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DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 1910, 1941, 1943, 1945, and 1980

RIN 0560-AE87

Implementation of the Direct and Guaranteed Loan Making Provisions of the Federal Agricultural Improvement Act of 1996

AGENCY: Farm Service Agency, Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This action is being taken to implement provisions of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act), which affect the making of direct and guaranteed farm credit program loans of the Farm Service Agency (FSA), formerly administered by the Farmers Home Administration (FmHA). This action is required by the 1996 Act, provisions of which were effective upon enactment or 90 days after enactment. The intended effect is to complement provisions of the 1996 Act and improve FSA's direct and guaranteed farm credit loan making function.

DATES: Effective March 24, 1997. Comments must be submitted by May 2, 1997.

ADDRESSES: Submit written comments to the Director, Farm Credit Programs Loan Making Division, Farm Service Agency, Stop 0522, Post Office Box 2415, Washington, D.C. 20013-2415.

FOR FURTHER INFORMATION CONTACT:

Steven R. Bazzell, Senior Loan Officer, Farm Service Agency. Telephone: 202-720-3889; facsimile: 202-690-1117; or e-mail: sbazzell@wdc.fsa.usda.gov

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule was determined significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule since the Farm Service Agency (FSA) is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking to effect these administrative changes. See section 663(d) of the 1966 Act.

The Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) Pub. L. 104-4, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FSA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objective of the rule.

This rule contains no Federal mandates (under regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Environmental Evaluation

This action has no significant impact on the quality of the environment, and therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule, (1) all State and local laws and regulations that are in conflict with this rule will be preempted, (2) no retroactive effect will be given to this rule, and (3) administrative proceedings in accordance with the agency procedures, or those regulations published by the Department of Agriculture to implement the provisions of the National Appeals Division as mandated by the Department of Agriculture Reorganization Act of 1994 (7 CFR parts 11 and 780), must be exhausted before bringing suit in court challenging action taken under this rule, unless those regulations specifically allow bringing suit at an earlier time.

For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) the programs within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act

This interim rule does not impose any new information collection or recordkeeping requirements; however, the provisions of the 1996 Act do eliminate the need for some information previously collected and result in a revision to the number of estimated respondents from whom information will be collected. Therefore, the Agency is revising the information collection currently approved in support of the Direct Farm Ownership Loan program regulations under the Office of Management and Budget (OMB) control number 0560-0157 and the Application for Direct Loan Assistance under OMB control number 0560-1067. The Agency will publish a Federal Register notice in the near future requesting comments for a 60-day period regarding revisions resulting from the 1996 Act; increases or decreases in program activity; and, changes to the estimated responses per respondent and estimated average hours per response. OMB emergency clearance has been obtained to allow continued use of the affected regulations and forms under OMB control number 0560-0173.

Discussion of the Interim Rule

The 1996 Act required certain provisions to be implemented no later

than 90 days from April 4, 1996, the date of enactment. Section 374 of the Consolidated Farm and Rural Development Act (CONACT) as added by section 649 of the 1996 Act, requires streamlined compliance certifications for applicants and borrowers. Implementation of this section does not require a regulatory change; instead, the Agency will revise the loan application to implement section 374. The other specific changes to the loan making provisions of the FSA farm credit programs are discussed by loan program as follows:

Operating Loan (OL) Program

Subject to the limitations discussed below in the "transition rule," the 1996 Act restricts direct OL eligibility to farmers and ranchers who meet the definition of a beginning farmer or rancher, but who have operated a farm or ranch for 5 year or less, or who have not previously received direct OL loans in more than 6 different years, and who have not had a CONACT debt forgiven through a write down or write off under section 353 of the CONACT, a compromise, adjustment, reduction, or charge-off of a debt or claim under section 331 of the CONACT, payment of a loss on a guaranteed loan under section 357 of the CONACT, or through the discharge of any portion of a debt as a result of bankruptcy. This restriction applies to all parties who have executed a promissory note. The 1996 Act did stipulate that borrowers who obtained a write-down on a direct or guaranteed loan under section 353 of the CONACT would remain eligible for direct and guaranteed OL loans to pay farm and ranch annual operating expenses, which includes family subsistence expenses. A transition rule provides that if on April 4, 1996, a farmer or rancher had received direct OL loans in 4 or more previous years, the applicant is eligible for new direct OL loans for 3 additional years. The 4 or more previous years' OL loans may have been received in non-consecutive years. The new direct OL loans may also be made to the applicant in non-consecutive years. The loan repayment term and the time that a loan is outstanding are not considerations. In establishing the 5 years of experience, the 1996 Act specifically states that Rural Youth loans do not qualify as the operation of a farm or ranch. However, the Agency has never considered the recipient of a Youth Loan as a farm operator for establishing experience levels and this provision represents no change in regulatory procedures. The 1996 Act does specifically state that Youth Loans do not count against the recipient with regard to the OL

