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NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

RIN 3150–AF67

Conduct of Employees; CFR Part Removal

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to remove the provisions concerning the ''Conduct of Employees'' from the Code of Federal Regulations (CFR). This part of the Commission's regulations is no longer applicable because the Office of Government Ethics (OGE) issued executive branch-wide regulations (on exemptions and waivers for financial interests) that supersede the only remaining substantive provision in the NRC's regulations at 10 CFR part 0.

EFFECTIVE DATE: This final rule is effective on April 4, 1997.

FOR FURTHER INFORMATION CONTACT: Pamela Urban, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–1619.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) is amending its regulations to remove the provisions in 10 CFR part 0 in their entirety. On December 18, 1996 (61 FR 66830), the Office of Government Ethics (OGE) issued executive branch-wide regulations on exemptions and waivers for financial interests under 18 U.S.C. 208(b) (codified at 5 CFR 2640). The portion of the OGE regulations on exemptions under 18 USC 208(b)(2) supersedes the only remaining substantive provision in part 0 of the NRC's regulations (10 CFR 0.735–2).

Background

On August 7, 1992 (57 FR 35006), the OGE published its final rule establishing government-wide standards of conduct for executive branch employees. The regulations, which are codified at 5 CFR part 2635, took effect on February 3, 1993, and supplanted a major portion of the NRC's standards of conduct regulations. On January 12, 1993 (58 FR 3825), the NRC published a final rule that amended part 0 to remove those provisions of the NRC's standard of conduct regulations which were to be replaced by the government-wide regulations on February 3, 1993. On May 25, 1993 (58 FR 29951), the NRC further amended part 0 (in compliance with the OGE regulations) to remove NRC internal procedures and delegations of authority on standards of conduct and to place them in internal NRC Management Directives.

In accordance with OGE's issuance of the final rule regarding 18 U.S.C. 208(b) exemptions and waivers (5 CFR 2640), the Commission is issuing this final rule removing 10 CFR part 0 in its entirety.

Because the Commission is required to delete the superseded provisions of 10 CFR part 0 relating to 208(b)(2) exemptions, with no discretion in the matter, the NRC finds, pursuant to 5 U.S.C. 553(b)(B), that there is good cause not to seek public comment on this rule, as such comment is unnecessary. Furthermore, for the reasons stated above, the NRC finds, pursuant to 5 U.S.C. 553(d)(3), that good cause exists to make this rule effective upon publication of this notice.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because the NRC is eliminating regulations that have been superseded by the Office of Government Ethics' issuance of executive branch-wide regulations on exemptions and waivers for financial interests under 18 U.S.C. 208(b). This rule has no impact on health, safety or the environment. There is no cost to licensees, the NRC, or other Federal agencies.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because the deletion of these regulations does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 0

Conflict of interest, Criminal penalties.

PART 0—[REMOVED]

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2201), as amended; the Energy Reorganization Act of 1974 (42 U.S.C. 5841), as amended; 5 U.S.C. 552 and 553; and 5 CFR part 2640, the NRC is removing 10 CFR part 0 from its regulations.

Dated at Rockville, Maryland this 20th day of March 1997.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 97–8547 Filed 4–3–97; 8:45 am]
BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket No. R–0961]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff interpretation.

SUMMARY: The Board is publishing revisions to the official staff commentary to Regulation M, which

implements the Consumer Leasing Act. The act requires lessors to provide uniform cost and other disclosures about consumer lease transactions. Regulation M was revised in September 1996 under the Board's Regulatory Planning and Review program, which calls for the periodic review of Board regulations. The commentary applies and interprets the requirements of Regulation M. The revisions to the commentary provide guidance on the final rule issued in September 1996, as amended in April 1997.

DATES: This rule is effective April 1, 1997. Compliance is optional until October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Kyung H. Cho-Miller or Obrea Otey Poindexter, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or 452–3667. For users of Telecommunications Devices for the Deaf (TDD) *only,* contact Diane Jenkins, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Leasing Act (CLA), 15 U.S.C. 1667–1667e, was enacted into law in 1976 as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.* The CLA is implemented by the Board's Regulation M (12 CFR part 213). An official staff commentary (Supplement I–CL–1 to 12 CFR part 213) provides guidance to lessors in applying the regulation to specific transactions. The CLA requires lessors to provide consumers with uniform cost and other disclosures about consumer lease transactions. The act generally applies to consumer leases of personal property in which the contractual obligation does not exceed $25,000 and has a term of more than four months. An automobile lease is the most common type of consumer lease covered by the act.

In September 1996, the Board approved a final rule revising Regulation M, after a review of the regulation and consumer leasing generally. The review was conducted under the Board's Regulatory Planning and Review Program, which calls for the periodic review of Board regulations with four goals in mind: to clarify and simplify regulatory language; to determine whether regulatory amendments are needed to address technological and other developments; to reduce undue regulatory burden on the industry; and to delete obsolete provisions.

The September 1996 final rule includes new disclosures to supplement the act's requirements (61 FR 52246, October 7, 1996). The major changes primarily affect motor-vehicle leasing. They include a mathematical progression on how scheduled payments are derived (using figures such as the gross capitalized cost of a lease, the vehicle's residual value, the amount of depreciation, and the rent charge) and a warning statement about charges for terminating a lease early. General changes in the format of the disclosures require that certain lease disclosures be segregated from other information. A lessor is not required to disclose the cost of a lease expressed as a percentage rate; however, if a rate is disclosed or advertised, a special notice must accompany the rate stating that it may not measure the overall cost of financing the lease. Further, a rate in an advertisement cannot be more prominent than any other Regulation M disclosure.

The final rule also revises the advertising rules and implements amendments to the CLA contained in the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160); those amendments allow a toll-free number or a print advertisement to substitute for certain lease disclosures in radio commercials (which was expanded in the final rule to television commercials). The CLA's advertising rules were further amended and streamlined on September 30, 1996, by the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104–208, 110 Stat. 3009). The Board issued a proposal to implement those changes. (62 FR 62, January 2, 1997). A final rule has been issued with a mandatory compliance date of October 1, 1997.

The Board published an updated proposal to the commentary in February 1997 (62 FR 7361, February 19, 1997). Comment letters were received from representatives of the major lease trade associations, state agencies, consumer representatives, and the Federal Trade Commission, among others. The final revisions to the commentary include guidance on material that was published for comment in September 1995, incorporate guidance on the September 1996 final rule, and address certain questions raised following public review of the final rule, incorporating many suggestions made by the commenters.

II. Discussion of Final Revisions

The following discussion covers the revisions to the Regulation M commentary section-by-section. Comments that have been revised for further clarity, without substantive change, are not discussed. Most of the discussion focuses on new comments and significant revisions to existing comments.

Introduction

Comments I–3 and I–6 are deleted as obsolete or unnecessary. Comments I–1, I–2, I–4, and I–5 are redesignated accordingly.

Section 213.1—Authority, Scope, Purpose, and Enforcement

Former	New
1–1	1–1.
1–2	Deleted as unnecessary (see appendix C).

Comment 1–1 is revised to clarify persons covered by the regulation.

