

**§ 550.105 Biweekly maximum earnings limitation.**

(a) Except as provided in paragraph (c) of this section, an employee may receive premium pay under this subpart only to the extent that the payment does not cause the total of his or her basic pay and premium pay for any biweekly pay period to exceed the greater of—

(1) The maximum biweekly rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law); or

(2) The biweekly rate payable for level V of the Executive Schedule.

(b) In applying the biweekly limitation under this section, premium pay of the types listed in § 550.107(a) must be paid before paying any other type of premium pay.

(c) This section does not apply to—

(1) Any pay period during which an employee is subject to an annual limitation as provided in § 550.106;

(2) An employee of the Federal Aviation Administration or the Department of Defense who receives premium pay under 5 U.S.C. 5546a.

3. Revise § 550.106 to read as follows:

**§ 550.106 Annual maximum earnings limitation.**

(a)(1) For any pay period in which the head of an agency (or designee), or the Office of Personnel Management on its own motion, determines that an emergency exists, the agency must pay an affected employee premium pay under the limitations described in paragraph (c) of this section and § 550.107 instead of under the biweekly limitation described in § 550.105(a). An employee is affected if he or she has been determined by the head of the agency (or designee) to be performing work in connection with the emergency or its aftermath. (See definition of “emergency” in § 550.103.)

(2) The head of an agency (or designee) must make the determination under paragraph (a)(1) of this section as soon as practicable after the work in connection with the emergency or its aftermath begins. Entitlement to premium pay under this annual limitation becomes effective on the first day of the pay period in which such work began.

(b)(1) For any pay period in which the head of an agency (or designee), in his or her sole discretion, determines that an employee is needed to perform work that is critical to the mission of the agency, the agency may pay premium pay under the limitations described in

paragraph (c) of this section and § 550.107 instead of under the biweekly limitation described in § 550.105(a).

(2) Entitlement to premium pay under this annual limitation becomes effective on the first day of the pay period designated by the head of the agency (or designee).

(c) In any calendar year during which an employee has been determined to be performing emergency or mission-critical work as provided in paragraphs (a) or (b) of this section, the employee may receive premium pay under this subpart (excluding the types of premium pay identified in § 550.107) only to the extent that the payment does not cause the total of his or her basic pay and premium pay for the calendar year to exceed the greater of—

(1) The maximum annual rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) in effect on the last day of the calendar year; or

(2) The annual rate payable for level V of the Executive Schedule in effect on the last day of the calendar year.

(d) The annual rates under paragraphs (c)(1) and (2) of this section must be computed as follows:

(1) Compute an hourly rate by dividing the published annual rate of basic pay by 2,087 hours and rounding the result to the nearest cent;

(2) Compute a biweekly rate by multiplying the hourly rate from paragraph (d)(1) of this section by 80 hours;

(3) Compute an annual rate by multiplying the biweekly rate from paragraph (d)(2) of this section by the number of pay periods for which a paycheck is issued in the given calendar year under the agency’s payroll cycle (i.e., either 26 or 27).

(e) An agency may defer payment of the additional premium pay owed an employee as a result of the annual limitation until the end of the calendar year.

(f) Any payment made in the current calendar year that corrects an underpayment of premium pay in a previous calendar year must be treated as being made in the previous calendar year for the purpose of applying the annual cap under this section.

4. Revise § 550.107 to read as follows:

**§ 550.107 Premium payments capped on a biweekly basis when an annual limitation otherwise applies.**

(a) The following types of premium pay remain subject to a biweekly limitation when other premium

payments are subject to an annual limitation under § 550.106:

(1) Standby duty pay under 5 U.S.C. 5545(c)(1);

(2) Administratively uncontrollable overtime pay under 5 U.S.C. 5545(c)(2);

(3) Availability pay for criminal investigators under 5 U.S.C. 5545a; and

(4) Overtime pay for hours in the regular tour of duty of a firefighter covered by 5 U.S.C. 5545b.

(b) An employee must receive premium pay of the types identified in paragraph (a) of this section before receiving any other type of premium pay.

(c) In any pay period during which an employee is subject to an annual limitation under § 550.106, the employee may receive the types of premium pay identified in paragraph (a) of this section only to the extent that the payment does not cause the total of his or her basic pay and such premium pay for the pay period to exceed the greater of—

(1) The maximum biweekly rate of basic pay payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law); or

(2) The biweekly rate payable for level V of the Executive Schedule.