eligibility time limits. A minor clarification has been added to state that Youth Loan purposes may be broader than regular operating loan purposes. For direct and guaranteed OL loans, the 1996 Act has changed the definition of a beginning farmer to eliminate the restriction that applicants may not own farm or ranch property that is greater than 25 percent of the median farm size. Direct OL loan purposes have been narrowed to eliminate non-farm enterprise, recreation, pollution abatement and control, small business, and solar energy as explicit loan purposes. The special beginning farmer or rancher operating loan assistance provisions have been removed because sections 318 and 310F of the CONACT were repealed by the 1996 Act. In addition, the prior statutory provision that required the Agency to extend additional direct annual operating loans to borrowers in default on loans with the Agency has been effectively eliminated. Debt refinancing under the direct OL loan program is still an eligible loan purpose but is now restricted under the 1996 Act, as follows: Applicants are eligible for refinancing with direct OL funds providing they have had direct or guaranteed OL loans refinanced 4 times or less, and they meet one of the following two conditions: (1) The applicant is an existing direct loan borrower who has suffered a qualifying loss because of a disaster declared by the President or designated by the Secretary, or (2) is an applicant refinancing a debt owed to a non-USDA creditor. The direct loan borrower referred to in (1) above may be indebted for any type of direct loan under the CONACT. The restriction on the number of times that OL loans may be refinanced will have little impact since the Agency very rarely "refinances" its own loans, which involves obtaining a new promissory note and obligating new funds. A lender who refinances a borrower's direct OL loan with an Agency loan guarantee will receive a 95-percent guarantee on the total unpaid amount of the direct loan refinanced. Borrowers participating in Agency's down payment farm ownership loan program will also receive 95-percent guarantees on their guaranteed FO or OL loans. The 1996 Act directs the Agency to use the current definition of war found in 38 U.S.C. section 101(12) to determine eligibility for veteran's preference. This change makes veterans of the Persian Gulf War eligible for preferential funding when there is a shortage of funds. Farmers and ranchers must comply with the catastrophic risk

protection insurance (CAT) requirement by either obtaining at least the CAT coverage level on economically significant crops, or waiving their eligibility for emergency crop loss assistance in connection with the uninsured crop. However, FSA direct emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purposes of implementing this statutory provision. In addition, chattel property acquired with direct OL loans must be covered by general hazard insurance at the tax or cost depreciated value of the property, whichever is less. Real estate serving as primary security must also be covered by insurance in accordance with 7 CFR part 1806, subpart A. A transition provision in section 2002 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 authorizes making and guaranteeing OL and EM loans as in effect prior to the date of enactment of the 1996 Act to a loan applicant less than 90-days delinquent on that date that had already submitted an application for the loan.

Farm Ownership (FO) Program

The 1996 Act restricts direct FO eligibility to an applicant who has at least 3 years experience operating a farm or ranch and who either (1) meets the Agency's regulatory definition of a beginning farmer or rancher, or (2) has never received a direct FO loan, or (3) has not had a direct FO loan outstanding for more than 10 years before the new direct FO loan would be closed. In establishing the 3 years of experience, the 1996 Act specifically states that rural Youth loans do not qualify as the operation of a farm or ranch. However, as with the direct OL loan program, this is not a departure from previous Agency regulations on establishing experience levels. The 1996 Act contains a transition rule for existing borrowers, which allows (1) borrowers who, on April 4, 1996, the date of enactment of the 1996 Act, had a direct FO loan outstanding for less than 5 years to receive additional direct FO loans for 10 more years from April 4, 1996; and (2) 5 additional years for borrowers who had a direct FO loan outstanding for 5 or more years on April 4, 1996. The 1996 Act has changed the definition of a beginning farmer to raise the maximum amount of farm or ranch property that may be owned from 15 to 25 percent of the median farm size in which the property is located. However, the Agency will continue to use the mean rather than the median farm size in this definition since median farm sizes are unavailable in the Census of Agriculture. The scope of direct FO loan

purposes has been reduced by eliminating debt refinancing, pollution abatement and control, non-farm enterprises, non-fossil energy systems, and recreation uses and facilities as explicit loan purposes. Guaranteed FO loan purposes mirror the changes in the direct FO program, with the exception that refinancing remains as eligible guaranteed FO loan purpose. In fact, the 1996 Act provides a 95-percent, as opposed to the normal 90-percent maximum, guarantee of unpaid principal and interest when the loan purpose is to refinance direct loan debts owned to the Agency. Hazard insurance is required by the 1996 Act as a direct FO loan condition. The FO applicant must provide evidence that hazard insurance has been obtained on any real estate improvements securing an FO loan. Farmers and ranchers must also comply with the catastrophic risk protection insurance (CAT) requirement by either obtaining at least the CAT coverage level on economically significant crops, or waiving their eligibility for emergency crop loss assistance in connection with the uninsured crop. FSA direct emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purposes of implementing this statutory provision. The 1996 Act allows the Agency to provide a four percent minimum interest rate to direct FO borrowers who obtain at least 50 percent of their real estate financing needs from a private creditor, with or without an FSA loan guarantee. The Agency's regulations establish a minimum of four percent in accordance with the 1996 Act, with the intention that the Agency will adjust the rate periodically to reflect budgetary constraints and overall demand for direct FO loan funds. The 1996 Act stipulates that the Agency use the current definition of war found in 38 U.S.C. section 101(12) to determine eligibility for veteran's preference. This extends preferential treatment to veterans of the Persian Gulf war when there is a shortage of funds. Guaranteed FO loans made to eligible applicants participating in the Down payment Loan program will have their loans guaranteed at the rate of 95 percent.