Section 213.2—Definitions

2(a) Definitions

Former	New
2(a)(2)–1	2(b)–1 and –2; including text from former § 213.2(a)(2).
2(a)(2)–2	2(b)–3.
	2(d)–1 new.
2(a)(4)–1	2(h)–1; includes text from former § 213.2(a)(4).
2(a)(4)–2	2(h)–4.
2(a)(4)–3	2(h)–2.
2(a)(6)–1	2(e)–1.
2(a)(6)–2	2(e)–2.
	2(e)–3 new.
2(a)(6)–3	2(e)–6.
2(a)(6)–4	2(e)–4.
	2(e)–5 new; includes text from former § 213.2(a)(3).
2(a)(6)–5	2(e)–8.
2(a)(6)–6	2(e)–7.
2(a)(7)–1	2(g)–1.
2(a)(8)–1	2(h)–3.
2(a)(9)–1	2(j)–1.
2(a)(12)–1	2(l)–1.
2(a)(14)–1	2(m)–1.
2(a)(14)–2	2(m)–2.
2(a)(14)–3 and –4	2(m)–3.
2(a)(14)–5	2(m)–4.
2(a)(14)–6	4(l)–2.
2(a)(15)–1	2(o)–2.
2(a)(15)–2	2(o)–1; includes text from former § 213.2(a)(15).
2(a)(15)–3	2(o)–3.
2(a)(17)–1 through –5	Deleted as unnecessary.
2(a)(18)–1 through –3	Deleted as unnecessary.
2(b)–1	Deleted as unnecessary.
2(b)–2	3(a)(3)–1.

2(b) Advertisement

Comment 2(b)–1, former comment 2(a)(2)–1, is revised to include examples

of advertisements formerly in § 213.2(a)(2) and to indicate that the term ''advertisement'' includes electronic messages.

2(d) Closed-End Lease

Comment 2(d)–1 provides general guidance on the definition of a ''closed-end lease.''

2(e) Consumer Lease

Comment 2(e)–2, former comment 2(a)(6)–2, is revised to clarify that leases with penalties for not continuing beyond an initial four months are covered under the regulation. Comment 2(e)–3 provides guidance on the total contractual obligation for purposes of determining whether a lease is covered under the regulation. Comment 2(e)–5 incorporates former § 213.2(a)(3), the statutory definition of agricultural purpose in section 103(s) of the TILA. Comment 2(e)–7, former comment 2(a)(6)–6, includes an additional example of a lease deemed incidental to a service, and thus not covered by the regulation.

2(f) Gross Capitalized Cost

Proposed comment 2(f)–1 has been deleted as unnecessary.

2(h) Lessor

Comment 2(h)–1, former comment 2(a)(4)–1, is revised to include the definition of the phrase ''arrange for leasing of personal property'' in former § 213.2(a)(4).

2(m) Realized Value

Comment 2(m)–1 has been revised for accuracy to add a reference to the adjusted lease balance.

Based on comment, comment 2(m)–2 has been revised to add fair market value to the second sentence so as not to exclude the use of this method of determining the realized value, if appropriate, where the leased property is sold.

Comment 2(m)–3 provides guidance for determining the realized value, combining former comments 2(a)(14)–3 and –4. Based on comment, to more closely track the language of the former comments, the comment has been revised from the proposal. The second and third sentences of former comment 2(a)(14)–4 are deleted as unnecessary.

2(o) Security Interest and Security

Comment 2(o)–2, former comment 2(a)(15)–2, is revised to include examples of a security interest formerly in § 213.2(a)(15).

Questions have arisen about whether interest that accrues on a security deposit is a security interest for purposes of this regulation and thus required to be disclosed under § 213.4(r). Under Regulation M, whether or not a security deposit is a security interest under state or other applicable law, a deposit disclosed under § 213.4(b) is not disclosed under § 213.4(r). Interest on a security deposit, however, is disclosable under § 213.4(r) if it is considered a security interest under state or other applicable law.

Section 213.3—General Disclosure Requirements

3(a) General Requirements

Former	New
4(a)–1	3(a)–1.
4(a)–2	Moved to § 213.3(f).
4(a)–3	3(a)(1)–1.
4(a)–4	3(a)–4.
4(a)–5	Deleted as unnecessary.
4(a)(1)–1	3(a)–2 and –3.
4(a)(1)–2	Deleted as unnecessary.
4(a)(2)–1	4(b)–1.
4(a)(2)–2	3(a)(1)–2. 3(a)(1)–3 new.
4(a)(2)–3	3(a)(1)–4.
4(a)(2)–4	Deleted as unnecessary.
4(a)(2)–5	3(a)(1)–5. 3(a)(2)–1 through –3 new.
4(a)(4)–1	Deleted as unnecessary, see revised § 213.3(a)(4).
4(a)(4)–2	Deleted as unnecessary, see revised § 213.3(a)(4).
4(b)–1	3(b)–1.
4(c)–1	3(c)–1.
4(d)–1 through –5	3(d)(1)–1 through –5.
4(d)–6	Deleted as unnecessary.
4(e)–1 and –2	3(e)–1 and –2. 3(e)–3 new; text from footnote 1 of former regulation.

3(a) General Requirements

Comment 3(a)–1, former comment 4(a)–1, is revised to clarify that leasing disclosures must reflect the terms of the legal obligation.

Comment 3(a)–4, former comment 4(a)–4, is revised to provide guidance on disclosing a prior lease or credit balance added to a lease transaction. Commenters also asked the Board to clarify that where a prior lease or credit balance is rolled into a lease and the transaction is disclosed as a single lease, Regulation M disclosures (not Regulation Z) are required. Based on comment and further analysis, language has been added to indicate that Regulation M disclosures are required where a lease transaction includes incidental services or when a prior lease or credit balance is part of a single lease transaction. Accordingly, the illustrations have been revised.

3(a)(1) Form of Disclosures

Comment 3(a)(1)–3, which provides guidance on disclosing the lessor's address, is adopted substantially as proposed. Some commenters expressed concern that requiring the disclosure of the lessor's name only would not adequately identify the lessor. A lessor may add an address or other information such as a telephone number to the identification.

Comment 3(a)(1)–5, former comment 4(a)(2)–5, is revised to provide guidance on ways in which lessors may demonstrate compliance with the requirement that lessees receive disclosures prior to becoming obligated on the lease transaction.

3(a)(2) Segregation of Certain Disclosures

Comment 3(a)(2)–1 provides general guidance on the location of the segregated disclosures referenced in § 213.3(a)(2). Comment 3(a)(2)–2 restates the general rule on including additional information among the segregated disclosures referenced in § 213.3(a)(2). Comment 3(a)(2)–3 provides a cross-reference to the commentary to appendix A which provides guidance on designing lease forms that are substantially similar to the regulation's model forms.

3(b) Additional Information; Nonsegregated Disclosures

Comment 3(b)–1, former comment 4(b)–1, on state law disclosures is revised to add clarifying language; the second sentence has been deleted as unnecessary.

