

These modifications to the derivatives provisions in Regulation Y would be effective for all BHCs. The GLB Act preserved the Board's authority to modify the terms and conditions that apply to any BHC activity approved by the Board before November 11, 1999.<sup>10</sup> The Board had authorized BHCs to engage as principal in commodity derivative transactions prior to November 11, 1999. The final rule would represent a relaxation of the current limitations that apply to the conduct of a derivatives activity already approved by the Board under Regulation Y, and would not create a new permissible activity for BHCs.<sup>11</sup>

**Plain Language**

Section 722 of the GLB Act requires the Board to use "plain language" in all proposed and final rules published after January 1, 2000. In light of this requirement, the Board has sought to present the final rule in a simple and straightforward manner. No commenter on the proposed rule asked the Board to take additional steps to make the rule easier to understand.

**Regulatory Flexibility Act**

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), the Board must publish a final regulatory flexibility analysis with this final rule. The final rule expands the scope of permissible commodity derivatives activities for a bank holding company. A description of the reasons for the Board's decision to issue the final rule and a statement of the objectives of, and legal basis for, the rule are contained in the supplementary material provided above. The final rule applies to bank holding companies regardless of their size and should enhance the ability of all bank holding companies, including small ones, to compete with other providers of financial services in the United States and to respond to changes in the marketplace in which banking organizations compete. The comments received by the Board on the proposed rule did not indicate that the rule would impose burden on bank holding companies of any size.

types newly authorized by the rule. 12 CFR 225.21(a)(2).

<sup>10</sup> See 12 U.S.C. 1843(c)(8).

<sup>11</sup> The Board notes that, subsequent to the Board's issuance of the proposed rule, the Office of the Comptroller of the Currency ("OCC") approved a request by Bank of America, N.A., to engage in customer-driven electricity derivative transactions that involve the transitory transfer of title to electricity. See OCC Interpretive Letter No. 962 (April 21, 2003).

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The rule contains no collections of information pursuant to the Paperwork Reduction Act.

**List of Subjects in 12 CFR Part 225**

Administrative practice and procedures, Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

**Authority and Issuance**

■ For the reasons set forth in the preamble, the Board amends 12 CFR part 225 as follows:

**PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)**

■ 1. The authority citation for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p-1, 1843(c)(8), 1843(k), 1844(b), 1972(1), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

■ 2. Section 225.28 is amended by revising paragraph (b)(8)(ii)(B) to read as follows:

**§ 225.28 List of permissible nonbanking activities**

\* \* \* \* \*

(b) \* \* \*

(8) \* \* \*

(ii) \* \* \*

(B) Forward contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on any rate, price, financial asset (including gold, silver, platinum, palladium, copper, or any other metal approved by the Board), nonfinancial asset, or group of assets, other than a bank-ineligible security,<sup>12</sup> if:

(1) A state member bank is authorized to invest in the asset underlying the contract;

(2) The contract requires cash settlement;

(3) The contract allows for assignment, termination, or offset prior to delivery or expiration, and the company—

(i) Makes every reasonable effort to avoid taking or making delivery of the asset underlying the contract; or

<sup>12</sup> A bank-ineligible security is any security that a state member bank is not permitted to underwrite or deal in under 12 U.S.C. 24 and 335.

(ii) Receives and instantaneously transfers title to the underlying asset, by operation of contract and without taking or making physical delivery of the asset; or

(4) The contract does not allow for assignment, termination, or offset prior to delivery or expiration and is based on an asset for which futures contracts or options on futures contracts have been approved for trading on a U.S. contract market by the Commodity Futures Trading Commission, and the company—

(i) Makes every reasonable effort to avoid taking or making delivery of the asset underlying the contract; or

(ii) Receives and instantaneously transfers title to the underlying asset, by operation of contract and without taking or making physical delivery of the asset.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, June 27, 2003.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. 03-16835 Filed 7-2-03; 8:45 am]

**BILLING CODE 6210-01-P**

**FEDERAL HOUSING FINANCE BOARD**

**12 CFR Parts 910 and 913**

[No. 2003-08]

RIN 3069-AB07

**Privacy Act and Freedom of Information Act; Implementation**

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is revising its Privacy Act regulation to reflect an agency reorganization. The responsibilities of the Secretary to the Board of Directors, including administration of the Finance Board's Privacy Act program, have been transferred to the Office of General Counsel (OGC) and an OGC staff member is acting as the Finance Board's Privacy Act Official. The Finance Board also is revising the rule to make it more "user-friendly" by using plain language and where appropriate, a question-and-answer format.

