

Rules and Regulations

Federal Register

Vol. 65, No. 90

Tuesday, May 9, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1735

RIN 2550-AA08

Implementation of the Equal Access to Justice Act

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is publishing a final regulation that implements the Equal Access to Justice Act (Act). The Act provides for the award of fees and other expenses to eligible individuals and entities that are parties to adversary adjudications before the Federal government. The regulation establishes procedures for the filing and consideration of applications for awards of fees and expenses in connection with adversary adjudications before OFHEO.

DATES: This final regulation is effective June 8, 2000.

FOR FURTHER INFORMATION CONTACT: Isabella W. Sammons, Associate General Counsel, telephone (202) 414-3790, (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: The Office of Federal Housing Enterprise Oversight (OFHEO) published a proposed regulation at 65 FR 7312 on February 14, 2000, that would implement the Equal Access to Justice Act (Act), 5 U.S.C. 504. OFHEO requested comments on the proposed regulation but did not receive any. Accordingly, the proposed

regulation is published as a final regulation without change.

Background

The Act provides that eligible individuals and entities that are parties to adversary adjudications before Federal agencies may file an application for an award of fees and other expenses. Eligible parties may receive an award for fees and other expenses incurred by them in connection with an adversary adjudication before OFHEO if they prevail over OFHEO, unless the position of OFHEO in the adversary adjudication was substantially justified. Eligible parties may also receive an award for fees and other expenses incurred by them in defending against a demand by OFHEO if the demand of OFHEO was substantially in excess of the decision in the adversary adjudication and was unreasonable when compared with such decision.

The Act requires that OFHEO and other Federal agencies establish procedures for the filing and consideration of applications for an award of fees and other expenses. Subpart A of the final regulation sets forth definitions, eligibility requirements, standards for awards, and allowable fees and expenses. Subpart B describes the information that must be included in an application for award and Subpart C provides the procedures for filing and consideration of an application for award.

The provisions of the final regulation reflect the 1996 amendments to the Act that were enacted pursuant to Pub. L. 104-121, 110 Stat. 862 (1996). Furthermore, to the extent appropriate, the provisions of the final regulation are substantially similar to the provisions of the Model Rules for Implementation of the Equal Access to Justice Act in Agency Proceedings, 1 CFR part 315 (1986) (51 FR 16659-16669 (May 6, 1986)).

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The final regulation is not classified as a significant rule under Executive Order 12866 because it will not result in an annual effect on the economy of \$100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or

geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this final regulation has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

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

Paperwork Reduction Act

The final regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

The final regulation does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. Assessment statements are not required for regulations that incorporate requirements specifically set forth in law. As explained in the preamble, the final regulation implements specific statutory requirements. In addition, the final regulation does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the

private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

List of Subjects in 12 CFR Part 1735

Administrative practice and procedure, Equal access to justice.

Accordingly, for the reasons stated in the preamble, OFHEO adds part 1735 to chapter XVII of title 12 of the Code of Federal Regulations as follows:

PART 1735—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

Sec.

- 1735.1 Purpose and scope.
- 1735.2 Definitions.
- 1735.3 Eligible parties.
- 1735.4 Standards for awards.
- 1735.5 Allowable fees and expenses.
- 1735.6 Rulemaking on maximum rate for fees.
- 1735.7 Awards against other agencies.
- 1735.8–1735.9 [Reserved]

Subpart B—Information Required from Applicants

- 1735.10 Contents of the application for award.
- 1735.11 Request for confidentiality of net worth exhibit.
- 1735.12 Documentation of fees and expenses.
- 1735.13–1735.19 [Reserved]

Subpart C—Procedures for Filing and Consideration of the Application for Award

- 1735.20 Filing and service of the application for award and related papers.
- 1735.21 Answer to the application for award.
- 1735.22 Reply to the answer.
- 1735.23 Comments by other parties.
- 1735.24 Settlement.
- 1735.25 Further proceedings on the application for award.
- 1735.26 Decision of the adjudicative officer.
- 1735.27 Review by OFHEO.
- 1735.28 Judicial review.
- 1735.29 Payment of award.

Authority: 5 U.S.C. 504(c)(1).

Subpart A—General Provisions

§ 1735.1 Purpose and scope.