3(d) Use of Estimates

Comment 3(d)(1)–4, former comment 4(d)–4, is revised to provide that in disclosing the estimate of the value of leased property at termination of an open-end lease, a lessor must indicate whether the retail or wholesale value is used. This provision was previously contained in Regulation M in the instructions to the model forms. In addition, the reference to ''intention'' has been deleted as not helpful.

3(e) Effect of Subsequent Occurrence

Comment 3(e)–3 incorporates the first sentence of footnote 1 of the former regulation.

Section 213.4—Content of Disclosures

Former	New
	4(a)–1 new.

Former	New
4(g)–1	Deleted as unnecessary.
4(g)–2	3(a)(1)–2 and –3; date requirement moved to § 213.3(a)(1).
4(g)(1)–1	Deleted as unnecessary.
4(g)(2)–1	Deleted as unnecessary.
4(g)(2)–2	4(b)–1 (cross references former comment 2(b)–2).
4(g)(2)–3	Deleted.
	4(b)–2 new (incorporated from the instructions to the model form in former appendix C–2).
	4(b)–3 through –6 new.
4(g)(3)–1	Deleted as unnecessary.
4(g)(3)–2	4(c)–1; reference to open-end lease deleted.
4(g)(4)–1	deleted.
4(g)(5)–1	4(d)–1 and –2.
4(g)(5)–2	Deleted as unnecessary; see § 213.3(a)(2).
	4(d)–3 new.
4(g)(5)–3	4(d)–4.
4(g)(5)–4	4(d)–5.
	4(d)–6 new.
	4(e)–1 new.
	4(f)–1 new.
	4(f)(1)–1 and –2 new.
	4(f)(8)–1 new.
	4(o)–1 new.
4(g)(6)–1	4(o)–2.
4(g)(6)–2	4(o)–3.
4(g)(7)–1 through –3	4(p)–1 through –3.
4(g)(8)–1	4(h)–1.
4(g)(9)–1	4(r)–1.
4(g)(10)–1 through –5	4(q)–1 through –5.
4(g)(11)–1 through –3	4(i)–1 through –3.
	4(i)–4 and –5 new.
4(g)(12)–1	4(g)(1)–4.
4(g)(12)–2	4(g)(1)–5.
4(g)(12)–3	4(g)(1)–1.
	4(g)(1)–2 new.
	4(g)(1)–3 new.
	4(j)–1 new.
4(g)(14)–1 and –2	4(l)–1 and –2.
	4(l)–3 new.
4(g)(14)–3	4(l)–4.
	4(m)–1 and –2 new.
4(g)(15)–1	4(m)(2)–1.
4(g)(15)–2	Deleted.
	4(m)(1)–1 new.
4(g)(15)–3	Deleted.
4(g)(15)–4	4(m)(2)–2.
4(g)(15)–5	Deleted.
4(g)(15)–6	4(m)(2)–3.
	4(n)–1 new.
	4(s)–1 new.

4(a) Description of Property

Comment 4(a)–1 clarifies that the description of leased property cannot be among the segregated disclosures.

4(b) Total Amount Due at Lease Signing or Delivery

A number of commenters, including consumer and leasing representatives, urged the Board to amend the transaction disclosures to require amounts due at delivery, if delivery occurs after consummation, to be included in the amount due at lease signing disclosure. The Economic Growth and Regulatory Paperwork Reduction Act of 1996 revised the advertising disclosure of the total amount due at lease signing to add amounts due at delivery, if delivery occurs after consummation. The regulation has been revised accordingly to parallel the changes that the Congress made to the advertising disclosure. Comment 4(b)–2 incorporates a definition of ''capitalized cost reduction'' from the instructions in former appendix C–1 of the regulation. Comment 4(b)–3 provides guidance on the disclosure of negative net trade-in allowances where the amount owed on a prior credit or lease balance exceeds an agreed-upon trade-in value. Comment 4(b)–4 clarifies that a rebate is included in the itemization under this section only when it is used to reduce an amount due at lease signing or delivery. Comment 4(b)–5 clarifies that where the balance sheet method is required, in motor-vehicle leases, the totals in each column must equal one another.

4(c) Payment Schedule and Total Amount of Periodic Payments

Comment 4(c)–1 provides guidance in disclosing periodic payments. Commenters asked for guidance on whether all periodic payments required to be paid under a lease, for example an annually assessed tax, must be disclosed under § 213.4(c). To facilitate compliance, only payments made at regular intervals and generally derived from capitalized and amortized amounts, rent, and amounts that are collected by the lessor at the same interval(s) must be disclosed under § 213.4(c). Based on comment and further analysis, the comment has been revised to clarify what payments should be included in the payment schedule and total amount of periodic payments.

4(d) Other Charges

Comment 4(d)–1, former comment 4(g)(5)–1, is revised to provide flexibility in making the ''other charges'' disclosure. Comment 4(d)–3 clarifies that third-party charges are not disclosed under § 213.4(d). Comment 4(d)–6 provides guidance on the disclosure of optional ''disposition'' fees.

4(e) Total of Payments

Comment 4(e)–1 explains the additional statement in the total of payments disclosure for open-end leases.

4(f) Payment Calculation

Comment 4(f)–1 clarifies that lessors should look to state or other applicable law in determining whether the leased property is a motor vehicle.

4(f)(1) Gross Capitalized Cost

Comment 4(f)(1)–1 provides guidance on disclosing the agreed-upon value of a leased motor vehicle.

Comment 4(f)(1)–2 addresses the itemization of the gross capitalized cost. A few commenters suggested that lessors that provide an itemization as a matter of course be allowed to include the itemization among the segregated disclosures. Given that some itemizations may be lengthy, an itemization may not be included in the segregated disclosures so as not to distract from other information.

4(f)(2) Capitalized Cost Reduction

Comment 4(f)(2)–1 provides guidance on the amounts not included in the capitalized cost reduction disclosure.

4(f)(8) Lease Term

Comment 4(f)(8)–1 clarifies the meaning of the phrase ''lease term'' referenced under § 213.4(f)(8).

4(g) Early Termination

Comment 4(g)(1)–2 provides guidance on disclosing the method used to determine the amount of an early termination charge. Comment 4(g)(1)–3 provides guidance on the timing for disclosing a written explanation of the method used to calculate the adjusted lease balance.

4(h) Maintenance Responsibilities

Comment 4(h)–1 has been revised for clarity, based on comment. Proposed comment 4(h)–2, regarding the disclosure of excess mileage charges, is deleted as unnecessary.

4(i) Purchase Option

Several commenters on the September 1995 proposal requested clarification on whether lessors are allowed to disclose a purchase-option fee (and other fees and taxes applicable to the purchase option) separately from the purchase-option price. Comments 4(i)–3 and –4, former comment 4(g)(11)–3, are revised to allow lessors flexibility in disclosing fees associated with a purchase-option

price. Further, with the September 1996 final rule regarding the disclosure format, and since a lessee is not obligated to purchase the leased property, the purchase-option fee and any other fee associated with exercising the purchase option must be disclosed under § 213.4(i) and not § 213.4(d).

Comment 4(i)–5 provides guidance on disclosing the price of a purchase option in a ''fair market value'' lease. Based on comment, the comment has been revised to indicate that the independent source must be readily available.