Emergency (EM) Loan Program

Rather than the previous statutory requirement for crop insurance to have covered crops affected by a disaster as a result of which an EM loan is sought, hazard insurance now must have covered property on which a farmer or rancher is seeking an EM physical loss loan. The minimum level of coverage must have been at the tax or cost

depreciated value, whichever is less. Farmers and ranchers must also comply with the catastrophic risk protection insurance (CAT) requirement by either obtaining at least the CAT coverage level on economically significant crops, or waiving their eligibility for emergency crop loss assistance in connection with the uninsured crop. FSA direct EM loss loan assistance is not considered emergency crop loss assistance for the purposes of implementing this statutory provision. The test for credit threshold has been reduced from \$300,000 to \$100,00, which requires applicants with EM requests of greater than \$100,000 to apply at a minimum of three commercial lenders to ensure that private credit, with or without an FSA loan guarantee, is unavailable. The maximum level of EM principal indebtedness has been reduced from \$500,000 per qualified natural disaster to a total outstanding principal indebtedness of \$500,000 per borrower. The financing of non-farm enterprises is no longer an eligible EM loan purpose. The procedure for appraising an EM applicant's agricultural assets to establish the security value has been changed. The Agency was previously required to use the higher of two market values for collateral valuation purposes. The first appraisal reflected the market value of the property 1 day before the State Governor's request to the Secretary for an EM disaster designation, while the second value reflected the market value 1 year and 1 day before the State Governor's request to the Secretary. The Agency will now use the market value 1 day before the first day of the disaster's incidence period.

List of Subjects

7 CFR Part 1910

Application processing, Loan programs-agriculture.

7 CFR Part 1941 and 1943

Applicant eligibility, Beginning farmers and ranchers, Loan programs-agriculture.

7 CFR Part 1945

Disaster assistance, Loan programs-agriculture.

7 CFR Part 1980

Beginning farmers and ranchers, Loan guarantees, Loan programs-agriculture.

For the reasons set forth in the preamble, 7 CFR chapter XVIII is amended as follows:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart A—Receiving and Processing Applications

§ 1910.1 [Amended]

2. Section 1910.1 is amended by removing the last sentence of paragraph (a).

§ 1910.3 [Amended]

3. Section 1910.3 is amended in paragraph (c) by:

- a. Removing the third sentence; and
- b. Removing the words "type entity as set out in FmHA loan making regulations" in the ninth sentence.

§ 1910.4 [Amended]

4. Section 1910.4 is amended by:

- a. Removing paragraph (b)(19);
- b. Redesignating paragraphs (b)(20) through (b)(23) as (b)(19) through (b)(22), respectively; and
- c. Removing the words "and the Acquisition/Leasing of Agency Acquired Farmland" from the title and from the first sentence of paragraph (f).

5. Section 1910.10 is amended by revising paragraph (a)(1) to read as follows:

§ 1910.10 Preference.

(a) * * *

(1) Veteran's preference is given to any person applying for an RH, FO, SW, or OL loan who has been honorably discharged, including clemency discharges, or released from the active forces of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, and who served during a period of war, as defined in 38 U.S.C. 101(12).

* * * * *

PART 1941—OPERATING LOANS

6. The authority citation for part 1941 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

§ 1941.4 [Amended]

7. Section 1941.4 is amended by:

- a. Adding the words "Except for OL loan purposes," at the beginning of paragraph (e) in the definition of "Beginning farmer or rancher,"
- b. Removing the number "15" and adding the number "25" in its place in the first sentence of paragraph (e) of the definition of "Beginning farmer or rancher,"
- c. Removing the third sentence from the definition of "Cosigner;"
- d. Removing the words "and nonfarm" from the introductory text of paragraph (d) of the definition of a "Family farm,"

e. Removing the second sentence from the definition of a "Farm;"

f. Removing all of the text before the semi-colon that follows the word "debts" in paragraph (b) of the definition of a "Feasible plan;"

g. Removing the third sentence from the definition of a "Financially viable operation;"

h. Removing the second sentence from the definition of "Nonfarm enterprise"; and

i. Removing the definition of a "Recreation enterprise."

8. Section 1941.12 is amended by adding new paragraphs (a)(8), (a)(9), (a)(10), (a)(11), (b)(9), (b)(10), (b)(11), and (b)(12) to read as follows:

§ 1941.12 Eligibility requirements.

* * * * *

(a) * * *

(8) Meet the definition of a beginning farmer or rancher, but have operated a farm or ranch for 5 years or less, or the applicant, or anyone who will execute the promissory note, has not had direct OL loans closed in more than 6 different years prior to the year in which the new direct OL loan is closed. Youth Loans are not counted as direct OL loans for the purpose of this paragraph.

(9) *Transition rule.* An applicant is eligible for new direct OL loans for 3 additional years if as of April 4, 1996, the applicant, or anyone who will execute the promissory note, had direct OL loans closed in 4 or more separate years prior to the year in which the new direct OL loan is closed. The 4 previous years' direct OL loans, as well as the 3 additional years of new direct OL loans, may be in non-consecutive years.

(10) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise under the provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances. Notwithstanding the restrictive provisions of this paragraph, applicants who received a write-down under section 353 of the CONACT may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, which includes family subsistence if the applicant meets all other eligibility requirements.

(11) Not be delinquent on any direct or guaranteed loan made under the provisions of the CONACT. Notwithstanding the provisions of this paragraph, an operating loan may be

made or guaranteed under the provisions of subtitle B of the CONACT as in effect on April 3, 1996, if the applicant was less than 90-days delinquent on April 4, 1996, and had submitted an application prior to April 5, 1996.

(b) * * *

(9) Have at least one member of the business entity who meets the definition of a beginning farmer or rancher, but has operated a farm or ranch for 5 years or less. Also, the applicant, or anyone who will execute the promissory note, must not have had direct OL loans closed in more than 6 different years prior to the year in which the new direct OL loan is closed. Youth Loans are not counted as direct OL loans for the purpose of this paragraph.