(a) This part implements the Equal Access to Justice Act, 5 U.S.C. 504, by establishing procedures for the filing and consideration of applications for award of fees and other expenses to eligible individuals and entities who are parties to adversary adjudications before OFHEO.

(b) This part applies to the award of fees and other expenses in connection with adversary adjudications before OFHEO. However, if a court reviews the underlying decision of the adversary adjudication, an award for fees and

other expenses may be made only pursuant to 28 U.S.C. 2412(d)(3).

§ 1735.2 Definitions.

(a) *Adjudicative officer* means the official who presided at the underlying adversary adjudication, without regard to whether the official is designated as a hearing examiner, administrative law judge, administrative judge, or otherwise.

(b) *Adversary adjudication* means an administrative proceeding conducted by OFHEO under 5 U.S.C. 554 in which the position of OFHEO or any other agency of the United States is represented by counsel or otherwise, including but not limited to an adjudication conducted under 12 CFR part 1780. Any issue as to whether an administrative proceeding is an adversary adjudication for purposes of this part will be an issue for resolution in the proceeding on the application for award.

(c) *Affiliate* means an individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interests of the party, or any corporation or other entity of which the party directly or indirectly owns or controls a majority of the voting shares or other interest, unless the adjudicative officer determines that it would be unjust and contrary to the purpose of the Equal Access to Justice Act in light of the actual relationship between the affiliated entities to consider them to be affiliates for purposes of this part.

(d) *Agency counsel* means the attorney or attorneys designated by the General Counsel of OFHEO to represent OFHEO in an adversary adjudication covered by this part.

(e) *Demand of OFHEO* means the express demand of OFHEO that led to the adversary adjudication, but does not include a recitation by OFHEO of the maximum statutory penalty when accompanied by an express demand for a lesser amount.

(f) *Fees and other expenses* include reasonable attorney or agent fees, the reasonable expenses of expert witnesses, and the reasonable cost of any study, analysis, engineering report, test, or project that is found by the agency to be necessary for the preparation of the eligible party's case.

(g) *Final disposition* means the date on which a decision or order disposing of the merits of the adversary adjudication or any other complete resolution of the adversary adjudication, such as a settlement or voluntary dismissal, becomes final and unappealable, both within the agency and to the courts.

(h) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

(i) *Party* means an individual, partnership, corporation, association, or public or private organization that is named or admitted as a party, that is admitted as a party for limited purposes, or that is properly seeking and entitled as of right to be admitted as a party in an adversary adjudication.

(j) *Position of OFHEO* means the position taken by OFHEO in the adversary adjudication, including the action or failure to act by OFHEO upon which the adversary adjudication was based.

§ 1735.3 Eligible parties.

(a) To be eligible for an award of fees and other expenses under § 1735.4(a), a party must be a small entity as defined in 5 U.S.C. 601.

(b)(1) To be eligible for an award of fees and other expenses for prevailing parties under § 1735.5(b), a party must be one of the following:

(i) An individual who has a net worth of not more than \$2 million;

(ii) The sole owner of an unincorporated business who has a net worth of not more than \$7 million, including both personal and business interest, and not more than 500 employees; however, a party who owns an unincorporated business will be considered to be an "individual" rather than the "sole owner of an unincorporated business" if the issues on which the party prevails are related primarily to personal interests rather than to business interests.

(iii) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), with not more than 500 employees;

(iv) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act, 12 U.S.C. 1141j(a), with not more than 500 employees; or

(v) Any other partnership, corporation, association, unit of local government, or organization that has a net worth of not more than \$7 million and not more than 500 employees.

(2) For purposes of eligibility under paragraph (b) of this section:

(i) The employees of a party include all persons who regularly perform services for remuneration for the party, under the party's direction and control. Part-time employees shall be included on a proportional basis.

(ii) The net worth and number of employees of the party and its affiliates shall be aggregated to determine eligibility.

(iii) The net worth and number of employees of a party shall be

determined as of the date the underlying adversary adjudication was initiated.

(c) A party that participates in an adversary adjudication primarily on behalf of one or more entities that would be ineligible for an award is not itself eligible for an award.

§ 1735.4 Standards for awards.