4(j) Statement Referencing Nonsegregated Disclosures

Comment 4(j)–1 clarifies that inapplicable information may be deleted from the § 213.4(j) disclosure, which references and alerts consumers to read CLA required disclosures not included among the segregated disclosures.

4(l) Right of Appraisal

Comment 4(l)–2, former comment 4(g)(14)–2, is revised to provide that a lessor must indicate whether an appraisal will be based on the wholesale or retail value. This provision was contained in the former regulation in the instructions to the model forms.

4(m) Liability at End of Lease Term Based on Estimated Value

The regulation reformats § 213.4(m), former § 213.4(g)(15), for clarity. The commentary has been similarly reformatted.

Comment 4(m)–2 clarifies that under section 183(a) of the CLA lessors must pay the lessees' attorney's fees.

4(n) Fees and Taxes

Comment 4(n)–1 provides guidance on the treatment of certain taxes, including taxes disclosed under § 213.4(n) and elsewhere.

4(o) Insurance

Comment 4(o)–1 clarifies that § 213.4(o) applies to voluntary and required insurance provided in connection with a lease transaction. Comment 4(o)–3, former comment 4(g)(6)–2, is revised to provide additional guidance on the disclosure of mechanical breakdown protection and, based on comments, other products, (such as guaranteed automobile protection) as insurance under § 213.4(o).

4(p) Warranties or Guarantees

Comment 4(p)–1, former comment 4(g)(7)–1, is revised to provide further guidance on identifying warranties under § 213.4(p) when a lessor provides a list that includes warranties not available to the lessee.

4(s) Limitation on Rate Information

Comment 4(s)–1 clarifies that a lease rate may not be included among the segregated disclosures referenced in § 213.3(a)(2).

Section 213.5—Renegotiations, Extensions, and Assumptions

Section 213.5, formerly § 213.4(h), contains the disclosure rules governing leases that are renegotiated, extended, or assumed. Many of the commentary provisions have been moved to the regulation. For example, the definitions of a renegotiation and an extension have been included in the regulation.

Former	New
4(h)–1	5–1.
4(h)–2	First sentence moved to § 213.5(a); second sentence deleted; third sentence moved to 5–1.
4(h)–3	Moved to § 213.5(d).
4(h)–4	Moved to § 213.5(b).
4(h)–5	5(b)–1. 5(b)–2 new.
4(h)–6	Deleted as unnecessary.
4(h)–7	Moved to § 213.5(d)(6).
4(h)–8	Moved to § 213.5(d)(2).
4(h)–9	Moved to § 213.5(c).

5(b) Extension

Comment 5(b)–1, former comment 4(h)–5, is revised to clarify the circumstances in which disclosures are required when a consumer lease is extended on a month-to-month basis for more than six months. This comment and comment 5(b)–2 incorporate into the commentary longstanding Board interpretations that were originally issued when leasing provisions were contained in Regulation Z (Truth in Lending) prior to 1982.

Section 213.7—Advertising

Former	New
5(a)–1	7(a)–1.
5(a)–2	7(a)–2.
5(b)–1 and 2	7(c)–1 and 2.
5(c)–1	7(b)–1. 7(b)(1)–1 and –2 new. 7(b)(2)–1 new.
5(c)–2	7(d)(1)–1. 7(d)(2)–1 new.
5(d)–1	7(e)–1 new. 7(f)(1)–1 through –4 new.

The CLA advertising provisions were amended on September 30, 1996 by the Economic Growth and Regulatory Paperwork Reduction Act of 1996.

7(b) Clear and Conspicuous Standard

Comment 7(b)–1 provides guidance on the clear and conspicuous standard. A comment in the September 1995 proposal provided that lease disclosures must appear on a television screen for at least five seconds. The comment was not meant to provide a safe harbor, as five seconds is inadequate as a test for determining full compliance with the clear and conspicuous standard. The comment has been deleted.

7(b)(1) Amount Due at Lease Signing or Delivery

Comment 7(b)(1)–1 clarifies that an itemization of the amount due at lease signing or delivery is not required under § 213.7(d)(2). Comment 7(b)(1)–2 provides general guidance on the prominence rule in § 213.7(b)(1).

7(b)(2) Advertisement of a Lease Rate

Comment 7(b)(2)–1 provides guidance on the location of the statement that must accompany any percentage rate stated in an advertisement.

7(d) Advertisement of Terms that Require Additional Disclosure

7(d)(1) Triggering Terms

Comment 7(d)(1)–1, former comment 5(c)–2, is revised to provide guidance for disclosing examples of a typical lease. The last sentence of the proposed comment has been deleted as unnecessary.

7(d)(2) Additional Terms

Commenters requested clarification on how third-party fees that vary by jurisdiction such as taxes, licenses, and registration fees should be reflected in the disclosure of the total amount due at lease signing or delivery under § 213.7(d)(2)(ii). Comment 7(d)(2)–1 clarifies that lessors have flexibility in disclosing such fees.

7(e) Alternative Disclosures—Merchandise Tags

Comment 7(e)–1 provides general guidance on disclosing multiple-item leases with merchandise tags.

7(f) Alternative Disclosures—Television or Radio Advertisements

7(f)(1) Toll-free Number or Print Advertisement

Comment 7(f)(1)–1 clarifies that a newspaper circulated nationally may qualify as a publication in general circulation in the community served by the media station. Comment 7(f)(1)–2 provides guidance on establishing a number for consumers to call for

disclosure information. Comment 7(f)(1)–3 provides guidance on the use of a multi-function toll-free number to provide disclosures. Comment 7(f)(1)–4 provides general guidance on the statement that must accompany a toll-free number instructing consumers to call the number for details about costs and terms.

Section 213.8—Record Retention

Former	New
6–1	8–1.

Section 213.8 of the regulation was formerly § 213.6.

Section 213.9—Relations to State Laws.

Section 213.9 of the regulation combines and simplifies former §§ 213.7 and 213.8. The comments to these sections, as well as references in former appendices A and B, have been deleted as unnecessary.

Comment 9–1 has been added to include the states that are exempt from Regulation M—Maine and Oklahoma.

Appendix A Model Forms

Former	New
C–1	A–1, A–2.
C–2	Deleted.
C–3	A–3; closed-end definition moved to § 213.2(d)
C–4	A–4.

Under the final rule, the model forms are moved from appendix C to appendix A. Former comment app. C–2 is deleted as unnecessary. Minor revisions are made to other comments in this appendix. For example, comment app. A–1, former comment C–1, is revised to indicate that changes to the headings, format, and the content of the segregated disclosures should be minimal. Also the definition of a closed-end lease in comment app. C–3 is deleted because a definition has been added in the regulation.

List of Subjects in 12 CFR Part 213

Advertising, Federal Reserve System, Reporting and recordkeeping requirements, Truth in Lending.

For the reasons set forth in the preamble, 12 CFR part 213 is amended as follows:

PART 213—CONSUMER LEASING (REGULATION M)

1. The authority citation for part 213 continues to read as follows:

Authority: 15 U.S.C. 1604.