(10) *Transition rule.* An applicant is eligible for new direct OL loans for 3 additional years if as of April 4, 1996, the applicant, or anyone who will execute the promissory note, had direct OL loans closed in 4 or more separate years prior to the year in which the new direct OL is closed. The 4 previous years' OL loans, as well as the 3 additional years of new direct OL loans, may be in non-consecutive years.

(11) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise under the provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances. Notwithstanding the restrictive provisions of this paragraph, applicants who received a write-down under section 353 of the CONACT may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, which includes family subsistence if the applicant meets all other eligibility requirements.

(12) Not be delinquent on any direct or guaranteed loan made under the provisions of the CONACT. Notwithstanding the provisions of this paragraph, an operating loan may be made or guaranteed under the provisions of subtitle B of the CONACT as in effect on April 3, 1996, if the applicant was less than 90-days delinquent on April 4, 1996, and had submitted an application prior to April 5, 1996.

* * * * *

§§ 1941.14 and 1941.15 [Removed and Reserved]

9. Sections 1941.14 and 1941.15 are removed and reserved.

10. Section 1941.16 is revised to read as follows:

§ 1941.16 Loan purposes.

An applicant who obtained a write-down under direct or guaranteed loan authorities is restricted to the purposes listed under paragraphs (c), (g) and (h) of this section. All other eligible applicants may only request OL funds for any of the following purposes:

(a) Payment of costs associated with reorganizing a farm or ranch to improve its profitability.

(b) Purchase of livestock, including poultry, and farm or ranch equipment, including quotas and bases, and cooperative stock for credit, production, processing or marketing purposes.

(c) Payment of annual operating expenses, examples of which include, but are not exclusively limited to feed, seed, fertilizer, pesticides, farm or ranch supplies, cooperative stock, and cash rent.

(d) Payment of costs associated with land and water development for conservation or use purposes.

(e) Payment of loan closing costs.

(f) Payment of costs associated with complying with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 667). This purpose is limited to applicants who demonstrate that compliance with the standards will cause them substantial economic injury.

(g) Payment of training costs required or recommended by the Agency.

(h) Payment of farm, ranch, or home needs, including family subsistence. A portion of the loan is available to the borrower for use outside of a supervised bank account. This portion is the lesser of:

(1) 10 percent of the OL loan;

(2) \$5,000; or

(3) The amount needed to meet the subsistence needs of the family for a 3-month period.

(i) Refinancing debts if the applicant has had direct or guaranteed OL loans refinanced (refinanced does not mean restructured) 4 times or less and one of the following conditions is met:

(1) The need for refinancing was caused by a qualifying disaster declared by the President or designated by the Secretary; or

(2) The debts to be refinanced are owned to a non-USDA creditor.

§ 1941.17 [Amended]

11. Section 1941.17 is amended by removing paragraphs (a) and (f), and by

redesignating paragraphs (b) through (e) as (a) through (d), respectively.

12. Section 1941.32 is revised to read as follows:

§ 1941.32 Catastrophic Risk Protection (CAT) insurance requirement.

Applicants must comply with the CAT insurance requirement no later than loan closing by either:

- (1) Obtaining at least the CAT level of coverage, if available, for each crop of economic significance as defined by the Federal Crop Insurance Corporation, or,
- (2) By waiving eligibility of emergency crop loss assistance in connection with the uninsured crop. FSA emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

Subpart B—Closing Loans Secured by Chattels

13. Section 1941.88 is amended by:
 - a. Removing the introductory text;
 - b. Removing paragraph (c);
 - c. Redesignating paragraph (a) and (b) as (b) and (c), respectively;
 - d. Amending paragraph (d) by removing all of the text between the words "Borrowers" and "should" located in the first sentence; and
 - e. Adding a new paragraph (a); and revising redesignated paragraph (c) to read as follows:

§ 1941.88 Insurance.

(a) *Catastrophic Risk Protection (CAT) insurance requirement.* Applicants must obtain at least the CAT level of crop insurance of coverage for each crop of economic significance, as defined by the Federal Crop Insurance Corporation, if such coverage is offered. The applicant can meet this requirement by either:

- (1) Obtaining at least the CAT level of coverage or,
- (2) Waiving eligibility for emergency crop loss assistance in connection with the uninsured crop. EM loss loan assistance is not considered emergency crop loss assistance for purposes of this waiver.

* * * * *

(c) *Chattels and real estate.* Chattel property that secures OL loans must be covered by hazard insurance unless the Agency determines that coverage is not readily available or the benefit of the coverage is more than its cost. When insured, chattel property must at least be covered at its tax or cost depreciated value, whichever is less. Real property must be covered by general hazard and flood insurance in accordance with subparts A and B of part 1806 of this chapter.

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

14. The authority citation for part 1943 continues to read as follows:

Authority: 5 U.S.C. 301; and 7 U.S.C. 1989.