(a) An eligible party that files an application for award of fees and other expenses in accordance with this part shall receive an award of fees and other expenses related to defending against a demand of OFHEO if the demand was in excess of the decision in the underlying adversary adjudication and was unreasonable when compared with the decision under the facts and circumstances of the case, unless the party has committed a willful violation of law or otherwise acted in bad faith, or unless special circumstances make an award unjust. The burden of proof that the demand of OFHEO was substantially in excess of the decision and is unreasonable when compared with the decision is on the eligible party.

(b) An eligible party that submits an application for award in accordance with this part shall receive an award of fees and other expenses incurred in connection with an adversary adjudication in which it prevailed or in a significant and discrete substantive portion of the adversary adjudication in which it prevailed, unless the position of OFHEO in the adversary adjudication was substantially justified or special circumstances make an award unjust. OFHEO has the burden of proof to show that its position was substantially justified and may do so by showing that its position was reasonable in law and in fact.

§ 1735.5 Allowable fees and expenses.

(a) Awards of fees and other expenses shall be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate to the party. However, except as provided in § 1735.6, an award for the fee of an attorney or agent may not exceed \$125 per hour and an award to compensate an expert witness may not exceed the highest rate at which OFHEO pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or expert witness as a separate item if he or she ordinarily charges clients separately for such expenses.

(b) In determining the reasonableness of the fee sought for an attorney, agent,

or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent, or expert witness is in private practice, his or her customary fees for similar services; or, if the attorney, agent, or expert witness is an employee of the eligible party, the fully allocated costs of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or expert witness ordinarily performs services;

(3) The time actually spent in the representation of the eligible party;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the adversary adjudication; and

(5) Such other factors as may bear on the value of the services provided.

(c) In determining the reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party, the adjudicative officer shall consider the prevailing rate for similar services in the community in which the services were performed.

(d) Fees and other expenses incurred before the date on which an adversary adjudication was initiated will be awarded only if the eligible party can demonstrate that they were reasonably incurred in preparation for the adversary adjudication.

§ 1735.6 Rulemaking on maximum rate for fees.

If warranted by an increase in the cost of living or by special circumstances, OFHEO may adopt regulations providing for an award of attorney or agent fees at a rate higher than \$125 per hour in adversary adjudications covered by this part. Special circumstances include the limited availability of attorneys or agents who are qualified to handle certain types of adversary adjudications. OFHEO will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedures Act, 5 U.S.C. 553.

§ 1735.7 Awards against other agencies.

If another agency of the United States participates in an adversary adjudication before OFHEO and takes a position that was not substantially justified, the award or appropriate portion of the award to an eligible party that prevailed over that agency shall be made against that agency.

§§ 1735.8—1735.9 [Reserved].

Subpart B—Information Required from Applicants

§ 1735.10 Contents of the application for award.

(a) An application for award of fees and other expenses under either § 1735.4(a) and § 1735.4(b) shall:

(1) Identify the applicant and the adversary adjudication for which an award is sought;

(2) State the amount of fees and other expenses for which an award is sought;

(3) Provide the statements and documentation required by paragraph (b) or (c) of this section and § 1735.12 and any additional information required by the adjudicative officer; and

(4) Be signed by the applicant or an authorized officer or attorney of the applicant and contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(b) An application for award under § 1735.4(a) shall show that the demand of OFHEO was substantially in excess of, and was unreasonable when compared to, the decision in the underlying adversary adjudication under the facts and circumstances of the case. It shall also show that the applicant is a small entity as defined in 5 U.S.C. 601.

(c) An application for award under § 1735.4(b) shall:

(1) Show that the applicant has prevailed in a significant and discrete substantive portion of the underlying adversary adjudication and identify the position of OFHEO in the adversary adjudication that the applicant alleges was not substantially justified;

(2) State the number of employees of the applicant and describe briefly the type and purposes of its organization or business (if the applicant is not an individual);

(3) State that the net worth of the applicant does not exceed \$2 million, if the applicant is an individual; or for all other applicants, state that the net worth of the applicant and its affiliates, if any, does not exceed \$7 million; and

(4) Include one of the following:

(i) A detailed exhibit showing the net worth (net worth exhibit) of the applicant and its affiliates, if any, when the underlying adversary adjudication was initiated. The net worth exhibit may be in any form convenient to the applicant as long as the net worth exhibit provides full disclosure of the assets and liabilities of the applicant and its affiliates, if any, and is sufficient to determine whether the applicant qualifies as an eligible party;

(ii) A copy of a ruling by the Internal Revenue Service that shows that the applicant qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3); or in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the belief that the applicant qualifies under such section; or

(iii) A statement that the applicant is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act, 12 U.S.C. 1141j(a).