Elsewhere in this issue of the **Federal Register**, the Finance Board is publishing a notice that makes corresponding changes to the agency's Privacy Act systems of records. The notice also adds a new system of records covering Office of Inspector General investigative files.

The Finance Board also is amending the fee schedule in its Freedom of Information Act (FOIA) regulation to take into account increased salary and operating costs. The Finance Board determines the amount of the fee it charges to duplicate records under the Privacy Act in accordance with the FOIA fee schedule.

**DATES:** The interim final rule will become effective on July 3, 2003. The Finance Board will accept comments on the interim final rule in writing on or before September 2, 2003.

**ADDRESSES:** Send comments by electronic mail to [comments@fhfb.gov](mailto:comments@fhfb.gov), by facsimile to 202/408-2580, or by regular mail to the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, Attn: Public Comments. Comments will be available for public inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** Janice A. Kaye, Senior Attorney-Advisor, Office of General Counsel, by electronic mail at [kayej@fhfb.gov](mailto:kayej@fhfb.gov), by telephone at 202/408-2505, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Effective March 20, 2000, responsibility for administering the Finance Board's FOIA program was transferred to the Office of General Counsel and an OGC staff member began acting as the Finance Board's FOIA Officer. In order to provide a requester with the maximum amount of information available under the law, the Finance Board processes some requests for records under both the FOIA and the Privacy Act. To minimize response time and to ensure consistent and appropriate analysis of agency records, the Finance Board has determined that responsibility and authority for both the FOIA and Privacy Act programs should reside in one agency office. Accordingly, the Finance Board has transferred responsibility for administering the Finance Board's Privacy Act program to the OGC, the office already responsible for running the agency's FOIA program. As part of the transfer, an OGC staff member is acting as the Finance Board's Privacy Act Official. The Privacy Act Official is authorized to make all initial denial determinations under the Finance Board's Privacy Act regulation.

The Finance Board is amending its Privacy Act regulation to reflect the reassignment of responsibility and authority. More specifically, the Finance Board is replacing the term "Executive

Secretary" and the term "Finance Board" with the term "Privacy Act Official" where appropriate. The Finance Board also is taking this opportunity to make the rule more "user-friendly" by rewriting the rule in plain language and using a question-and-answer format where appropriate.

Elsewhere in this issue of the **Federal Register**, the Finance Board is publishing a notice that makes corresponding changes to the agency's Privacy Act systems of records. Since the Privacy Act rule includes an exemption for Office of Inspector General (OIG) investigative files, the notice adds a new system of records covering OIG investigative records.

**II. Analysis of the Interim Final Rule**

The interim final rule revises the Finance Board rule implementing the Privacy Act of 1974, as amended (5 U.S.C. 552a), to reflect a reorganization in which responsibility and authority for running the agency's Privacy Act program was transferred to the OGC. The Finance Board also is revising the rule to make it more "user-friendly" by using plain language. A more detailed description of the provisions of part 913, as revised, follows.

*A. Purpose and Scope*

Section 913.2 restates the purpose and scope of part 913, which currently are found in § 913.1. The rule now makes clear that the Finance Board automatically processes a Privacy Act request for access to records under both the Privacy Act and the FOIA to provide a requester with the maximum amount of information available under the law.

*B. Privacy Act Requests*

Section 913.3 sets forth the procedures an individual must follow when making a request under the Privacy Act. It covers requests for access to records, for amendment or correction of records, and for an accounting of disclosures by the Finance Board. Section 913.3 includes provisions found currently in §§ 913.3(a)–(c), 913.4, and 913.6(a)–(b). The provision in current § 913.3(d) concerning disclosure of medical records has been deleted.

*C. Finance Board Response to Privacy Act Requests*

Section 913.4 explains how and when the Finance Board will respond to a Privacy Act request. The revised rule authorizes the Privacy Act Official to make all initial agency determinations, including adverse determinations. Section 913.4 restates provisions found currently in §§ 913.3(e)–(f), 913.5, and

913.6(d)–(e) without other substantive changes.

*D. Appeals*

Section 913.5 prescribes the procedures individuals must follow if they are dissatisfied with the Privacy Act Official's response to their Privacy Act request. It restates provisions found currently in §§ 913.3(g) and 913.6(f)–(g) with no substantive changes.

