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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 12 CFR Chapter XVII

#### Office of Federal Housing Enterprise Oversight; Notice of Regulatory Review

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Response to comments.

**SUMMARY:** On September 7, 2005, the Office of Federal Housing Enterprise Oversight (OFHEO) issued a notice of regulatory review (Notice), and request for comments under OFHEO Policy Guidance 01-001 (April 2, 2001).<sup>1</sup> OFHEO requested public comment as to whether existing regulations have become inefficient or create unwarranted burden. This document summarizes the comments that were received.

**DATES:** Written comments on the Notice were required to be received no later than November 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** David A. Felt, Acting General Counsel, telephone (202) 414-3750 (not a toll-free number); or Tina Dion, Associate General Counsel, telephone (202) 414-3838 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Federal Housing Enterprises Safety and Soundness Act of 1992, Title XIII of Pub. L. 102-550, empowers the Director of OFHEO to undertake rulemaking and such other actions as the Director determines to be appropriate to oversee the activities and

operations of Freddie Mac and Fannie Mae (the Enterprises). In the course of exercising such authority, the Director has promulgated regulations and issued guidelines and supervisory policies.

OFHEO Policy Guidance 01-001 for regulatory review creates a process for routine review and, where appropriate, revision of regulations by OFHEO. Such a process provides for planned reviews of the regulatory infrastructure and consideration of information under uniform criteria to assist in determinations of whether an unnecessary regulatory burden exists. Once a review is completed, the Director determines what steps may be necessary to relieve any unnecessary burden, including amendment to or repeal of existing regulations or issuance of less formal guidance.

The review process is conducted by the Office of General Counsel, under the direction of the General Counsel, and includes internal consultation with other OFHEO offices and staff, guidance provided by the Director, as well as consideration of public comments. A review and report of findings and recommendations are provided to the Director. The report of findings and recommendations is privileged and confidential.

The regulatory review conducted under the Policy Guidance is not a formal or informal rulemaking proceeding under the Administrative Procedure Act and creates no right of action against OFHEO. Moreover, the determination of OFHEO to conduct or not to conduct a review of a regulation and any determination, finding, or recommendation resulting from any review under the Policy Guidance are not final agency actions and, as such, are not subject to judicial review.

##### Regulations Under Review

The regulations of OFHEO that were subject to the regulatory review described in the Notice are codified in Title 12, Chapter XVII, Subchapters A, C, and D, Parts 1700-1780 of the Code of Federal Regulations (CFR). In addition to being found in the CFR, the regulations (as well as the Policy Guidance referenced in this Notice) are available on the OFHEO Web site, <http://www.ofheo.gov>, by clicking on the "Regulations and Policy Guidance" category on the left side of the webpage.

##### Request for Comments

The Office of the General Counsel invited comments on all aspects of the proposed regulatory review, including legal and policy considerations, and took all comments into consideration before issuing its report of findings to the Director. The comment period was set at 60 days to afford ample opportunity for comment. All comments received were made available to the public in the OFHEO Public Reading Room and were posted on the OFHEO Web site at <http://www.ofheo.gov>.

##### Comments Received

Comments were received from Freddie Mac; the Mortgage Insurance Companies of America (MICA); and the Consumer Mortgage Coalition (CMC), a trade association of national mortgage lenders, servicers, and service providers. A discussion of significant comments follows.

Freddie Mac commented that the Minimum Capital regulation (12 CFR part 1750 subpart A) should be updated. OFHEO concurs that revisions to the regulation are in order and currently is considering whether to propose an amended regulation that would address FAS 133 and other mark-to-market accounting pronouncements. Any proposed amendments would be issued for public comment.

Also addressing capital regulation, MICA commented that OFHEO should change the categorization of loan-to-value ratios (LTVs) for risk-based capital purposes from the current approach, which does not distinguish a first mortgage made concurrently with a second lien and one without, to an approach based on the combined LTV of all loans outstanding on a property, to the extent known (RBC Rule) (12 CFR part 1250 subpart B).

Freddie Mac commented that OFHEO should amend the Prompt Supervisory Response and Corrective Action regulation (12 CFR part 1777) to eliminate provisions relating to the one-year transition period that followed the effective date of the RBC rule. OFHEO is aware that Subpart B of the regulation contains an out-of-date section and would propose appropriate updates under a proposal for notice and comment.

