of the Federal Deposit Insurance Act,[4] as well as in later adopting specific supervisory standards applicable to the information systems of banks.[5]

The regulation and appended guidances are intended to facilitate the public awareness and enforceability of such standards as official agency pronouncements in a manner consistent with recent United States Supreme Court's rulings.[6] Policy guidances adopted by the agency that address matters of safety and soundness concern will be published as appendices to a final rule.

Policy Guidances

The proposed regulation is not intended to effect any specific change in OFHEO's supervisory policies, as either reflected in the policy guidances or elsewhere. OFHEO routinely undertakes to evaluate an Enterprise's policies and practices, in order to determine whether such policies are safe and sound in principle and in practice. OFHEO also evaluates whether procedures are in place to ensure that an Enterprise's policies as adopted by the Enterprise's board of directors and management are, in fact, applied in the normal course of business. OFHEO will continue to determine compliance with the standards specifically addressed in the policy guidances and to assess the policies and practices of the Enterprises that might affect their financial conditions and compliance with applicable laws and regulations through examinations of the Enterprises, as well as off-site monitoring and a continuing dialogue with each Enterprise.

Nothing in the OFHEO Policy Guidances in any way limits the authority of OFHEO to otherwise address unsafe or unsound conditions or practices, or violations of applicable laws, regulations or supervisory orders. Any supervisory action undertaken with reference to the policy guidances or the proposed regulation may be taken separate from, in conjunction with, or in addition to any other enforcement action available to OFHEO. Compliance with the minimum standards articulated in a policy guidance will preclude the agency from finding that an Enterprise is otherwise engaged in a specific unsafe or unsound practice or is in an unsafe or unsound condition, or requiring corrective or remedial action with regard to such practice or condition. That is, supervisory action is not precluded against an Enterprise because it has not been cited for a deficiency under a policy guidance. Conversely, an Enterprise's failure to comply with one of these supervisory standards may not warrant a formal supervisory response from OFHEO, if the agency determines the matter can be otherwise addressed in a satisfactory manner. For example, OFHEO may require timely submission of a plan to achieve compliance with the particular standard or standards, and refrain from taking any other enforcement action.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The proposed regulation is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this proposed regulation need not be submitted to the Office of Management and Budget for formal review.

Unfunded Mandates Reform Act of 1995

This proposed rule does not include a Federal mandate that could result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. As a result, the proposed rule does not warrant the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the proposed regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation only affects the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

This proposed regulatory contains no information collection requirement that would require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

List of Subjects in 12 CFR Part 1720

Administrative practice and procedure, Privacy, Mortgages.

Accordingly, for the reasons set out in the preamble, the Office of Federal Housing Enterprise Oversight proposes to add part 1720 to subchapter C of 12 CFR chapter XVII to read as follows:

PART 1720—SAFETY AND SOUNDNESS

Sec.
1720.1 Authority.
1720.2 Safety and soundness standards.

Authority: 12 U.S.C. 4513(a), 4513(b)(1), 4513(b)(5), 4517(a), 4521(a)(2) through (3), 4631, 4632, and 4636.

§ 1720.1 Authority.

(a) *Authority.* This part is issued by the Office of Federal Housing Enterprise Oversight (OFHEO) pursuant to sections 1313(a), 1313(b)(1), and 1313(b)(5) of the Federal Housing Enterprise Safety and Soundness Act (Act) (12 U.S.C. 4513(a), 4513(b)(1), and 4513(b)(5)). These provisions of the Act authorize

[3] For the OCC, these regulations appear at 12 CFR part 30, Appendix A: ''Interagency Guidelines Establishing Standards for Safety and Soundness''; *see also,* for the Board of Governors of the Federal Reserve System at 12 CFR part 263; and for the Federal Deposit Insurance Corporation at 12 CFR part 308, subpart R; and for the Office of Thrift Supervision at 12 CFR part 570.

[4] 12 U.S.C. 1381p–1.

[5] *See,* Appendix B of 12 CFR part 30.

[6] *See, United States* v. *Mead Corp.,* 533 U.S. 218 (2001), and *Christensen* v. *Harris County,* 529 U.S. 576 (2000).

OFHEO to take any action deemed appropriate by the Director of OFHEO to ensure that the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) are operated in a safe and sound manner, including by adopting supervisory policies and standards by regulation, guidance, or other process.

(b) *Preservation of existing authority.* No action by OFHEO undertaken with reference to a policy guidance or this regulation will in any way limit the authority of the Director otherwise to address unsafe or unsound conditions or practices, or other violations of law, rule or regulation. Action with reference to a policy guidance or this regulation may be taken separate from, in conjunction with, or in addition to any other supervisory response, enforcement action, or agency-imposed requirements deemed appropriate by OFHEO. Nothing in this regulation or any guidance issued by OFHEO limits the authority of the Director pursuant to section 1313 of the Act (12 U.S.C. 4513) or any other provision of law, rule or regulation applicable to the Enterprises.

§ 1720.2 Safety and soundness standards.

Policy guidances as may be adopted from time to time by OFHEO, addressing safety and soundness standards, shall apply to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises). If OFHEO determines that an Enterprise does not meet a requirement set out in such a policy guidance, it may require corrective or remedial actions by the Enterprise, and take such enforcement action as the Director deems to be appropriate.

Dated: June 17, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–15678 Filed 6–20–02; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–09–AD]

RIN 2120–AA64

Airworthiness Directives: General Electric Company CF6–80A1/A3 and CF6–80C2A PMC Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80A1/A3 and CF6–80C2A PMC series turbofan engines. This proposal would require performing either a Directional Pilot Valve (DPV) pressure switch moisture purge procedure and an operational check of the fan reverser or replacing the DPV assembly with a serviceable assembly and performing an operational check of the fan reverser. Thereafter, this AD would require one of these actions on a repetitive basis. This proposal is prompted by a review of fan reverser safety analyses resulting from the discovery of an undetectable failure mode of the DPV pressure switch on certain GE CF6–80C2A and CF6–80A engine models. The actions specified in the proposed AD are intended to prevent inadvertent fan reverser deployment, which, if it occurred in-flight, could result in loss of control of the airplane.

DATES: Comments must be received by August 20, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–09–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Middle River Aircraft Systems, Mail Point 46, 103 Chesapeake Park Plaza, Baltimore, MD, 21220–4295, telephone: (410) 682–0094, fax: (410) 682–0100. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Ann C. Mollica, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA, 01803; telephone (781) 238–7740; fax (781) 238–7199.

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 should 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 action 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–09–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–09–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA received a report of inadvertent thrust reverser deployment on a Pratt & Whitney powered Airbus Industrie A300–600 series airplane. Following that event, the FAA reviewed thrust reverser safety analyses on other