*E. Fees*

Section 913.6 concerns the fees the Finance Board charges to fulfill Privacy Act requests. The fee provision currently is found in § 913.7. The rule makes clear that the Finance Board considers a request to be an agreement to pay all applicable fees unless the requester expressly limits the amount he or she is willing to pay. The Finance Board, which charges only for duplication of records, determines the amount of the fee in accordance with the fee provisions of the agency's FOIA rule, which is codified at 12 CFR 910.9.

The Finance Board is amending the FOIA fee schedule, 12 CFR 910.9(g), to take into account changes in salary and operating costs. More specifically, the hourly search charge for clerical staff has increased from \$17.00 to \$28.00, for supervisory/professional staff from \$34.00 to \$53.00, and for computer operators from \$34.00 to \$48.00. The hourly charge to review records has increased from \$34.00 to \$53.00. With regard to duplication costs, the Finance Board has eliminated obsolete charges for computer output and microfiche, decreased the cost for diskettes from \$5.00 to \$.50, and added a \$1.00 charge for CD-ROMs. The Finance Board also is making clear that a requester's failure to timely pay FOIA fees assessed by this or any other federal agency may result in a requirement for the requester to pay future fees in advance or the administrative closing of a request.

*F. Exemptions*

Section 913.7 restates current § 913.8, which describes the records that are exempt from disclosure under the Privacy Act. Finance Board records that are exempt include the following: (1) Certain law enforcement files and files used to determine suitability, eligibility or qualifications for federal civilian employment or federal contracts that are contained in the OIG Investigative Records system of records (FHFB-7); and (2) materials contained in the system of records titled "Agency Personnel Investigative Records" (FHFB-6) that would reveal the identity of a source who furnished information to the government under an express

promise that his or her identity would be held in confidence. Since no Finance Board office performs as its principal function activities pertaining to the enforcement of criminal laws, the Finance Board has eliminated references to exemptions provided under paragraph (j)(2) of the Privacy Act. See 5 U.S.C. 552a(j)(2).

### III. Notice and Public Participation

The Finance Board is promulgating these technical, procedural changes as an interim final rule because it is in the public interest to conform the Finance Board's Privacy Act regulation to an agency reorganization that already has taken effect. Accordingly, the Finance Board for good cause finds that the notice and publication requirements of the Administrative Procedure Act are unnecessary. See 5 U.S.C. 553(b)(3)(B). However, because this type of rulemaking generally requires notice and receipt of public comment, the Finance Board will accept written comments on the interim final rule on or before September 2, 2003.

### IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the interim final rule should become effective on July 3, 2003. See 5 U.S.C. 553(d)(3).

### V. Regulatory Flexibility Act

The Finance Board is adopting the amendments to parts 910 and 913 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2), 603(a).

### VI. Paperwork Reduction Act

The interim final rule does not contain any collections of information under the Paperwork Reduction Act of 1995. See 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

#### List of Subjects

##### 12 CFR Part 910

Administrative practice and procedure, Archives and records, Confidential business information, Federal home loan banks, Freedom of information.

##### 12 CFR Part 913

Administrative practice and procedure, Archives and records, Freedom of information, Privacy.

For the reasons stated in the preamble, the Finance Board amends 12 CFR Ch. IX as follows:

### PART 910—FREEDOM OF INFORMATION ACT REGULATION

■ 1. The authority citation for part 910 continues to read as follows:

**Authority:** 5 U.S.C. 552; 52 FR 10012 (Mar. 27, 1987).

■ 2. Revise §§ 910.9(f)(2) and (4) and (g), and add § 910.9(f)(6), to read as follows:

#### § 910.9 Fees.

\* \* \* \* \*

(f) \* \* \*

(2) To pay fees and interest assessed under this section, a requester shall deliver to the Office of Management, located at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, a check or money order made payable to the "Federal Housing Finance Board."

\* \* \* \* \*

(4) The FOIA Officer may require a requester to pay an estimated fee in advance if:

(i) It is determined that the fee will likely exceed \$250;

(ii) The requester previously has failed to pay a fee assessed under this section within 30 days of the earlier of the date of the determination under § 910.4 or the date a fee statement was transmitted to a requester; or

(iii) The requester previously has failed to timely pay a fee assessed in accordance with the FOIA regulation of another federal agency.