Subpart A—Direct Farm Ownership Loan Policies, Procedures and Authorizations

§ 1943.4 [Amended]

15. Section 1943.4 is amended by:
 - a. Removing "A beginning farmer" and adding "Except for OL loan purposes, a beginning farmer" in its place at the beginning of paragraph (e) of the definition of "Beginning farmer or rancher;"
 - b. Removing the number "15" and adding the number "25" in its place in the first sentence of paragraph (e) of the definition of "Beginning farmer or rancher;"
 - c. Removing the third sentence from the definition of "Cosigner;"
 - d. Removing the words "and nonfarm" from the introductory text of paragraph (d) of the definition of a "Family farm."
 - e. Removing the second sentence from the definition of "Farm."
 - f. Removing all the text to the end of the sentence following the word "debts" in paragraph (b) of the definition of a "Feasible plan;" and
 - g. Removing the second sentence of the definition of "Nonfarm enterprise."
16. Section 1943.12 is amended by:
 - a. Removing the words "and operating" and the parenthetical text "(1 year's complete production and marketing cycle within the last 5 years)" from paragraph (a)(3);
 - b. Removing the words "and operating" and the parenthetical text "(1 year's complete production and marketing cycle within the last 5 years)" from paragraph (b)(4)(ii); and
 - c. Adding new paragraphs (a)(8), (a)(9), (a)(10), (a)(11), (b)(8), (b)(9), (b)(10) and (b)(11) to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

* * * * *

- (a) * * *
- (8) Have operated a farm or ranch for at least 3 years and satisfy at least one of the following conditions:

- (i) Meet the definition of a beginning farmer or rancher.
- (ii) The applicant, or anyone who will execute the promissory note, has not had direct FO loans outstanding for more than a total of 10 years prior to the date that the new FO loan is closed.
- (iii) Have never received a direct FO loan.

(9) *Transition rule.* This applies to applicants with direct FO loans outstanding on April 4, 1996.

(i) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for less than 5 years, the applicant is eligible for new direct FO loans through April 4, 2006.

(ii) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for 5 years or more, those parties are eligible for new direct FO loans through April 4, 2001.

(10) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances.

(1) Not be delinquent on any direct or guaranteed loan made under the provisions of the CONACT.

(b) * * *

(8) Have one or more members, constituting a majority interest in the business entity, who have operated a farm or ranch for at least 3 years and who satisfy one of the following conditions:

(i) Meet the definition of a beginning farmer or rancher.

(ii) The applicant, or anyone who will execute the promissory note, has not had direct FO loans outstanding for more than a total of 10 years prior to the date that the new FO loan is closed.

(iii) Have never received a direct FO loan.

(9) *Transition rule.* This applies to business entity applicants with direct FO loans outstanding on April 4, 1996.

(i) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for less than 5 years, the applicant is eligible for new direct FO loans through April 4, 2006.

(ii) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for 5 years or more, those parties are eligible for new direct FO loans through April 4, 2001.

(10) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances.

(11) Not be delinquent on any direct or guaranteed loan made under the provisions of the CONACT.

* * * * *

17–18. Section 1943.16 is revised to read as follows:

§ 1943.16 Loan purposes.

Loan funds may only be used to:

(a) Acquire or enlarge a farm or ranch. Examples of items that the Agency may authorize the use of FO funds for include, but are not limited to, the purchase of easements, the applicant's portion of land being subdivided, purchase of cooperative stock, appraisal and survey fees, and participation in special FO loan programs of this subpart. Down payments are authorized as a loan purpose subject to the following:

(1) A deed is obtained and the transaction is properly documented by debt and security instruments.

(2) Any prior liens meet the FO security requirements for the Agency's junior lien position.

(3) For contract purchases, purchase contracts must properly obligate the buyer and seller to fulfill the terms of the contract, provide the buyer with possession, control and beneficial use of the property, and entitle the buyer to marketable title upon fulfillment of the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon buyer's default, the seller must give the Agency written notice of the default and a reasonable opportunity to cure the default. Any sums advanced by the Agency must be repaid by the borrower.

(b) Make capital improvements. Examples of items that the Agency may authorize the use of FO funds for include, but are not limited to, the construction, purchase and improvement of farm dwellings, service buildings, and facilities that can be made fixtures to the real estate.

(c) Promote soil and water conservation and protection. Examples include the correction of well-defined, hazardous environmental conditions, and the construction or installation of tiles, terraces, and waterways.

(d) Pay closing costs.

§ 1943.17 [Amended]

19. Section 1943.17 is amended by removing paragraphs (a)(4) and (a)(5).

20. Section 1943.18 is amended by revising paragraph (b)(2) and adding a new paragraph (c) to read as follows:

§ 1943.18 Rates and terms.

* * * * *

(b) * * *

(2) The farm business plan shows that installments at the higher rate, along

with other debts, cannot be paid during the period of the plan.

* * * * *

(c) *Interest rate with joint financing.* When the applicant obtains financing from a private lender equivalent to 50 percent or more of the total funds needed, the interest rate on the direct FO loan will be fixed at a rate determined by the Agency Administrator but at not less than 4 percent for the term of the loan. The current rate is available in FSA offices.

§ 1943.19 [Amended]

21. Section 1943.19 is amended by:

a. Removing the word "refinanced" from the first sentence in paragraphs (a)(1) and (d)(3); and

b. Removing the words "or refinanced" from the first sentence in paragraph (b)(1).

§ 1943.23 [Amended]

22. Section 1943.23 is amended by:

a. Removing the words "or nonfarm enterprise" from the first sentence of paragraph (g)(1); and

b. Removing paragraphs (g)(3) and (g)(4).

23. Section 1943.24 is amended by:

a. Removing the words "nonfarm enterprise facility or" from the third sentence of paragraph (a);

b. Removing the words " , including any nonfarm enterprise," from the first sentence in paragraph (b)(1);

c. Removing paragraph (b)(1)(iv);

d. Removing the words "and any nonfarm enterprise" from the first sentence of paragraph (c);

e. Removing paragraph (d)(3) and (d)(4);

f. Redesignating paragraph (d)(2) as (d)(3);

g. Removing paragraph (f);

h. Redesignating paragraphs (g) through (k) as (f) through (j), respectively; and

i. Revising paragraph (d)(1) and adding a new paragraph (d)(2) to read as follows:

§ 1943.24 Special requirements.