§ 1735.11 Request for confidentiality of net worth exhibit.

(a) The net worth exhibit described in § 1735.10(c)(4)(i) shall be included in the public record of the proceeding for the award of fees and other expenses, except if confidential treatment is requested and granted as provided in paragraph (b) of this section.

(b)(1) The applicant may request confidential treatment of the information in the net worth exhibit by filing a motion directly with the adjudicative officer in a sealed envelope labeled "Confidential Financial Information." If the adjudicative officer finds that the information should be withheld from public disclosure, any request to inspect or copy the information by another party or the public shall be resolved in accordance with the Freedom of Information Act, 5 U.S.C. 552b, and the Releasing Information regulation at 12 CFR part 1710.

(2) The motion shall:

(i) Include a copy of the portion of the net worth exhibit sought to be withheld;

(ii) Describe the information sought to be withheld; and

(iii) Explain why the information is exempt from disclosure under the Freedom of Information Act and why public disclosure of the information would adversely affect the applicant and is not in the public's interest.

(iv) Be served on agency counsel but need not be served on any other party to the proceeding.

§ 1735.12 Documentation of fees and expenses.

(a) The application for award shall be accompanied by full and itemized documentation of the fees and other expenses for which an award is sought. The adjudicative officer may require the applicant to provide vouchers, receipts, logs, or other documentation for any fees or expenses claimed.

(b) A separate itemized statement shall be submitted for each entity or

individual whose services are covered by the application. Each itemized statement shall include:

(1) The hours spent by each entity or individual;

(2) A description of the specific services performed and the rates at which each fee has been computed; and

(3) Any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity.

§§ 1735.13–1735.19 [Reserved].

Subpart C—Procedures for Filing and Consideration of the Application for Award

§ 1735.20 Filing and service of the application for award and related papers.

(a) An application for an award of fees and other expenses must be filed no later than 30 days after the final disposition of the underlying adversary adjudication.

(b) An application for award and other papers related to the proceedings on the application for award shall be filed and served on all parties in the same manner as papers are filed and served in the underlying adversary adjudication, except as otherwise provided in this part.

(c) The computation of time for filing and service of the application of award and other papers shall be computed in the same manner as in the underlying adversary adjudication.

§ 1735.21 Answer to the application for award.

(a) Agency counsel shall file an answer within 30 days after service of an application for award of fees and other expenses except as provided in paragraphs (b) and (c) of this section. In the answer, agency counsel shall explain any objections to the award requested and identify the facts relied upon to support the objections. If any of the alleged facts are not already in the record of the underlying adversary adjudication, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1735.25.

(b) If agency counsel and the applicant believe that the issues in the application for award can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days. Upon request by agency counsel and the applicant, the adjudicative officer may grant for good cause further time extensions.

(c) Agency counsel may request that the adjudicative officer extend the time period for filing an answer. If agency counsel does not answer or otherwise does not contest or settle the application for award within the 30-day period or the extended time period, the adjudicative officer may make an award of fees and other expenses upon a satisfactory showing of entitlement by the applicant.

§ 1735.22 Reply to the answer.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the underlying adversary adjudication, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1735.25.

§ 1735.23 Comments by other parties.

Any party to the underlying adversary adjudication other than the applicant and agency counsel may file comments on an application for award within 30 calendar days after it is served, or on an answer within 15 calendar days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 1735.24 Settlement.

The applicant and agency counsel may agree on a proposed settlement of an award before the final decision on the application for award is made, either in connection with a settlement of the underlying adversary adjudication or after the underlying adversary adjudication has been concluded. If the eligible party and agency counsel agree on a proposed settlement of an award before an application for award has been filed, the application shall be filed with the proposed settlement.

§ 1735.25 Further proceedings on the application for award.

(a) On request of either the applicant or agency counsel, on the adjudicative officer's own initiative, or as requested by the Director of OFHEO under § 1735.27, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions, or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidential hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application

for award and shall be conducted as promptly as possible. The issue as to whether the position of OFHEO in the underlying adversary adjudication was substantially justified shall be determined on the basis of the whole administrative record that was made in the underlying adversary adjudication.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought on the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 1735.26 Decision of the adjudicative officer.