\* \* \* \* \*

(6) The FOIA Officer may administratively close a request if the requester previously has failed to pay a fee assessed under this section or in accordance with the FOIA regulation of another federal agency unless the requester can substantiate that the debt was paid.

(g) *Fee schedule.* The Finance Board shall assess fees in accordance with the following schedule:

#### Search

Supervisory/Professional Staff: \$53.00 per hour  
Clerical Staff: \$28.00 per hour  
Computer Operator: \$48.00 per hour  
Review: \$53.00 per hour

#### Duplication

Photocopies: \$.10 per page  
Diskettes: \$.50 per diskette  
CD-ROMs: \$1.00 per CD  
Transcription of audio tape: \$4.50 per page  
Certification, seal and attestation: \$5.00 per document

### Delivery

Facsimile transmission (long distance): long distance charges plus \$.25 per page

Facsimile transmission (local): \$.25 per call plus \$.25 per page

Express delivery service: actual cost

■ 3. Revise 12 CFR part 913 to read as follows:

### PART 913—PRIVACY ACT REGULATION

Sec.

913.1 Definitions.

913.2 Purpose and scope.

913.3 How do I make a request under the Privacy Act?

913.4 How will the Finance Board respond to your Privacy Act request?

913.5 What can I do if I am dissatisfied with the Finance Board's response to my Privacy Act request?

913.6 Fees.

913.7 Exemptions.

**Authority:** 5 U.S.C. 552a.

#### § 913.1 Definitions.

For purposes of this part:

*Amendment* means any correction, addition to or deletion of information in a record.

*FOIA* means the Freedom of Information Act, as amended (5 U.S.C. 552).

*Individual* means a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

*Maintain* means to keep or hold and preserve in an existing state, and includes the terms collect, use, disseminate and control.

*Privacy Act* means the Privacy Act of 1974, as amended (5 U.S.C. 552a).

*Privacy Act Official* means the Finance Board employee who is authorized to make determinations as provided in this part. The mailing address for the Privacy Act Official is: Privacy Act Office, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

*Record* means any item, collection or grouping of information about an individual that the Finance Board maintains within a system of records and contains the individual's name or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or photograph.

*System of records* means a group of records the Finance Board maintains or controls from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual. You can find a description of the Finance Board's

systems of records as part of the "Privacy Act Compilation" published by the **Federal Register**. You can access the "Privacy Act Compilation" in most large reference and university libraries or electronically on the World Wide Web at [http://www.access.gpo.gov/su\\_docs/aces/PrivacyAct.shtml](http://www.access.gpo.gov/su_docs/aces/PrivacyAct.shtml). You also can request a copy of the Finance Board's systems of records from the Privacy Act Official.

*Working days* do not include Saturdays, Sundays and legal public holidays.

### § 913.2 Purpose and scope.

(a) This Part 913 contains the rules the Finance Board follows under the Privacy Act. The rules apply to all records in systems of records the Finance Board maintains that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves or about and on behalf of another individual as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, request amendment or correction of those records, and request an accounting of disclosures of those records by the Finance Board. Whenever it is appropriate to do so, the Finance Board automatically processes a Privacy Act request for access to records under both the Privacy Act and the FOIA, following the rules contained in part 910 of this chapter and this part 913. The Finance Board processes a request under both the Privacy Act and the FOIA so you will receive the maximum amount of information available to you by law.

(b) This part does not entitle you to any service or to the disclosure of any record to which you are not entitled under the Privacy Act. It also does not, and may not be relied upon to create any substantive or procedural right or benefit enforceable against the Finance Board.

### § 913.3 How do I make a request under the Privacy Act?

(a) *In general*. You can make a Privacy Act request on your own behalf or on behalf of another individual as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent. To make sure that the Privacy Act Office receives your request without delay, you should include the notation "Privacy Act Request" on the front of your envelope and also at the beginning of your request.

(b) *Requests for access to records*. You may make a request for access to a

record by appearing in person or by writing directly to the Privacy Act Official. You must describe the record that you want in enough detail to enable the Privacy Act Office to locate the system(s) of records containing it with a reasonable amount of effort. Your request should describe the record sought, the time period in which you believe it was compiled, and the name or identifying number of each system of records in which you believe it is kept.

(c) *Requests for amendment or correction of records*. You may make a request for amendment or correction of a Finance Board record by writing to the Privacy Act Official. Your request should identify each particular record in question and the system(s) of records in which the record is located, describe the amendment or correction that you want, and state why you believe that the record is not accurate, relevant, timely or complete. You may submit any documentation that you think would be helpful.

