

**PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY**

■ 10. The authority citation for part 114 is revised to read as follows:

**Authority:** 2 U.S.C. 431(8), 431(9), 432, 434, 437d(a)(8), 438(a)(8), 441b.

■ 11. In § 114.9, paragraphs (a) and (b) are revised and new paragraph (e) is added to read as follows:

**§ 114.9 Use of corporate or labor organization facilities.**

(a) *Use of corporate facilities for individual volunteer activity by stockholders and employees.*

(1) Stockholders and employees of the corporation may, subject to the rules and practices of the corporation and 11 CFR 100.54, make occasional, isolated, or incidental use of the facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. A corporation may not condition the availability of its facilities on their being used for political activity, or on support for or opposition to any particular candidate or political party. As used in this paragraph, *occasional, isolated, or incidental use* generally means—

(i) When used by employees during working hours, an amount of activity which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by stockholders other than employees during the working period, such use does not interfere with the corporation in carrying out its normal activities.

(2) *Safe harbor.* For the purposes of paragraph (a)(1) of this section, the following shall be considered occasional, isolated, or incidental use of corporate facilities:

(i) Any individual volunteer activity that does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours; or

(ii) Any such activity that constitutes voluntary individual Internet activities (as defined in 11 CFR 100.94), in excess of one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, provided that:

(A) As specified in 11 CFR 100.54, the activity does not prevent the employee from completing the normal amount of work for which the employee is paid or is expected to perform;

(B) The activity does not increase the overhead or operating costs of the corporation; and

(C) The activity is not performed under coercion.

(3) A stockholder or employee who makes more than occasional, isolated, or incidental use of a corporation's facilities for individual volunteer activities in connection with a Federal election is required to reimburse the corporation within a commercially reasonable time for the normal and usual rental charge, as defined in 11 CFR 100.52(d)(2), for the use of such facilities.

(b) *Use of labor organization facilities for individual volunteer activity by officials, members, and employees.*

(1) The officials, members, and employees of a labor organization may, subject to the rules and practices of the labor organization and 11 CFR 100.54, make occasional, isolated, or incidental use of the facilities of a labor organization for individual volunteer activity in connection with a Federal election and will be required to reimburse the labor organization only to the extent that the overhead or operating costs of the labor organization are increased. A labor organization may not condition the availability of its facilities on their being used for political activity, or on support for or opposition to any particular candidate or political party. As used in this paragraph, *occasional, isolated, or incidental use* generally means—

(i) When used by employees during working hours, an amount of activity during any particular work period which does not prevent the employee from completing the normal amount of work which that employee usually carries out during such work period; or

(ii) When used by members other than employees during the working period, such use does not interfere with the labor organization in carrying out its normal activities.

(2) *Safe harbor.* For the purposes of paragraph (b)(1) of this section, the following shall be considered occasional, isolated, or incidental use of labor organization facilities:

(i) Any individual volunteer activity that does not exceed one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours; or

(ii) Any such activity that constitutes voluntary individual Internet activities (as defined in 11 CFR 100.94), in excess of one hour per week or four hours per month, regardless of whether the activity is undertaken during or after normal working hours, provided that:

(A) As specified in 11 CFR 100.54, the activity does not prevent the employee from completing the normal amount of work for which the employee is paid or is expected to perform;

(B) The activity does not increase the overhead or operating costs of the labor organization; and

(C) The activity is not performed under coercion.

(3) The officials, members, and employees who make more than occasional, isolated, or incidental use of a labor organization's facilities for individual volunteer activities in connection with a Federal election are required to reimburse the labor organization within a commercially reasonable time for the normal and usual rental charge, as defined in 11 CFR 100.52(d)(2), for the use of such facilities.

\* \* \* \* \*

(e) Nothing in this section shall be construed to alter the provisions in 11 CFR Part 114 regarding communications to and beyond a restricted class.

Dated: March 27, 2006.