2. Supplement I to Part 213—Official Staff Commentary to Regulation M is revised to read as follows:

SUPPLEMENT I TO PART 213—OFFICIAL STAFF COMMENTARY TO REGULATION M

Introduction

1. *Official status.* The commentary in Supplement I is the vehicle by which the Division of Consumer and Community Affairs of the Federal Reserve Board issues official staff interpretations of Regulation M (12 CFR part 213). Good faith compliance with this commentary affords protection from liability under section 130(f) of the Truth in Lending Act (15 U.S.C. 1640(f)). Section 130(f) protects lessors from civil liability for any act done or omitted in good faith in conformity with any interpretation issued by a duly authorized official or employee of the Federal Reserve System.

2. *Procedures for requesting interpretations.* Under appendix C of Regulation M, anyone may request an official staff interpretation. Interpretations that are adopted will be incorporated in this commentary following publication in the **Federal Register**. No official staff interpretations are expected to be issued other than by means of this commentary.

3. *Comment designations.* Each comment in the commentary is identified by a number and the regulatory section or paragraph that it interprets. The comments are designated with as much specificity as possible according to the particular regulatory provision addressed. For example, some of the comments to § 213.4(f) are further divided by subparagraph, such as comment 4(f)(1)–1 and comment 4(f)(2)–1. In other cases, comments have more general application and are designated, for example, as comment 4(a)–1. This introduction may be cited as comments I–1 through I–4. An appendix may be cited as comment app. A–1.

4. *Illustrations.* Lists that appear in the commentary may be exhaustive or illustrative; the appropriate construction should be clear from the context. Illustrative lists are introduced by phrases such as ''including,'' ''such as,'' ''to illustrate,'' and ''for example.''

Section 213.1—Authority, Scope, Purpose, and Enforcement

1. *Foreign applicability.* Regulation M applies to all persons (including branches of foreign banks or leasing companies located in the United States) that offer consumer leases to residents of any state (including foreign nationals) as defined in § 213.2(p). The regulation does not apply to a foreign branch of a U.S. bank or to a leasing company leasing to a U.S. citizen residing or visiting abroad or to a foreign national abroad.

Section 213.2—Definitions

2(b) Advertisement

1. *Coverage.* The term advertisement includes messages inviting, offering, or otherwise generally announcing to prospective customers the availability of consumer leases, whether in visual, oral, print or electronic media. Examples include:

i. Messages in newspapers, magazines, leaflets, catalogs, and fliers.

ii. Messages on radio, television, and public address systems.

iii. Direct mail literature.

iv. Printed material on any interior or exterior sign or display, in any window display, in any point-of-transaction literature or price tag that is delivered or made available to a lessee or prospective lessee in any manner whatsoever.

v. Telephone solicitations.

vi. On-line messages, such as those on the Internet.

2. *Exclusions.* The term does not apply to the following:

i. Direct personal contacts, including follow-up letters, cost estimates for individual lessees, or oral or written communications relating to the negotiation of a specific transaction.

ii. Informational material distributed only to businesses.

iii. Notices required by federal or state law, if the law mandates that specific information be displayed and only the mandated information is included in the notice.

iv. News articles controlled by the news medium.

v. Market research or educational materials that do not solicit business.

3. *Persons covered.* See the commentary to § 213.7(a).

2(d) Closed-End Lease

1. *General.* In closed-end leases, sometimes referred to as ''walk-away'' leases, the lessee is not responsible for the residual value of the leased property at the end of the lease term.

2(e) Consumer lease

1. *Primary purposes.* A lessor must determine in each case if the leased property will be used primarily for personal, family, or household purposes. If a question exists as to the primary purpose for a lease, the fact that a lessor gives disclosures is not controlling on the question of whether the transaction is covered. The primary purpose of a lease is determined before or at consummation and a lessor need not provide Regulation M disclosures where there is a subsequent change in the primary use.

2. *Period of time.* To be a consumer lease, the initial term of the lease must be more than four months. Thus, a lease of personal property for four months, three months or on a month-to-month or week-to-week basis (even though the lease actually extends beyond four months) is not a consumer lease and is not subject to the disclosure requirements of the regulation. However, a lease that imposes a penalty for not continuing the lease beyond four months is considered to have a term of more than four months. To illustrate:

i. A three-month lease extended on a month-to-month basis and terminated after one year is not subject to the regulation.

ii. A month-to-month lease with a penalty, such as the forfeiture of a security deposit for terminating before one year, is subject to the regulation.

3. *Total contractual obligation.* The total contractual obligation is not necessarily the same as the total of payments disclosed under § 213.4(e). The total contractual obligation includes nonrefundable amounts a lessee is contractually obligated to pay to the lessor, but excludes items such as:

i. Residual value amounts or purchase-option prices;

ii. Amounts collected by the lessor but paid to a third party, such as taxes, licenses, and registration fees.

4. *Credit sale.* The regulation does not cover a lease that meets the definition of a credit sale in Regulation Z, 12 CFR 226.2(a)(16), which is defined, in part, as a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer:

i. Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

ii. Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

5. *Agricultural purpose.* Agricultural purpose means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of personal property and services used primarily in farming. Agricultural products include horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

6. *Organization or other entity.* A consumer lease does not include a lease made to an organization such as a corporation or a government agency or instrumentality. Such a lease is not covered by the regulation even if the leased property is used (by an employee, for example) primarily for personal, family or household purposes, or is guaranteed by or subsequently assigned to a natural person.

7. *Leases of personal property incidental to a service.* The following leases of personal property are deemed incidental to a service and thus are not subject to the regulation:

i. Home entertainment systems requiring the consumer to lease equipment that enables a television to receive the transmitted programming.

ii. Security alarm systems requiring the installation of leased equipment intended to monitor unlawful entries into a home and in some cases to provide fire protection.

iii. Propane gas service where the consumer must lease a propane tank to receive the service.

8. *Safe deposit boxes.* The lease of a safe deposit box is not a consumer lease under § 213.2(e).

2(g) Lessee

1. *Guarantors.* Guarantors are not lessees for purposes of the regulation.

2(h) Lessor

1. *Arranger of a lease.* To ''arrange'' for the lease of personal property means to provide or offer to provide a lease that is or will be extended by another person under a business or other relationship pursuant to which the person arranging the lease (a) receives or will receive a fee, compensation, or other consideration for the service or (b) has knowledge of the lease terms and participates in the preparation of the contract documents required in connection with the lease. To illustrate:

i. An automobile dealer who, pursuant to a business relationship, completes the necessary lease agreement before forwarding it for execution to the leasing company (to whom the obligation is payable on its face) is ''arranging'' for the lease.

ii. An automobile dealer who, without receiving a fee for the service, refers a customer to a leasing company that will prepare all relevant contract documents is not ''arranging'' for the lease.

2. *Consideration.* The term ''other consideration'' as used in comment 2(h)–1 refers to an actual payment corresponding to a fee or similar compensation and not to intangible benefits, such as the advantage of increased business, which may flow from the relationship between the parties.

3. *Assignees.* An assignee may be a lessor for purposes of the regulation in circumstances where the assignee has substantial involvement in the lease transaction. See cf. *Ford Motor Credit Co.* v. *Cenance,* 452 U.S. 155 (1981) (held that an assignee was a creditor for purposes of the pre-1980 Truth in Lending Act and Regulation Z because of its substantial involvement in the credit transaction).