(d) *Requests for an accounting of record disclosures*. You may request an accounting of disclosures made by the Finance Board to another person, organization or agency of any record by writing to the Privacy Act Official. Your request for an accounting should identify each particular record in question. An accounting generally includes the date, nature and purpose of each disclosure, as well as the name and address of the person, organization or agency to which the disclosure was made.

(e) *Verification of identity*. When making a Privacy Act request, you must verify your identity in accordance with these procedures to protect your privacy or the privacy of the individual on whose behalf you are acting. If you make a Privacy Act request and you do not follow these identity verification procedures, the Finance Board cannot process your request.

(1) *Verifying your own identity*. If you make your request in person and your identity is not known to the Privacy Act Official, you must provide either two forms of identification with photographs, or one form of identification with a photograph and a properly authenticated birth certificate. If you make your request by mail, your signature either must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may fulfill this requirement by having your signature on your request letter witnessed by a notary, or including the following statement just before the signature on your request letter: "I declare under

penalty of perjury that the foregoing is true and correct. Executed on [date]."

(2) *Verification of guardianship*. When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, for access to records about that individual, you must establish:

(i) The identity of the individual who is the subject of the record, by stating the individual's name, current address and date and place of birth;

(ii) Your own identity, as required in paragraph (e)(1) of this section;

(iii) That you are the parent or guardian of the individual, which you may prove by providing a properly authenticated copy of the individual's birth certificate showing your parentage or a properly authenticated court order establishing your guardianship; and

(iv) That you are acting on behalf of the individual in making the request.

### § 913.4 How will the Finance Board respond to your Privacy Act request?

(a) *When will the Finance Board respond to my request?* The Privacy Act Official generally will respond to you in writing within 10 working days of receipt of a request that meets the requirements of § 913.3. The Privacy Act Official may extend the response time in unusual circumstances, such as the need to consult with another agency about a record or to retrieve a record shipped offsite for storage.

(b) *What will the Finance Board's response include?* The written response will include the Privacy Act Official's determination whether to grant or deny your request in whole or in part and a brief explanation of the reasons for the determination. If you requested access to records, the Privacy Act Official will make the records, if any, available to you. If you requested amendment or correction of a record, the response will describe any amendment or correction made and advise you of your right to obtain a copy of the amended or corrected record, in disclosable form, under this part.

(c) *Adverse determinations*.—(1) *What is an adverse determination?* Adverse determinations consist of the following determinations by the Privacy Act Official:

(i) A determination to withhold any requested record in whole or in part;

(ii) A determination to deny a request to amend or correct a record in whole or in part;

(iii) A determination not to provide an accounting of disclosures;

(iv) A determination that a requested record does not exist or cannot be located;

(v) A determination that what has been requested is not a record subject to the Privacy Act; or

(vi) A determination on any disputed fee matter.

(2) *Responses that include an adverse determination.* If the Privacy Act Official makes an adverse determination with respect to your request, the written response under this section will state that the Privacy Act Official is the person responsible for the adverse determination, that the adverse determination is not a final agency action, and that you may appeal the adverse determination under § 913.5.

**§ 913.5 What can I do if I am dissatisfied with the Finance Board's response to my Privacy Act request?**

(a) *Appeals.* You can appeal any adverse determination made by the Privacy Act Official in responding to your Privacy Act request. If you wish to seek review by a court of any adverse determination or denial of a request, you first must appeal it under this section.

(b) *How do I make an appeal?* You may make an appeal by submitting a written application giving the reasons why the adverse determination should be overturned within 30 working days of the date of the Privacy Act Official's determination under § 913.4. You should include the notation "Privacy Act Appeal" on the front of your envelope and also at the beginning of your application to make sure that the Privacy Act Office receives your appeal without delay.

(c) *When will the Finance Board respond to my appeal?* The Finance Board generally will respond to you in writing within 30 working days of receipt of an appeal that meets the requirements of paragraph (b) of this section. The Finance Board may extend the response time in unusual circumstances, such as the need to consult with another agency about a record or to retrieve a record shipped offsite for storage.