* * * * *

(d) * * *

(1) Insurance must be obtained on any property acquired with, or serving as primary security on an FO loan in accordance with subpart A of part 1806 of this chapter.

(2) Applicants must comply with the catastrophic risk protection insurance (CAT) requirement by either:

(i) Obtaining at least the available CAT level of coverage for each crop of economic significance, as defined by the Federal Crop Insurance Corporation, or

(ii) Waiving eligibility for emergency crop loss assistance in connection with

the uninsured crop. FSA emergency (EM) loss loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

* * * * *

24. Section 1943.25 is amended by revising paragraph (b) to read as follows:

§ 1943.25 Options planning and appraisals.

* * * * *

(b) Farm business plans will be completed as provided in subpart B of part 1924.

* * * * *

25. Section 1943.54 is amended by removing the third sentence from the definition of "Cosigner."

PART 1945—EMERGENCY

26. The authority citation for part 1945 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989, and 42 U.S.C. 1480.

§ 1945.154 [Amended]

27. Section 1945.154 is amended by removing the third sentence from the definition of "Cosigner," and by removing the second sentence from the definition of a "Nonfarm enterprise."

§ 1945.156 [Amended]

28. Section 1945.156 is amended by removing "\$300,000" from paragraphs (b)(2)(i) introductory text and (b)(2)(ii) introductory text and adding "\$100,000" in its place.

29. Section 1945.162 is amended by:

a. Redesignating paragraphs (a) through (m) as paragraphs (b) through (n), respectively; and

b. Adding a new paragraph (a) to read as follows:

§ 1945.162 Eligibility requirements.

* * * * *

(a) *Debt forgiveness.* EM applicants are ineligible if they have caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances. Further, the EM applicant must not be delinquent on any direct or guaranteed loan made under the provisions of the CONACT.

* * * * *

30. Section 1945.163 is amended by revising paragraph (e) to read as follows:

§ 1945.163 Determining qualifying losses, eligibility for EM loan(s) and the maximum amount of each.

* * * * *

(e) *EM loan limit.* The loan will be limited to the amount necessary to restore the farm to its pre-disaster condition; however, this amount cannot exceed the lesser of the sum of the maximum production loss (paragraph (a)(2)(x) of this section) and the maximum physical loss (paragraph (b) of this section) or \$500,000 total outstanding EM debt per borrower. The maximum principal amount of total EM debt that any one individual, business entity, or individual member of a business entity may have outstanding is \$500,000.

* * * * *

§ 1945.166 [Amended]

31. Section 1945.166 is amended by:

- a. Removing the comma after the word "family" in the first sentence of paragraph (a)(1) and adding the word "and" in its place;
 - b. Removing the comma after the word "farm" in the first sentence of paragraph (a)(1) and adding the word "credit" in its place;
 - c. Removing the phrase "and non-farm enterprise credit, whichever is the lesser" in the first sentence of paragraph(a)(1);
 - d. Removing the entire second sentence of paragraph (a)(1);
 - e. Removing the paragraph (b)(5); and
 - f. Removing paragraph (c)(3) and redesignating paragraph (c)(4) as (c)(3).
32. Section 1945.167 is amended by:
- a. Revising the section heading;
 - b. Removing paragraphs (a) and (i);
 - c. Redesignating the remaining paragraphs as (c) through (j), respectively and;
 - d. Adding new paragraphs (a) and (b) to read as follows:

§ 1945.167 Insurance, loan limitations and special provisions.

(a) EM loan funds cannot be used for physical loss purposes unless that physical property lost was covered by general hazard insurance at the time that the damage caused by the natural disaster occurred. The level of coverage in effect at the time of the disaster must have been the tax or cost depreciated value, whichever is less. Chattel property must also have been covered at the tax or cost depreciated value, whichever is less, when such insurance was readily available.

(b) Applicants must comply with the CAT insurance requirement no later than loan closing by either:

- (1) Obtaining at least the CAT level of coverage, if available, for each crop of

economic significance as defined by the Federal Crop Insurance Corporation, or,

(2) By waiving eligibility for emergency crop loss assistance in connection with the uninsured crop. FSA EM loan assistance is not considered emergency crop loss assistance for the purpose of the crop insurance waiver on the uninsured crop.

* * * * *

33. Section 1945.169 is amended by revising paragraph (1) to read as follows:

§ 1945.169 Security.

* * * * *

(1) Crop insurance. If crop insurance is obtained, an assignment of indemnity is required. When payment of the insurance premium is not required until after harvest, crops may be released to make the payment. If a loss claim is paid to the borrower, the premium will be first deducted by the insurance carrier before making security releases.

* * * * *

34. Section 1945.175 is amended by:

- a. removing paragraph (c)(3);
- b. redesignating paragraph (c)(4) as paragraph (c)(3); and
- c. revising paragraph (c)(2) and (c)(3) to read as follows:

§ 1945.175 Options, planning and appraisals.

* * * * *

(c) * * *

(2) The appraised value of assets securing EM loans is established as of the day before the beginning of the incidence period of the qualifying disaster.

(3) Chattel appraisals will be completed on Form FmHA 1945-15, "Value Determination Worksheet (EM loans only)," when chattels are taken as security. The property which will serve as security will be described in sufficient detail so it can be identified. Sources such as livestock market reports and publications reflecting values of farm machinery and equipment will be used as appropriate. Chattels owned by the applicant, and nonfarm chattel property offered as security (such as planes, house trailers, boats, etc.) will be appraised at the present market value only. Chattels that the applicant/ borrowers did not own on the dates set forth in paragraphs (c)(2) (i) and (ii) of this section will be appraised at the present market value only.