4. *Multiple lessors.* See the commentary to § 213.3(c).

2(j) Organization

1. *Coverage.* The term ''organization'' includes joint ventures and persons operating under a business name.

2(l) Personal Property

1. *Coverage.* Whether property is personal property depends on state or other applicable law. For example, a mobile home or houseboat may be considered personal property in one state but real property in another.

2(m) Realized Value

1. *General.* Realized value refers to either the retail or wholesale value of the leased property at early termination or at the end of the lease term. It is not a required disclosure. Realized value is relevant only to leases in which the lessee's liability at early termination or at the end of the lease term typically is based on the difference between the residual value (or the adjusted lease balance) of the leased property and its realized value.

2. *Options.* Subject to the contract and to state or other applicable law, the lessor may calculate the realized value in determining the lessee's liability at the end of the lease term or at early termination in one of the three ways stated in § 213.2(m). If the lessor sells the property prior to making the determination about liability, the price received for the property (or the fair market value) is the realized value. If the lessor does not sell the property prior to making that determination, the highest offer or the fair market value is the realized value.

3. *Determination of realized value.* Disposition charges are not subtracted in determining the realized value but amounts attributable to taxes may be subtracted.

4. *Offers.* In determining the highest offer for disposition, the lessor may disregard offers that an offeror has withdrawn or is unable or unwilling to perform.

5. *Lessor's appraisal.* See commentary to § 213.4(l).

2(o) Security Interest and Security

1. *Disclosable interests.* For purposes of disclosure, a security interest is an interest taken by the lessor to secure performance of the lessee's obligation. For example, if a bank that is not a lessor makes a loan to a leasing company and takes assignments of consumer leases generated by that company to secure the loan, the bank's security interest in the lessor's receivables is not a security interest for purposes of this regulation.

2. *General coverage.* An interest the lessor may have in leased property must be disclosed only if it is considered a security interest under state or other applicable law. The term includes, but is not limited to, security interests under the Uniform Commercial Code; real property mortgages, deeds of trust, and other consensual or confessed liens whether or not recorded; mechanic's, materialman's, artisan's, and other similar liens; vendor's liens in both real and personal property; liens on property arising by operation of law; and any interest in a lease when used to secure payment or performance of an obligation.

3. *Insurance exception.* The lessor's right to insurance proceeds or unearned insurance premiums is not a security interest for purposes of this regulation.

Section 213.3—General Disclosure Requirements

3(a) General Requirements

1. *Basis of disclosures.* Disclosures must reflect the terms of the legal obligation between the parties. For example:

i. In a three-year lease with no penalty for termination after a one-year minimum term, disclosures are based on the full three-year term of the lease. The one-year minimum term is only relevant to the early termination provisions of §§ 213.4 (g)(1), (k) and (l).

2. *Clear and conspicuous standard.* The clear and conspicuous standard requires that disclosures be reasonably understandable. For example, the disclosures must be presented in a way that does not obscure the relationship of the terms to each other; appendix A of this part contains model forms that meet this standard. In addition, although no minimum typesize is required, the disclosures must be legible, whether typewritten, handwritten, or printed by computer.

3. *Multipurpose disclosure forms.* A lessor may use a multipurpose disclosure form provided the lessor is able to designate the specific disclosures applicable to a given transaction, consistent with the requirement that disclosures be clearly and conspicuously provided.

4. *Number of transactions.* Lessors have flexibility in handling lease transactions that may be viewed as multiple transactions. For example:

i. When a lessor leases two items to the same lessee on the same day, the lessor may disclose the leases as either one or two lease transactions.

ii. When a lessor sells insurance or other incidental services in connection with a lease, the lessor may disclose in one of two ways: as a single lease transaction (in which case Regulation M, not Regulation Z, disclosures are required) or as a lease transaction and a credit transaction.

iii. When a lessor includes an outstanding lease or credit balance in a lease transaction, the lessor may disclose the outstanding balance as part of a single lease transaction (in which case Regulation M, not Regulation Z, disclosures are required) or as a lease transaction and a credit transaction.

3(a)(1) Form of Disclosures

1. *Cross-references.* Lessors may include in the nonsegregated disclosures a cross-reference to items in the segregated disclosures rather than repeat those items. A lessor may include in the segregated disclosures numeric or alphabetic designations as cross-references to related information so long as such references do not obscure or detract from the segregated disclosures.

2. *Identification of parties.* While disclosures must be made clearly and conspicuously, lessors are not required to use the word ''lessor'' and ''lessee'' to identify the parties to the lease transaction.

3. *Lessor's address.* The lessor must be identified by name; an address (and telephone number) may be provided.

4. *Multiple lessors and lessees.* In transactions involving multiple lessors and multiple lessees, a single lessor may make all the disclosures to a single lessee as long as the disclosure statement identifies all the lessors and lessees.

5. *Lessee's signature.* The regulation does not require that the lessee sign the disclosure statement, whether disclosures are separately provided or are part of the lease contract. Nevertheless, to provide evidence that disclosures are given before a lessee becomes obligated on the lease transaction, the lessor may, for example, ask the lessee to sign the disclosure statement or an acknowledgement of receipt, may place disclosures that are included in the lease documents above the lessee's signature, or include instructions alerting a lessee to read the disclosures prior to signing the lease.

3(a)(2) Segregation of Certain Disclosures

1. *Location.* The segregated disclosures referred to in § 213.3(a)(2) may be provided on a separate document and the other required disclosures may be provided in the lease contract, so long as all disclosures are given at the same time. Alternatively, all disclosures may be provided in a separate document or in the lease contract.

2. *Additional information among segregated disclosures.* The disclosures required to be segregated may contain only the information required or permitted to be included among the segregated disclosures.

3. *Substantially similar.* See commentary to appendix A of this part.

3(a)(3) Timing of Disclosures

1. *Consummation.* When a contractual relationship is created between the lessor and the lessee is a matter to be determined under state or other applicable law.

3(b) Additional Information; Nonsegregated Disclosures

1. *State law disclosures.* A lessor may include in the nonsegregated disclosures any state law disclosures that are not inconsistent with the act and regulation under § 213.9 as long as, in accordance with the standard set forth in § 213.3(b) for additional information, the state law disclosures are not used or placed to mislead or confuse or detract from any disclosure required by the regulation.

3(c) Multiple Lessors or Lessees

1. *Multiple lessors.* If a single lessor provides disclosures to a lessee on behalf of several lessors, all disclosures for the transaction must be given, even if the lessor making the disclosures would not otherwise have been obligated to make a particular disclosure.

3(d) Use of Estimates

3(d)(1) Standard

1. *Time of estimated disclosure.* The lessor may, after making a reasonable effort to obtain information, use estimates to make disclosures if necessary information is unknown or unavailable at the time the disclosures are made. For example:

i. Section 213.4(n) requires the lessor to disclose the total amount payable by the lessee during the lease term for official and license fees, registration, certificate of title fees, or taxes. If these amounts are subject to increases or decreases over the course of the lease, the lessor may estimate the disclosures based on the rates or charges in effect at the time of the disclosure.