(a) The adjudicative officer shall make the initial decision on the basis of the written record, except if further proceedings are ordered under § 1735.25.

(b) The adjudicative officer shall issue a written initial decision on the application for award within 30 days after completion of proceedings on the application. The initial decision shall become the final decision of OFHEO after 30 days from the day it was issued, unless review is ordered under § 1735.27.

(c) In all initial decisions, the adjudicative officer shall include findings and conclusions with respect to the applicant's eligibility and an explanation of the reasons for any difference between the amount requested by the applicant and the amount awarded. If the applicant has sought an award against more than one agency, the adjudicative officer shall also include findings and conclusions with respect to the allocation of payment of any award made.

(d) In initial decisions on applications filed pursuant to § 1735.4(a), the adjudicative officer shall include findings and conclusions as to whether OFHEO made a demand that was substantially in excess of the decision in the underlying adversary adjudication and that was unreasonable when compared with that decision; and, if at issue, whether the applicant has committed a willful violation of the law or otherwise acted in bad faith, or whether special circumstances would make the award unjust.

(e) In decisions on applications filed pursuant to § 1735.4(b), the adjudicative officer shall include written findings and conclusions as to whether the applicant is a prevailing party and whether the position of OFHEO was substantially justified; and, if at issue, whether the applicant unduly protracted or delayed the underlying adversary adjudication or whether

special circumstance make the award unjust.

§ 1735.27 Review by OFHEO.

Within 30 days after the adjudicative officer issues an initial decision under § 1735.26, either the applicant or agency counsel may request the Director of OFHEO to review the initial decision of the adjudicative officer. The Director of OFHEO or his or her designee may also decide, on his or her own initiative, to review the initial decision. Whether to review a decision is at the discretion of the Director of OFHEO or his or her designee. If review is ordered, the Director of OFHEO or his or her designee shall issue a final decision on the application for award or remand the application for award to the adjudicative officer for further proceedings under § 1735.25.

§ 1735.28 Judicial review.

Any party, other than the United States, that is dissatisfied with the final decision on an application for award of fees and expenses under this part may seek judicial review as provided in 5 U.S.C. 504(c)(2).

§ 1735.29 Payment of award.

To receive payment of an award of fees and other expenses granted under this part, the applicant shall submit a copy of the final decision that grants the award and a certification that the applicant will not seek review of the decision in the United States courts to the Director, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Washington, DC 20552. OFHEO shall pay the amount awarded to the applicant within 60 days of receipt of the submission of the copy of the final decision and the certification, unless judicial review of the award has been sought by any party to the proceedings.

Dated: May 2, 2000.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 00-11524 Filed 5-8-00; 8:45 am]

BILLING CODE 4220-01-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-04-AD; Amendment 39-11715; AD 2000-09-06]

RIN 2120-AA64

Airworthiness Directives; Maule Aerospace Technology, Inc. M-4, M-5, M-6, M-7, MX-7, and MXT-7 Series Airplanes and Models MT-7-235 and M-8-235 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Maule Aerospace Technology, Inc. (Maule) M-4, M-5, M-6, M-7, MX-7, and MXT-7 series airplanes and Models MT-7-235 and M-8-235 airplanes. This AD requires you to inspect all Nicopress™ sleeve terminal ends for correct size compression, with adjustment or replacement, as necessary. This AD results from a report of the rudder cable slipping out of the Nicopress™ sleeve while one of the affected airplanes was landing. The actions specified by this AD are intended to detect and correct improper crimping of the Nicopress™ sleeve, which could cause a control cable to slip from the sleeve. This could result in loss of rudder, elevator, aileron, or flap control.

DATES: This AD becomes effective on May 30, 2000. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of May 30, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before June 23, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-04-AD, 901 Locust, Room 506, Kansas City, MO 64106.

You may get the service information referenced in this AD from Maule Aerospace Technology Inc., 2099 Georgia Highway 133 South, Moultrie, GA 31768; telephone: (912) 985-2045, facsimile: (912) 890-2402.

You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-04-AD, 901 Locust, Room 506, Kansas City, MO 64106; or at the Office of the Federal