* * * * *

PART 1980—GENERAL

35. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart A—General

§ 1980.20 [Amended]

36. Section 1980.20 is amended in the introductory text of paragraph (a) by adding "The Farm Service Agency loan guarantee limit is 90 percent unless otherwise stated in subpart B of this part." after the fourth sentence.

37. Section 1980.106 is amended in paragraph (b) by:

- a. Adding the words "Except for OL loans," to the beginning of paragraph (5) of the definition of a "Beginning farmer or rancher;"
- b. Removing the number "15" and adding the number "25" in its place in the first sentence of paragraph (5) of the definition of a "Beginning farmer or rancher;"

c. Removing the third sentence from the definition of "Cosigner;"

d. Removing the second sentence of the definition of "Nonfarm enterprise;" and

e. Revising the definition of "Veteran" to read as follows:

§ 1980.106 Abbreviations and definitions.

* * * * *

(b) * * *

Veteran. One who has been honorably discharged, including clemency discharges, or release from the active forces of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, and who served during a period of war, as defined in 38 U.S.C. 101(12).

38. Section 1980.108 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 1980.108 General provisions.

(a) * * *

(3) * * *

(ii) Applicants must either:

(1) Obtain at least the CAT level of crop insurance coverage, if available, for each crop of economic significance, as defined by the Federal Crop Insurance Corporation, or,

(2) Waive eligibility for emergency crop loss assistance in connection with the uninsured crop. FSA EM loss loan assistance is not considered emergency crop loss assistance for purposes of this waiver.

* * * * *

39. Section 1980.119 is amended by revising paragraph (d) to read as follows:

§ 1980.119 Lender's sale or assignment of guaranteed loan.

* * * * *

(d) *Retention of unguaranteed portion of loan.* Lenders must retain at least 10 percent of the loan from the unguaranteed portion, except that when the loan guarantee exceeds 90 percent,

lender must retain the total unguaranteed portion of the loan.

* * * * *

40. Section 1980.174 is added to read as follows:

§ 1980.174 Percentage of guarantee.

(a) A 95-percent loan guarantee will be provided in the following situations:

(1) When the sole loan purpose of a guaranteed OL or FO loan is to refinance a direct FSA farm credit program loan.

(2) When the purpose of an FO loan guarantee is to participate in the down payment loan program.

(3) When a guaranteed OL is made to a farmer or rancher who is participating in the down payment loan program. The guaranteed OL must be made during the period that a borrower has a direct FO loan outstanding for acquiring a farm or ranch.

(4) When a guaranteed OL or FO loan is requested for multiple purposes and only a portion of the loan is used to refinance a direct FSA farm credit program loan, in which case a weighted percentage of guarantee is provided.

(b) Guarantees issued to CLP lenders are never at a guarantee rate of less than 80 percent.

41–43. Section 1980.175 is amended by:

a. Revising introductory text of paragraph (b);

b. Removing paragraph (d)(7);

c. Redesignating paragraphs (d)(2) through (d)(6) as (d)(3) through (d)(7), respectively;

d. Revising paragraphs (c)(1), (c)(2) and (d)(1); and adding a new paragraph (d)(2); and

e. Removing all the words between “Borrowers” and “should” in the first sentence of paragraph (i)(3); to read as follows:

§ 1980.175 Operating loans.

* * * * *

(b) The applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt write-down, write-off, compromise under the provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances. Notwithstanding the restrictive provisions of this paragraph, applicants who received a write-down under section 353 of the CONACT may receive direct and guaranteed OL loans to pay annual farm and ranch operating

expenses, which includes family subsistence if the applicant meets all other eligibility requirements. Further, the applicant, and anyone who will execute the promissory note, cannot be delinquent on any direct or guaranteed loan made under the provisions of the CONACT. Notwithstanding the provisions of this paragraph, an operating loan may be made or guaranteed under the provisions of subtitle B of the CONACT as in effect on April 3, 1996, if the applicant was less than 90-days delinquent on April 4, 1996, and had submitted an application prior to April 5, 1996.

* * * * *

(c) *Loan purposes*—(1) *Loan note guarantee*. Loan funds may only be used for the following purposes:

(i) Payment of costs associated with reorganizing a farm or ranch to improve its profitability.

(ii) Purchase of livestock, including poultry, and farm or ranch equipment, including quotas and bases, and cooperative stock for credit, production, processing or marketing purposes.

(iii) Payment of annual farm or ranch operating expenses, examples of which include feed, seed, fertilizer, pesticides, farm or ranch supplies, cash rent, family subsistence, and other farm and ranch needs.

(iv) Payment of costs associated with land and water development for conservation or use purposes.

(v) Refinancing indebtedness incurred for any authorized OL loan purpose, when the lender and loan applicant can demonstrate the need to refinance.

(vi) Payment of loan closing costs.

(vii) Payment of costs associated with complying with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 29 U.S.C. 667). This purpose is limited to applicants who demonstrate that compliance with the standards will cause them substantial economic injury.

(viii) Payment of training costs required or recommended by the approval official.

(2) *Contract of guarantee—line of credit*. Lines of credit may be advanced for the following purposes:

(i) Payment of annual operating expenses, family subsistence, and purchase of feeder animals.

(ii) Payment of current annual operating debts advanced by other creditors. Under no circumstances can carry-over operating debts be refinanced.