2. *Basis of estimates.* Estimates must be made on the basis of the best information reasonably available at the time disclosures are made. The ''reasonably available'' standard requires that the lessor, acting in good faith, exercise due diligence in obtaining information. The lessor may rely on the representations of other parties. For example, the lessor might look to the consumer to determine the purpose for which leased property will be used, to insurance companies for the cost of insurance, or to an automobile manufacturer or dealer for the date of delivery.

3. *Residual value of leased property at termination.* In an open-end lease where the lessee's liability at the end of the lease term is based on the residual value of the leased property as determined at consummation, the estimate of the residual value must be reasonable and based on the best information reasonably available to the lessor (see § 213.4(m)). A lessor should generally use an accepted trade publication listing estimated current or future market prices for the leased property unless other information or a reasonable belief based on its experience provides the better information. For example:

i. An automobile lessor offering a three-year open-end lease assigns a wholesale value to the vehicle at the end of the lease term. The lessor may disclose as an estimate a wholesale value derived from a generally accepted trade publication listing current wholesale values.

ii. Same facts as above, except that the lessor discloses an estimated value derived by adjusting the residual value quoted in the trade publication because, in its experience, the trade publication values either understate or overstate the prices actually received in local used-vehicle markets. The lessor may adjust estimated values quoted in trade publications if the lessor reasonably believes based on its experience that the values are understated or overstated.

4. *Retail or wholesale value.* The lessor may choose either a retail or a wholesale value in estimating the value of leased property at termination of an open-end lease provided the choice is consistent with the lessor's general practice when determining the value of the property at the end of the lease term. The lessor should indicate whether the value disclosed is a retail or wholesale value.

5. *Labelling estimates.* Generally, only the disclosure for which the exact information is unknown is labelled as an estimate. Nevertheless, when several disclosures are affected because of the unknown information, the lessor has the option of labelling as an estimate every affected disclosure or only the disclosure primarily affected.

3(e) Effect of Subsequent Occurrence

1. *Subsequent occurrences.* Examples of subsequent occurrences include:

i. An agreement between the lessee and lessor to change from a monthly to a weekly payment schedule.

ii. An increase in official fees or taxes.

iii. An increase in insurance premiums or coverage caused by a change in the law.

iv. Late delivery of an automobile caused by a strike.

2. *Redisclosure.* When a disclosure becomes inaccurate because of a subsequent occurrence, the lessor need not make new disclosures unless new disclosures are required under § 213.5.

3. *Lessee's failure to perform.* The lessor does not violate the regulation if a previously given disclosure becomes inaccurate when a lessee fails to perform obligations under the contract and a lessor takes actions that are necessary and proper in such circumstances to protect its interest. For example, the addition of insurance or a security interest by the lessor because the lessee has not performed obligations contracted for in the lease is not a violation of the regulation.

Section 213.4—Content of Disclosures

4(a) Description of Property

1. *Placement of description.* Although the description of leased property may not be

included among the segregated disclosures, a lessor may choose to place the description directly above the segregated disclosures.

4(b) Amount Due at Lease Signing or Delivery

1. *Consummation.* See commentary to § 213.3(a)(3).

2. *Capitalized cost reduction.* A capitalized cost reduction is a payment in the nature of a downpayment on the leased property that reduces the amount to be capitalized over the term of the lease. This amount does not include any amounts included in a periodic payment paid at lease signing or delivery.

3. *''Negative'' equity trade-in allowance.* If an amount owed on a prior lease or credit balance exceeds the agreed upon value of a trade-in, the difference is not reflected as a negative trade-in allowance under § 213.4(b). The lessor may disclose the trade-in allowance as zero or not applicable, or may leave a blank line.

4. *Rebates.* Only rebates applied toward an amount due at lease signing or delivery are required to be disclosed under § 213.4(b).

5. *Balance sheet approach.* In motor-vehicle leases, the total for the column labeled ''total amount due at lease signing or delivery'' must equal the total for the column labeled ''how the amount due at lease signing or delivery will be paid.''

6. *Amounts to be paid in cash.* The term cash is intended to include payments by check or other payment methods in addition to currency; however, a lessor may add a line item under the column ''how the amount due at lease signing or delivery will be paid'' for non-currency payments such as credit cards.

4(c) Payment Schedule and Total Amount of Periodic Payments

1. *Periodic payments.* The phrase ''number, amount, and due dates or periods of payments'' requires the disclosure of all payments that are made at regular intervals and generally derived from rent, capitalized or amortized amounts such as depreciation, and other amounts that are collected by the lessor at the same interval(s), including for example taxes, maintenance, and insurance charges. Other periodic payments may, but need not, be disclosed under § 213.4(c).

4(d) Other charges

1. *Coverage.* Section 213.4(d) requires the disclosure of charges that are anticipated by the parties incident to the normal operation of the lease agreement. If a lessor is unsure whether a particular fee is an ''other charge,'' the lessor may disclose the fee as such without violating § 213.4(d) or the segregation rule under § 213.3(a)(2).

2. *Excluded charges.* This section does not require disclosure of charges that are imposed when the lessee terminates early, fails to abide by, or modifies the terms of the existing lease agreement, such as charges for:

i. Late payment.

ii. Default.

iii. Early termination.

iv. Deferral of payments.

v. Extension of the lease.

3. *Third-party fees and charges.* Third-party fees or charges collected by the lessor on behalf of third parties, such as taxes, are not disclosed under § 213.4(d).

4. *Relationship to other provisions.* The other charges mentioned in this paragraph are charges that are not required to be disclosed under some other provision of § 213.4. To illustrate:

i. The price of a mechanical breakdown protection (MBP) contract is sometimes disclosed as an ''other charge.'' Nevertheless, the price of MBP is sometimes reflected in the periodic payment disclosure under § 213.4(c) or in states where MBP is regarded as insurance, the cost is be disclosed in accordance with § 213.4(o).

5. *Lessee's liabilities at the end of the lease term.* Liabilities that the lessor imposes upon the lessee at the end of the scheduled lease term and that must be disclosed under § 213.4(d) include disposition and ''pick-up'' charges.

6. *Optional ''disposition'' charges.* Disposition and similar charges that are anticipated by the parties as an incident to the normal operation of the lease agreement must be disclosed under § 213.4(d). If, under a lease agreement, a lessee may return leased property to various locations, and the lessor charges a disposition fee depending upon the location chosen, under § 213.4(d), the lessor must disclose the highest amount charged. In such circumstances, the lessor may also include a brief explanation of the fee structure in the segregated disclosure. For example, if no fee or a lower fee is imposed for returning a leased vehicle to the originating dealer as opposed to another location, that fact may be disclosed. By contrast, if the terms of the lease treat the return of the leased property to a location outside the lessor's service area as a default, the fee imposed is not disclosed as an ''other charge,'' although it may be required to be disclosed under § 213.4(q).

4(e) Total of payments

1. *Open-end lease.* The additional statement is required under § 213.4(e) for open-end leases because, with some limitations, a lessee is liable at the end of the lease term for the difference between the residual and realized values of the leased property.