**Michael E. Toner,**

*Chairman, Federal Election Commission.*

[FR Doc. 06-3190 Filed 4-11-06; 8:45 am]

**BILLING CODE 6715-01-P**

**DEPARTMENT OF THE TREASURY****Office of Thrift Supervision****12 CFR Part 563e**

[No. 2006-16]

RIN 1550-AB48

**Community Reinvestment Act—Community Development**

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

**ACTION:** Final rule.

**SUMMARY:** In this final rule, OTS is revising the definition of “community development” in its Community Reinvestment Act (CRA) regulations to reduce burden and provide greater flexibility to meet community needs. The change is designed to encourage savings associations to increase their community development lending, qualified investments, and community development services in distressed or underserved rural areas and designated disaster areas. This change will make OTS's definition of “community development” and the definition of the other federal banking agencies uniform. OTS is also making a technical change to conform the lettering of its definitions

to that of the other federal banking agencies.

Accompanying this final rule and published in the Notices portion of today's **Federal Register**, is a Notice and Request for Comment to revise OTS's CRA guidance. That notice contains proposed questions and answers related to the revised definition of "community development" and other topics as well as revisions to existing questions and answers.

**DATES:** This rule is effective on April 12, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Celeste Anderson, Senior Program Manager, Operation Risk, (202) 906-7990; Richard Bennett, Counsel, Regulations and Legislation Division, (202) 906-7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On November 24, 2004, OTS published a notice of proposed rulemaking (NPR) proposing changes to, and soliciting comment on, its CRA regulations in two areas: (1) The definition of "community development" and (2) the assignment of ratings. 69 FR 68257. OTS indicated that it was considering addressing these areas to reduce burden to the extent consistent with the safe and sound supervision of the industry and provide institutions with more flexibility to make their own determinations about how best to serve their communities.

OTS designed the proposal to further the CRA burden reduction it began in its final rule published in the **Federal Register** on August 18, 2004 (69 FR 51155), which revised the definition of "small savings association" (2004 Final Rule). It also furthered the burden reductions in the interim final rule published in the **Federal Register** on November 24, 2004 (69 FR 68239) as part of OTS's review of regulations under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) (EGRPRA Interim Final Rule).

On March 2, 2005, OTS adopted changes to the way it assigns CRA ratings. 70 FR 10023. Specifically, OTS provided additional flexibility to each savings association evaluated under the large retail institution test to determine the combination of lending, investment, and service it will use to meet the credit needs of the local communities in which it is chartered, consistent with safe and sound operations. OTS deferred action, however, on revising the definition of "community

development." OTS noted that the Federal Deposit Insurance Corporation (FDIC) had also issued a proposal to expand the definition of "community development." 69 FR 51611 (August 20, 2004). OTS indicated that it was deferring action on this portion of its proposal to allow for further consideration of, and coordination on, these and other proposals.

On March 11, 2005, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the FDIC issued a joint notice of proposed rulemaking which, among other things, proposed to expand the definition of "community development" to include certain community development activities in underserved rural areas and designated disaster areas. 70 FR 12148 (Three-Agency Proposal). Like OTS's proposal, the Three-Agency Proposal responded to suggestions from both institutions and community organizations that the current definition of "community development" was too narrow.

**II. OTS's November 2004 Proposal**

Under OTS's current CRA regulation at 12 CFR 563e.12(f), "community development" means:

- (1) Affordable housing (including multifamily rental housing) for low-or moderate-income individuals;
- (2) Community services targeted to low-or moderate-income individuals;
- (3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or
- (4) Activities that revitalize or stabilize low-or moderate-income geographies. 12 CFR 563e.12(f).

The definition of "community development" significantly affects the requirements on large retail savings associations. OTS evaluates them under a three-part test that can include consideration of their "community development" loans and services, as well as their qualified investments. To earn CRA credit for these activities, the primary purpose must be "community development." 12 CFR 563e.12 and 563e.21-563e.24.