(d) *Loan limitations*. (1) No applicant or any individual who executes a promissory note may receive an

additional guaranteed OL if a combination of guaranteed or direct OL loans were received (closed) in more than 15 previous years. *Transition rule*: If a borrower was indebted for a direct or guaranteed OL loan on October 28, 1992, and had any combination of direct or guaranteed OL loans closed in 10 or more prior calendar years, eligibility to receive new guaranteed OL loans is extended for 5 additional years from October 28, 1992, and the years need not run consecutively. However, in the case of a line of credit, each year in which an advance is made after October 28, 1992, counts toward the 5 additional years.

(2) Real estate improvements and repairs can be made only when the loan applicant owns the property, or the loan applicant has a lease that either ensures use of the improvement or repair over its useful life or provides fair compensation for the unused economic life.

* * * * *

§ 1980.176 [Removed and Reserved]

44. Section 1980.176 is removed and reserved.

45. Section 1980.180 is amended by removing paragraphs (d)(4) and (d)(5); and by revising paragraph (c) to read as follows:

§ 1980.180 Farm ownership loans.

* * * * *

(c) Loans are authorized only to:

(1) Acquire or enlarge a farm or ranch. Examples of items that the Agency may authorize the use of FO funds for include, but are not limited to, providing down payments, purchasing easements or the loan applicant's portion of land being subdivided, and participating in special FO loan programs of this subpart. In the case of a contract purchase, purchase contracts must properly obligate the buyer and seller to fulfill the terms of the contract, provide the buyer with possession, control and beneficial use of the property, and entitle the buyer to marketable title upon fulfillment of the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon buyer's default, seller must give the Agency written notice of the default and a reasonable opportunity to cure the default. Any sums advanced by the Agency must be repaid by the borrower.

(2) Make capital improvements provided the loan applicant owns the farm, or has either a lease to ensure use of the improvement over its useful life or that compensation will be received for any remaining economic life. Examples of items that the Agency may

authorize the use of FO funds for include, but are not limited to, the construction, purchase, and improvement of farm dwellings, service buildings and facilities that can be made fixtures to the real estate.

(3) Promote soil and water conservation and protection. Examples include the correction of well-defined, hazardous environmental conditions, and the construction or installation of tiles, terraces and waterways.

(4) Pay closing costs, including but not limited to purchasing stock in a cooperative, and appraisal and survey fees.

(5) Refinancing indebtedness incurred for authorized loan purposes, provided the lender and loan applicant demonstrate the need to refinance the debt.

* * * * *

Signed at Washington, D.C., on February 19, 1997.

Dallas R. Smith,

Acting Under Secretary for Farm and Foreign Agricultural Services.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 97-4840 Filed 2-28-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-32-AD; Amendment 39-9952; AD 97-05-08]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes. This action requires repetitive pre-modification inspections to detect cracks in the forward support fitting of the number 1 and number 3 engines; and repair, if necessary. This AD also provides for an optional high frequency eddy current (HFEC) inspection, and, if possible, modification of the fastener holes; and various follow-on actions. Accomplishment of these optional actions would constitute terminating action for the repetitive pre-modification inspections. This amendment is prompted by reports

indicating that fatigue cracks were found in the forward support fitting of the number 1 and number 3 engines. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in failure of the support fitting and consequent separation of the engine from the airplane.

DATES: Effective March 18, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 1997.

Comments for inclusion in the Rules Docket must be received on or before May 2, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-32-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227-2774; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of cracks found in the forward support fitting of the number 1 and number 3 engines on Boeing Model 727 series airplanes. In two of these incidents, the cracks emanated from the large fastener holes next to the side of the fuselage. In a third incident, a fitting was cracked almost completely through. In other incidents, cracks were found at a small distance inboard from the fuselage side. The cracking has been attributed to fatigue, which was caused by corrosion pitting damage on the surfaces of the fastener holes in the fittings. These conditions, if not detected and corrected in a timely manner, could result in failure of the support fitting and consequent separation of the engine from the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 727-54A0010,

Revision 4, dated January 30, 1997, which describes the following procedures:

1. Performing repetitive visual inspections to detect cracks of the upper and lower flanges, and the vertical web of the forward support fitting of the number 1 and number 3 engines;

2. Performing repetitive high frequency eddy current (HFEC) inspections to detect cracks of the forward flange of the support fitting adjacent to the collars of two fasteners of the number 1 and number 3 engines;

3. Performing repetitive detail visual inspections to detect cracks of the upper and lower flanges adjacent to six fasteners of the number 1 and number 3 engines;

4. Repairing the cracked forward support fitting; and

5. Performing a HFEC inspection to detect cracks of the fastener holes in the forward support fitting of the number 1 and number 3 engines, and, if possible, modification of the fastener holes; and various follow-on actions. (These follow-on actions include installation of fasteners, repetitive HFEC inspections, and repair of cracked forward support fittings.) The modification involves oversizing the fastener holes until the HFEC does not detect any cracks. Accomplishment of this HFEC inspection, modification, and follow-on actions will eliminate the need for the repetitive pre-modification inspections, as described in items 1 through 3.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 727 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of the forward support fitting, which could result in failure of the support fitting and consequent separation of the engine from the airplane. This AD requires repetitive pre-modification inspections to detect cracks of the forward support fitting of the number 1 and number 3 engines; and repair, if necessary. This AD also provides for an optional HFEC inspection, and, if possible, modification of the fastener holes; and various follow-on actions. Accomplishment of these optional actions constitutes terminating action for the repetitive pre-modification inspections. The actions are required to be accomplished in accordance with the service bulletin described previously.