(d) Premium pay paid, or projected to be paid, under this section is included in determining whether the sum of the employee’s basic pay and premium pay would exceed the annual limitation under § 550.106.

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of Federal Housing Enterprise Oversight****12 CFR Part 1750****Risk-Based Capital**

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

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to Part 1750 of the Code of Federal Regulations for the regulation on the process used to determine the capital classification of the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae).

**EFFECTIVE DATE:** April 19, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Marvin L. Shaw, Senior Counsel, telephone (202) 414-3751 (not a toll-free number), Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:****Background**

OFHEO published a final regulation setting forth a risk-based capital stress test on September 13, 2001, which formed the basis for determining the risk-based capital requirement for the Federally sponsored housing enterprises—Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).<sup>1</sup> Subsequently, OFHEO published a final regulation that referenced the risk-based capital regulation with respect to the capital classification process.<sup>2</sup> There are two errors in the Code of Federal Regulations that need to be corrected: one section needs to be removed and a second section needs to be revised to reflect the appropriate cross reference.

**Need for Correction**

As published, the final regulations contained an error which may be confusing and therefore needs to be corrected.

**List of Subjects in 12 CFR Part 1750**

Capital classification, Mortgages, Risk-based capital.

Accordingly, 12 CFR part 1750 is corrected by making the following correcting amendments:

**PART 1750—CAPITAL**

1. The authority citation for part 1750 continues to read as follows:

**Authority:** 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4618.

**§ 1750.5 [Removed].**

2. Remove § 1750.5 of subpart A.
3. Revise paragraph (c) of § 1750.12 to read as follows:

**§ 1750.12 Procedure and timing.**

\* \* \* \* \*

(c) When an Enterprise contemplates entering a new activity, as the term is defined in section 3.11 of Appendix A to this subpart, the Enterprise shall notify the Director as soon as possible

while the transaction or activity is under consideration, but in no event later than 5 calendar days after settlement or closing. The Enterprises shall provide to the Director such information regarding the activity as the Director may require to determine a stress test treatment. OFHEO will inform the Enterprise as soon as possible thereafter of the proposed stress test treatment of the new activity. In addition, the notice of proposed capital classification required by § 1777.21 of this chapter will inform the Enterprise of the capital treatment of such new activity used in the determination of the risk-based capital requirement.

\* \* \* \* \*

Dated: April 15, 2002.

**Armando Falcon, Jr.,**

*Director, Office of Federal Housing Enterprise Oversight.*

[FR Doc. 02-9608 Filed 4-18-02; 8:45 am]

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

**[Docket No. 2001-NM-189-AD; Amendment 39-12715; AD 2002-08-07]**

**RIN 2120-AA64**

**Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767-200, -300, and -300F series airplanes. This AD requires examination of maintenance records to determine if Titanine JC5A (also known as Desoto 823E508) corrosion inhibiting compound ("C.I.C.") was ever used; inspection for cracks or corrosion and corrective action, if applicable; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications. This action is necessary to prevent severe corrosion in the main landing gear (MLG) outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG. This action is intended to address the

identified unsafe condition. The FAA is also planning to issue additional rulemaking to exclude the use of Titanine JC5A for compliance with previously issued ADs.

**DATES:** Effective May 6, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 6, 2002.

**ADDRESSES:** 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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:** John Craycraft, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2782; fax (425) 227-1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767-200, -300, and -300F series airplanes was published in the **Federal Register** on August 23, 2001 (66 FR 44313). That action proposed to require examination of maintenance records to determine if Titanine JC5A corrosion inhibiting compound ("C.I.C.") was ever used; inspection for cracks or corrosion and corrective action, if applicable; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters support the proposed AD.

**Acknowledge Alternate Name for Titanine JC5A**

One commenter, the airplane manufacturer, points out that the proposed AD only refers to "Titanine JC5A," but this C.I.C. is also known by a Desoto product name, "Desoto 823E508." The commenter asks that the

<sup>1</sup> Risk-based Capital, 66 FR 47730 (September 13, 2001).

<sup>2</sup> Prompt Supervisory Response and Corrective Action, 67 FR 3587 (January 25, 2002).