(d) *What will the Finance Board's response include?* The written response will include the Finance Board's determination whether to grant or deny your appeal in whole or in part, a brief explanation of the reasons for the determination, and information about the Privacy Act provisions for court review of the determination. If your appeal concerns a request for access to records, the Finance Board will make the records, if any, available to you. If your appeal concerns amendment or correction of a record, the response will describe any amendment or correction made and advise you of your right to

obtain a copy of the amended or corrected record, in disclosable form, under this part and your right to file a Statement of Disagreement under paragraph (e) of this section.

(e) *Statements of Disagreement.*—(1) *What is a Statement of Disagreement?* A Statement of Disagreement is a concise written statement in which you clearly identify each part of any record that you dispute and explain your reason(s) for disagreeing with the Finance Board's denial in whole or in part of your appeal to amend or correct that record.

(2) *How do I file a Statement of Disagreement?* You must deliver your Statement of Disagreement to the Privacy Act Official within 30 working days of the Finance Board's denial in whole or in part of your appeal concerning amendment or correction of a record.

(3) *What will the Finance Board do with my Statement of Disagreement?* The Finance Board will place your Statement of Disagreement in the system(s) of records in which the disputed record is maintained. The Finance Board also may append a concise statement of its reason(s) for denying the request to amend or correct the record. The Finance Board will provide a copy of your Statement of Disagreement and its explanation, if any, along with the record whenever the record is disclosed.

**§ 913.6 Fees.**

(a) *Your request is an agreement to pay fees.* The Finance Board considers your Privacy Act request as your agreement to pay all applicable fees unless you specify a limit on the amount of fees you agree to pay. The Finance Board will not exceed the specified limit without your written agreement.

(b) *How does the Finance Board calculate fees?* The Finance Board will charge a fee for duplication of a record under the Privacy Act in the same way it charges for duplication of records under the FOIA (12 CFR 910.9). The Finance Board will not charge any fees to search for or review records.

**§ 913.7 Exemptions.**

(a) *What is the effect of an exemption?*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, the Finance Board will not provide you with an accounting of disclosures or make available to you records that are exempt under paragraph (b) of this section.

(2) *Certain law enforcement records.* The Finance Board will disclose a law enforcement record that is subject to an exemption if any right, privilege or

benefit to which you would otherwise be entitled by Federal law, or for which you would otherwise be eligible, is denied as a result of the maintenance of the record, except to the extent that disclosure of the record would reveal the identity of a source who furnished information to the government under an express promise that his or her identity would be held in confidence.

(b) *Which records are exempt?*—(1) *Office of Inspector General Investigative Records.* Pursuant to 5 U.S.C. 552a(k)(2), a record contained in the system of records titled "Office of Inspector General Investigative Records" (FHFB-6) is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), to the extent that the record consists of investigatory material compiled:

(i) For law enforcement purposes; or  
(ii) For the purpose of determining suitability, eligibility or qualifications for federal civilian employment or federal contracts, if disclosure of the record would reveal the identity of a source who furnished information to the government under an express promise that his or her identity would be held in confidence.

(2) *Personnel Investigative Records.* Pursuant to 5 U.S.C. 552a(k)(5), a record contained in the system of records titled "Personnel Investigative Records" (FHFB-5) is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), to the extent that disclosure would reveal the identity of a source who furnished information to the government under an express promise that his or her identity of the source would be held in confidence.

(c) *Why are these records exempt?*—(1) *Office of Inspector General Investigative Records.* The records contained in the system of records titled "Office of Inspector General Investigative Records" (FHFB-6) are exempt:

(i) To prevent interference with law enforcement proceedings;  
(ii) To avoid an unwarranted invasion of personal privacy by revealing information about third parties such as other subjects of an investigation, law enforcement personnel, witnesses and other sources of information;  
(iii) To fulfill commitments made to protect the confidentiality of sources including Federal employees who furnish a complaint or information to the Office of the Inspector General and other sources of information;

(iv) To assure access by the Office of Inspector General to sources of confidential information, including those contained in federal, state and

local criminal law enforcement information systems;

(v) To prevent disclosure of law enforcement techniques and procedures; and

(vii) To avoid endangering the life or physical safety of confidential sources and law enforcement personnel.

(2) *Personnel Investigative Records.* The records contained in the system of records titled "Personnel Investigative Records" (FHFB-5) are exempt:

(i) To fulfill commitments made to protect the confidentiality of sources; and

(ii) To assure access to sources of confidential information, including those contained in federal, state and local criminal law enforcement information systems.