The definition also affects the requirements for wholesale or limited purpose savings associations, since they are evaluated under a test specifically focused on their community development lending, qualified investments, and community

development services. 12 CFR 563e.25. The definition could even affect small savings associations. For a small savings association, OTS considers its performance in making community development loans and qualified investments and providing community development services for purposes of raising a rating, where the savings association so requests. 69 FR at 51159.

The appropriate definition of "community development" was an issue discussed in the July 2001 joint advance notice of proposed rulemaking and the February 2004 joint notice of proposed rulemaking. OTS's November 2004 proposal would have revised the definition of "community development" with respect to rural areas and solicited comment on also encompassing any areas affected by natural or other disasters or other major community disruptions.

With respect to rural areas, OTS proposed to expand the second and fourth paragraphs of the community development definition. Under the expanded definition, community development would also include community services targeted to individuals in rural areas and activities that revitalize or stabilize rural areas.

OTS did not propose a specific definition of "rural" in the NPR. However, it solicited comments on the appropriate definition. 69 FR at 68258-68259.

The proposal also solicited comment on further encouraging savings associations to perform community development activities in any areas affected by natural or other disasters or other major community disruptions. OTS designed this portion of the proposal to build on the long-standing OTS policy of extending CRA credit for relief efforts in the wake of natural and other disasters. This policy was formalized in OTS Thrift Bulletin 71 (August 8, 1997), which states, "OTS will consider the institution's response to a disaster as an important element of "performance context" under [OTS's] Community Reinvestment Act regulations (12 CFR § 563e.21(b)) when evaluating the institution's reconstruction, stabilization and redevelopment activities in its community." OTS has reiterated this policy in a long line of agency guidance pertaining to natural disasters, including Hurricanes Katrina, Rita, and Wilma, as well as other disasters such as the September 11, 2001 terrorist attacks.

**III. The Comments**

As summarized in the March 2005 final rule, OTS received over 4,000

comments on its November 2004 proposal. The vast majority of comments came from consumer and community organizations and representatives (Consumer Comments). These comments opposed the proposal, though a significant number did not address the portion of the proposal on the community development definition. Many expressed concern that the proposal would allow thrifts to serve affluent neighborhoods in rural areas and areas affected by natural disasters, while neglecting low- and moderate-income neighborhoods. They argued that expanding the definition of "community development" would burden low- and moderate-income individuals who would have no other option but to turn to predatory and subprime lenders to finance their homes and small businesses. One joint comment letter from 28 members of the House of Representatives (including 13 members of the Committee on Financial Services) argued that neither the CRA nor its legislative history supports treating all rural activities as qualifying for CRA credit. The Representatives emphasized that the proper focus of the CRA should be on the needs of low- and moderate-income areas without a distinction between urban and rural areas.

In contrast, OTS received about two hundred comments from financial institutions and industry trade associations (Financial Institution Comments). Almost all of these supported the proposal, including the portion on the definition of community development. A common argument was that thrifts with assessment areas that include rural areas often have few opportunities to provide qualified CRA loans, investments, and services. As a result, these thrifts often invest in housing bonds in statewide areas that do not benefit the institution's community. Further, the current rule encourages thrifts to undertake activities primarily in urban areas, leaving many rural areas underserved, notwithstanding the fact that low- and moderate-income families are often dispersed throughout rural areas.

There was no consensus among those who commented on how best to delineate the rural areas that would count for community development. Yet, there was strong sentiment that the public needed a definition for clarity.

#### **IV. Today's Final Rule Revising the Community Development Definition**

Having carefully considered the comments, OTS is revising the definition of "community development" to be the same as the definition that the

Board, OCC, and FDIC adopted in their August 2005 final rule. The revision is designed to encourage all savings associations to increase their community development lending, qualified investments, and community development services in certain nonmetropolitan middle-income areas as well as areas affected by designated disasters. The reason OTS is making this revision is to encourage more community development activities in more areas, to cover the full range of activities that should receive favorable consideration, and to reduce burden by affording savings associations greater flexibility in serving their communities. This revision will make OTS's definition of "community development" and the definition of the other federal banking agencies uniform.