Commenting on the OFHEO Safety and Soundness regulation (12 CFR part 1720), MICA stated that OFHEO should,

<sup>1</sup> 70 FR 53105 (September 7, 2005).

by regulation, bar the Enterprises from purchase of mortgages or mortgage-backed securities that exceed the 80% LTV. However, the Enterprises are already limited to the purchase of mortgages and mortgage-backed securities that are similar in risk to those with an 80% LTV. Further, this proposal would not reduce regulatory burden, which was the subject of this document.

CMC also commented on the Safety and Soundness regulation, stating that OFHEO should augment the policy guidance on internal controls to clarify that *ultra vires* acts also represent a failure of internal controls. OFHEO would consider addressing this comment within the context of corporate governance oversight as either a rule or guidance. CMC further commented that OFHEO should augment the Safety and Soundness regulation to include prohibitions on anticompetitive, deceptive or unfair practices. OFHEO, as a matter of practice, would refer such behavior if detected for review and determination by the appropriate regulatory agency.

CMC commented that OFHEO should use two rating agencies to review the Enterprises on a biennial basis, and a stand-alone basis. OFHEO notes that it has such statutory authority under 12 U.S.C. 4519 to employ such agencies and that this is a regulatory decision in the discretion of the Director.

#### Consideration of Comments

All comments were taken into consideration, and where appropriate, may be considered within the context of changes to OFHEO regulations or new guidance. Some comments received, but not discussed here, would require legislative changes and may not be acted upon under OFHEO's current authority. OFHEO, nevertheless, appreciated comment on all aspects of its regulatory program that may pose a burden.

Dated: April 14, 2006.

**Stephen A. Blumenthal,**

*Acting Director, Office of Federal Housing Enterprise Oversight.*

[FR Doc. 06-3762 Filed 4-18-06; 8:45 am]

**BILLING CODE 4220-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-23646; Directorate Identifier 2006-CE-05-AD; Amendment 39-14563; AD 2006-08-08]

RIN 2120-AA64

#### **Airworthiness Directives; Air Tractor, Inc. Models AT-400; AT-401, AT-401B, AT-402, AT-402A, and AT-402B Airplanes**

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Air Tractor, Inc. (Air Tractor) Models AT-400, AT-401, AT-401B, AT-402, AT-402A, and AT-402B airplanes. This AD requires you to lower the safe life for the wing lower spar cap for certain Models AT-402A and AT-402B airplanes and those that incorporate or have incorporated Marburger Enterprises, Inc. (Marburger) winglets. For Models AT-400, AT-401, AT-401B, AT-402, and certain AT-402A, airplanes, this AD requires you to repetitively inspect the wing lower spar cap in order to reach the safe life. We also developed an alternative method of compliance (AMOC) to the requirements of this AD for certain Models AT-402A and AT-402B airplanes. The AMOC includes repetitive eddy current inspections, modification of the center splice connection, and lower spar cap replacement. This AD is the result of reports of cracks in the 3/8-inch bolt hole of the wing lower spar cap before reaching the approved safe life. We are issuing this AD to prevent fatigue cracks from occurring in the wing lower spar cap before the originally established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in wing separation and loss of control of the airplane.

**DATES:** This AD effective on April 21, 2006.

As of April 21, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

We must receive any comments on this AD by June 2, 2006.

**ADDRESSES:** Use one of the following to submit comments on this AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions

for sending your comments electronically.

- *Government-wide rulemaking web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Fax:* 1-202-493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Air Tractor, Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564-5616; facsimile: (940) 564-5612; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893-1420 or (701) 774-0230; facsimile: (701) 572-2602.

To view the comments to this AD, go to <http://dms.dot.gov>. The docket number is FAA-2006-23646; Directorate Identifier 2006-CE-05;AD.

#### **FOR FURTHER INFORMATION CONTACT:**

Direct all questions to:

- For airplanes that do not incorporate and never have incorporated Marburger winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222-5102; facsimile: (817) 222-5960; and
- For airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California, 90712; telephone: (562) 627-5228; facsimile: (562) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

What is the background of the subject matter? There have been five previous airworthiness directives (ADs) issued related to the wing spar inspection and safe life on Air Tractor airplanes:

- AD 2000-14-51, Amendment 39-11837 (65 FR 46567, July 31, 2000).
- AD 2001-10-04, Amendment 39-12230 (66 FR 27014, May 16, 2001).
- AD 2001-10-04 R1, Amendment 39-12247 (66 FR 2990, June 4, 2001).
- AD 2002-11-05, Amendment 39-12766 (67 FR 37967, May 31, 2002).
- AD 2002-26-05, Amendment 39-12991 (68 FR 18, January 2, 2003).

*AD 2000-14-51:* An Air Tractor Model AT-502A experienced an in-flight wing separation. As a result, the