Dated: June 19, 2003.

By the Board of Directors of the Federal Housing Finance Board.

**John T. Korsmo,**  
*Chairman.*

[FR Doc. 03-16560 Filed 7-2-03; 8:45 am]

BILLING CODE 6725-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NE-13-AD; Amendment 39-13219; AD 2003-13-17]

RIN 2120-AA64

#### **Airworthiness Directives; Hartzell Propeller, Inc., McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company Propellers**

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Hartzell Propeller, Inc., McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company (formerly Beech Aircraft Corporation) propellers returned to service by T and W Propellers, Inc., of Chino, CA. This AD requires maintenance actions amounting to an overhaul of the affected propellers. This AD is prompted by the results of a National Transportation Safety Board (NTSB) investigation of a failed propeller blade and subsequent inspections of various propeller models returned to service by T and W Propellers, Inc. We are issuing this AD to detect unsafe conditions that could

result in separation of a propeller blade and loss of control of the airplane.

**DATES:** Effective July 18, 2003.

We must receive any comments on this AD by September 2, 2003.

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

- *By mail:* The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-NE-13-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

- *By fax:* (781) 238-7055.

- *By e-mail:* [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov).

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018-4696; telephone (847) 294-7031, fax (847) 294-7834.

**SUPPLEMENTARY INFORMATION:** This AD applies to certain Hartzell Propeller, Inc., McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company (formerly Beech Aircraft Corporation) propellers returned to service by T and W Propellers, Inc of Chino, CA. This AD requires maintenance actions that amount to an overhaul of the affected propellers. This AD is prompted by the results of an NTSB investigation into the separation of a propeller blade on a Beech 95 Travel Air airplane and subsequent inspections of various propeller models returned to service by T and W Propellers, Inc. The NTSB metallurgical analysis of the failed blade showed that the fracture was approximately 4 inches from the butt end of the propeller blade. Several corrosion pits were found in the propeller inner blade bearing bore at and around the site of crack initiation. While the fatigue failure appeared to have corrosion pits as its initiation site, the size of the crack was approximately 4 inches in the outer surface of the blade shank. A crack of that size is visually detectable. However, the time-since-overhaul (TSO) of the propeller was reported as being zero hours. Documentation from T and W Propellers, Inc. propeller repair station of Chino, CA, indicated that they had complied with Hartzell service documents. However, inspection of the propellers on the airplane involved showed that T and W Propellers, Inc. had not complied with Hartzell service

documents. The FAA participated in several subsequent teardowns of other propellers returned to service by T and W Propellers, Inc. We conducted these teardowns on other Hartzell and McCauley propeller models that the public provided voluntarily. The cumulative teardown information provided enough information to substantiate that T and W Propellers, Inc. had introduced unsafe conditions on propellers they had returned to service. These inspections uncovered the following unsafe conditions:

- Extensive corrosion in the internal bearing bore of the blade.
- Absence of corrosion protection (chemical conversion coating and paint) in the internal bearing bore area of the blade.
- Cadmium plating on top of deep corrosion pits.
- Poor cadmium plating and corrosion in the hub.
- Extra phenolic washers that are not approved for use in Hartzell propellers.
- A deteriorated O-ring that was not replaced during the overhaul.
- Failure to properly shot peen propeller parts.

We are requiring certain actions in this AD to detect unsafe conditions that could result in separation of a propeller blade and loss of control of the airplane.

#### **FAA's Determination and Requirements of This AD**

The unsafe condition described previously is likely to exist or develop on other propellers that T and W Propellers Inc., propeller repair station of Chino, CA, returned to service. We are issuing this AD to detect unsafe conditions that could result in separation of a propeller blade and loss of control of the airplane. This AD requires maintenance actions that amount to an overhaul of certain Hartzell Propeller, Inc., McCauley Propeller Systems, Sensenich Propeller Manufacturing Company, Inc., and Raytheon Aircraft Company propellers returned to service T and W Propellers, Inc., and that are listed by serial number (SN) in this AD.

#### **Recommendation for Propellers Not Identified by SN**

This AD currently affects all propellers that we have identified by propeller hub SN from 434 T and W Propellers, Inc. shop work order records. The records range in date from January 8, 2000 to December 30, 2002. This range of dates represents a portion of propellers returned to service by T and W Propellers, Inc. since January 22, 1997, when the FAA issued a repair station certificate to T and W Propellers,