OTS does not believe that the exclusive focus of CRA must be on low- and moderate-income individuals and geographies. The CRA statute indicates: "It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the *local communities in which they are chartered* consistent with the safe and sound operation of such institutions." 12 U.S.C. 2901(b) (emphasis added). Congress also provided in the CRA statute that the written evaluations are to assess "the institution's record of meeting the credit needs of *its entire community, including low and moderate-income neighborhoods.*" 12 U.S.C. 2906(a)(1) (emphasis added).

Given the statutory text, it is appropriate that we evaluate an institution's record of meeting the credit needs of its entire community, particularly, but not limited to, low- and moderate-income neighborhoods and individuals. Accordingly, OTS believes the CRA rule must allow for due consideration of an institution's service to areas and individuals in its community with credit needs, even if those individuals or areas are not low- or moderate-income.

Today's revisions will help ensure that OTS can appropriately consider how well an institution serves the credit needs of certain nonmetropolitan middle-income areas and areas affected by disasters, since these areas can also be part of an institution's community. The revisions do this, in part, by increasing the number and kinds of tracts, particularly rural tracts, in which a savings association's community development activities would receive full CRA credit.

Specifically, OTS is expanding the fourth paragraph of the community development definition. This is the "revitalize or stabilize" category of the definition of "community development." Under the expanded definition, community development will include activities that revitalize or stabilize:

- Low- or moderate-income geographies;
- Designated disaster areas; or
- Distressed or underserved, nonmetropolitan middle-income geographies designated by OTS based on rates of poverty, unemployment, and population loss or based on population size, density, and dispersion.

Under the revised definition of "community development," eligible rural tracts will also include nonmetropolitan middle-income tracts designated by OTS as distressed or underserved based on either of two sets of criteria: (1) Criteria indicating a community is in distress (rates of poverty, unemployment, and population loss) or (2) criteria indicating a community may have difficulty meeting essential community needs (population size, density, and dispersion).

"Nonmetropolitan" means an area outside of an MSA. Eligible rural tracts will continue to include tracts currently defined as low-income or as moderate-income. OTS will base the "distressed or underserved" designations on objective criteria. OTS will designate a nonmetropolitan middle-income tract if it is in a county that meets one or more of the following triggers that the Community Development Financial Institution (CDFI) Fund employs as "distress criteria": (1) An unemployment rate of at least 1.5 times the national average; (2) a poverty rate of 20 percent or more; or (3) a population loss of ten percent or more between the previous and most recent decennial census or a net migration loss of five percent or more over the five-year period preceding the most recent census. 12 CFR 1805.201(b)(3). While the CDFI Fund uses other criteria as well, including an income trigger different from the definition of "low- or moderate-income" under the CRA regulations, OTS is not incorporating these other criteria. Activities will qualify as revitalizing or stabilizing in these tracts, like in low- or moderate-income tracts, based on the regulation and applicable guidance.

A nonmetropolitan middle-income tract will also be designated if it meets criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center

that the tract is likely to have difficulty financing the fixed costs of meeting essential community needs. OTS will use, as the basis for the designations, the "urban influence codes" maintained by the Economic Research Service of the United States Department of Agriculture. These codes can be found at [www.ers.usda.gov/Briefing/Rurality/urbaninf](http://www.ers.usda.gov/Briefing/Rurality/urbaninf). In designated areas, savings association financing for construction, expansion, improvement, maintenance, or operation of essential infrastructure or facilities for health services, education, public safety, public services, industrial parks, or affordable housing, generally, will be considered to meet essential community needs, so long as the infrastructure or facility serves low- and moderate-income individuals. Other savings association activities in such areas, generally, will not qualify for revitalization or stabilization consideration unless the area meets the distress criteria. In these cases, the decision about whether a particular activity qualifies for such consideration, based on the regulation and applicable guidance, will continue to be made on a case-by-case basis.

The distressed or underserved, nonmetropolitan middle-income geographies OTS designates will be listed on the web site of the Federal Financial Institutions Examination Council ([www.ffiec.gov](http://www.ffiec.gov)). That web site contains the list of eligible rural tracts that are distressed or underserved. OTS will use the same list as the other three federal banking agencies. Year-to-year changes in the tracts designated based on the distress criteria are expected to be minimal; to account for such changes there will be a uniform lag period of twelve months for removal from the list of any tract designated based on those criteria. The lag will help promote investments that take an extended period to arrange. A qualifying loan, investment, or service in the area will count as long as the savings association made or entered into a binding commitment to make the loan or investment while the area remains on the FFIEC list. It will also count if the savings association provided or entered into a binding commitment to provide the service during the same period.

OTS is also revising the definition of "community development" to include savings association activities to revitalize or stabilize designated disaster areas as eligible for CRA consideration. Under the revised community development definition, a "designated disaster area" is an area that has received an official designation as a disaster area.

This change will serve to codify, through regulation, OTS's long-standing policy of encouraging savings associations to take an active role in assisting in disaster recovery efforts. Particularly in light of several recent severe hurricanes, it is appropriate that OTS recognize the critical role that savings associations should play in helping revitalize affected communities and assisting borrowers affected to recover their financial strength. Examiners will give significant weight to a savings association's revitalization activities in a disaster area that benefit low- or moderate-income individuals.

Accompanying this final rule and published in the "Notice" portion of today's **Federal Register**, is a Notice and Request for Comment to revise OTS's CRA guidance as contained in the Interagency Questions and Answers Regarding Community Reinvestment. 65 FR 36620 (July 12, 2001). That notice contains proposed questions and answers related to the revised definition of "community development" and other topics as well as revisions to existing questions and answers. The proposed guidance in that notice is consistent with final guidance the other federal banking agencies recently issued. See 71 FR 12424 (March 10, 2006).

#### V. Technical Amendment

OTS is also making a technical change to conform the lettering of the definitions in its CRA rule to that of the other federal banking agencies. Because OTS's rule applies to savings associations rather than banks, OTS's rule does not define the term "bank" whereas the CRA rules of the other federal banking agencies do. Compare 12 CFR 563e.12 with 12 CFR 25.12(e), 228.12(e), and 345.12(e). As a result, OTS designated many of the definitions in its rule with the letter that precedes the letter the other federal banking agencies use in their rules. These designations have caused technical complications, including complications in referencing the appropriate paragraph of the rule for purposes of interagency guidance.

Today's final rule reserves one lettered paragraph in § 563e.12 to provide for greater consistency among the federal banking agencies regulations.

#### Regulatory Analysis

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

OTS finds that there is good cause to dispense with the 30-day delay of effective date mandated by the Administrative Procedure Act. 5 U.S.C.

553. OTS believes that this procedure is unnecessary and contrary to the public interest because this final rule imposes no additional requirements. It reduces burden by expanding the types of community development activities for which savings associations may receive CRA consideration. It is particularly appropriate that the provisions regarding CRA credit for revitalizing and stabilizing designated disaster areas are put into effect immediately in light of the unprecedented and tragic devastation caused by several recent Gulf coast hurricanes. In this way, OTS will further encourage savings associations to take an active role in assisting in disaster recovery efforts.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides that regulations that impose additional reporting, disclosure, or other new requirements may not take effect before the first day of the quarter following publication. 12 U.S.C. 4802. This section does not apply because this final rule imposes no additional requirements. It reduces burden by expanding the types of community development activities for which savings associations may receive CRA consideration.

#### *Paperwork Reduction Act*

In accordance with the requirements of the Paperwork Reduction Act of 1995, OTS may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection of information is currently approved under OMB Control Number 1550-0012. This final rule does not change the collection of information.

#### *Regulatory Flexibility Act*

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that the final rule will not have a significant economic impact on a substantial number of small entities. It will not impose any additional paperwork or regulatory reporting requirements. It will simply encourage savings associations to increase their community development lending, qualified investments, and community development services in certain nonmetropolitan middle-income areas and areas affected by disasters. The technical amendment to the paragraph lettering in § 563e.12 has no impact whatsoever.

*Executive Order 12866 Determination*

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

*Unfunded Mandates Reform Act of 1995 Determination*

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation). If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. OTS has determined that this rule will not result in expenditures by State, local, and tribal governments, or by the private sector, exceeding the expenditure threshold. Accordingly, OTS has not prepared a budgetary impact statement nor specifically addressed the regulatory alternatives considered.

*Executive Order 13132*

OTS has determined that this final rule does not have any Federalism implications, as required by Executive Order 13132.

**List of Subjects in 12 CFR Part 563e**

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

**Office of Thrift Supervision***12 CFR Chapter V*

■ For the reasons outlined in the preamble, the Office of Thrift Supervision amends part 563e of chapter V of title 12 of the Code of Federal Regulations as set forth below:

**PART 563e—COMMUNITY REINVESTMENT**

■ 1. The authority citation for part 563e continues to read as follows:

**Authority:** 12 U.S.C. 1462a, 1463, 1464, 1467a, 1814, 1816, 1828(c), and 2901 through 2907.

■ 2. In § 563e.12:

- a. Redesignate paragraphs (e) through (w) as (f) through (x);
- b. Add and reserve a new paragraph (e); and
- c. Revise newly redesignated paragraph (g)(4) to read as follows:

**§ 563e.12 Definitions.**

\* \* \* \* \*

(e) [Reserved]

\* \* \* \* \*

(g) *Community development means:*

\* \* \* \* \*

(4) Activities that revitalize or stabilize—

(i) Low- or moderate-income geographies;

(ii) Designated disaster areas; or

(iii) Distressed or underserved, nonmetropolitan middle-income geographies designated by OTS based on—

(A) Rates of poverty, unemployment, and population loss; or

(B) Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.

\* \* \* \* \*

Dated: March 31, 2006.

By the Office of Thrift Supervision.

**John M. Reich,**

*Director.*

[FR Doc. 06-3472 Filed 4-11-06; 8:45 am]

**BILLING CODE 6720-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2005-22423; Directorate Identifier 2005-NM-068-AD; Amendment 39-14556; AD 2006-08-02]**

**RIN 2120-AA64**

**Airworthiness Directives; Boeing Model 747-200C and -200F Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 747-200C and -200F series airplanes. That AD currently requires repetitive inspections to find fatigue cracking in the upper chord of the upper deck floor beams, and repair if necessary. For certain airplanes, the existing AD also provides an optional repair/modification, which extends certain repetitive inspection intervals. This new AD reduces the compliance time for all initial inspections and reduces the repetitive interval for a certain

inspection. This AD results from new reports of cracks in the upper deck floor beams occurring at lower flight cycles. We are issuing this AD to find and fix cracking in certain upper deck floor beams. Such cracking could extend and sever floor beams at a floor panel attachment hole location and could result in rapid decompression and loss of controllability of the airplane.

**DATES:** This AD becomes effective May 17, 2006.

The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2439, Revision 1, dated March 10, 2005, as listed in the AD as of May 17, 2006.

On March 15, 2004 (69 FR 5920, February 9, 2004), the Director of the **Federal Register** approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2439, dated July 5, 2001.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6437; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:****Examining the Docket**

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

**Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004-03-11, amendment 39-13455 (69 FR 5920, February 9, 2004). The existing AD applies to certain Boeing Model 747-200C and -200F series airplanes. That NPRM was published in the **Federal Register** on September 16, 2005 (70 FR 54668). That