4(f) Payment Calculation

1. *Motor-vehicle lease.* Whether leased property is a motor vehicle is determined by state or other applicable law.

4(f)(1) Gross Capitalized Cost

1. *Agreed upon value of the vehicle.* The agreed upon value of a motor vehicle includes the amount of capitalized items such as charges for vehicle accessories and options, and delivery or destination charges. The lessor may also include taxes and fees for title, licenses, and registration that are capitalized. Charges for service or maintenance contracts, insurance products, guaranteed automobile protection, or an outstanding balance on a prior lease or credit transaction are not included in the agreed upon value.

2. *Itemization of the gross capitalized cost.* The lessor may choose to provide the itemization of the gross capitalized cost only on request or may provide the itemization as a matter of course. In the latter case, the lessor need not provide a statement of the lessee's option to receive an itemization. The gross capitalized cost must be itemized by type and amount. The lessor may include in the itemization an identification of the items and amounts of some or all of the items contained in the agreed upon value of the vehicle. The itemization must be provided at the same time as the other disclosures required by § 213.4, but it may not be included among the segregated disclosures.

4(f)(8) Lease Term

1. *Definition.* Under § 213.4(f)(8) the ''lease term'' refers to the number of periodic payments.

4(g) Early Termination

4(g)(1) Conditions and Disclosure of Charges

1. *Reasonableness of charges.* See the commentary to § 213.4(q).

2. *Description of the method.* Section 213.4(g)(1) requires a full description of the method of determining an early termination charge. The lessor should attempt to provide consumers with clear and understandable descriptions of its early termination charges. Descriptions that are full, accurate, and not intended to be misleading will comply with § 213.4(g)(1), even if the descriptions are complex. In providing a full description of an early termination method, a lessor may use the name of a generally accepted method of computing the unamortized cost portion (also known as the ''adjusted lease balance'') of its early termination charges. For example, a lessor may state that the ''constant yield'' method will be utilized in obtaining the adjusted lease balance, but must specify how that figure, and any other term or figure, is used in computing the total early termination charge imposed upon the consumer. Additionally, if a lessor refers to a named method in this manner, the lessor must provide a written explanation of that method if requested by the consumer. The lessor has the option of providing the explanation as a matter of course in the lease documents or on a separate document.

3. *Timing of written explanation of a named method.* While a lessor may provide an address or telephone number for the consumer to request a written explanation of the named method used to calculate the adjusted leased balance, if at consummation a consumer requests such an explanation, the lessor must provide a written explanation at that time. If a consumer requests an explanation after consummation, the lessor must provide a written explanation within a reasonable time after the request is made.

4. *Default.* When default is a condition for early termination of a lease, default charges must be disclosed under § 213.4(g)(1). See the commentary to § 213.4(q).

5. *Lessee's liability at early termination.* When the lessee is liable for the difference between the unamortized cost and the realized value at early termination, the method of determining the amount of the difference must be disclosed under § 213.4(g)(1).

4(h) Maintenance Responsibilities

1. *Standards for wear and use.* No disclosure is required if a lessor does not set

standards or impose charges for wear and use (such as excess mileage).

4(i) Purchase Option

1. *Mandatory disclosure of no purchase option.* Generally the lessor need only make the specific required disclosures that apply to a transaction. In the case of a purchase option disclosure, however, a lessor must disclose affirmatively that the lessee has no option to purchase the leased property if the purchase option is inapplicable.

2. *Existence of purchase option.* Whether a purchase option exists under the lease is determined by state or other applicable law. The lessee's right to submit a bid to purchase property at termination of the lease is not an option to purchase under § 213.4(i) if the lessor is not required to accept the lessee's bid and the lessee does not receive preferential treatment.

3. *Purchase-option fee.* A purchase-option fee is disclosed under § 213.4(i), not § 213.4(d). The fee may be separately itemized or disclosed as part of the purchase-option price.

4. *Official fees and taxes.* Official fees such as those for taxes, licenses, and registration charged in connection with the exercise of a purchase option may be disclosed under § 213.4(i) as part of the purchase-option price (with or without a reference to their inclusion in that price) or may be separately disclosed and itemized by category. Alternatively, a lessor may provide a statement indicating that the purchase-option price does not include fees for tags, taxes, and registration.

5. *Purchase-option price.* Lessors must disclose the purchase-option price as a sum certain or as a sum certain to be determined at a future date by reference to a readily available independent source. The reference should provide sufficient information so that the lessee will be able to determine the actual price when the option becomes available. Statements of a purchase price as the ''negotiated price'' or the ''fair market value'' do not comply with the requirements of § 213.4(i).

4(j) Statement referencing nonsegregated disclosures

1. *Content.* A lessor may delete inapplicable items from the disclosure. For example, if a lease contract does not include a security interest, the reference to a security interest may be omitted.

4(l) Right of appraisal

1. *Disclosure inapplicable.* The lessee does not have the right to an independent appraisal merely because the lessee is liable at the end of the lease term or at early termination for unreasonable wear or use. Thus, the disclosure under § 213.4(l) does not apply. For example:

i. The automobile lessor might expect a lessee to return an undented car with four good tires at the end of the lease term. Even though it may hold the lessee liable for the difference between a dented car with bald tires and the value of a car in reasonably good repair, the disclosure under § 213.4(l) is not required.

2. *Lessor's appraisal.* If the lessor obtains an appraisal of the leased property to determine its realized value, that appraisal does not suffice for purposes of section 183(c) of the act; the lessor must disclose the lessee's right to an independent appraisal under § 213.4(l).

3. *Retail or wholesale.* In providing the disclosures in § 213.4(l), a lessor must indicate whether the wholesale or retail appraisal value will be used.

4. *Time restriction on appraisal.* The regulation does not specify a time period in which the lessee must exercise the appraisal right. The lessor may require a lessee to obtain the appraisal within a reasonable time after termination of the lease.

4(m) Liability at end of Lease Term Based on Residual Value

1. *Open-end leases.* Section 213.4(m) applies only to open-end leases.

2. *Lessor's payment of attorney's fees.* Section 183(a) of the act requires that the lessor pay the lessee's attorney's fees in all actions under § 213.4(m), whether successful or not.

4(m)(1) Rent and other charges

1. *General.* This disclosure is intended to represent the cost of financing an open-end lease based on charges and fees that the lessor requires the lessee to pay. Examples of disclosable charges, in addition to the rent charge, include acquisition, disposition, or assignment fees. Charges imposed by a third party whose services are not required by the lessor (such as official fees and voluntary insurance) are not included in the § 213.4(m)(1) disclosure.

4(m)(2) Excess liability

1. *Coverage.* The disclosure limiting the lessee's liability for the value of the leased property does not apply in the case of early termination.

2. *Leases with a minimum term.* If a lease has an alternative minimum term, the disclosures governing the liability limitation are not applicable for the minimum term.

3. *Charges not subject to rebuttable presumption.* The limitation on liability applies only to liability at the end of the lease term that is based on the difference between the residual value of the leased property and its realized value. The regulation does not preclude a lessor from recovering other charges from the lessee at the end of the lease term. Examples of such charges include:

i. Disposition charges.

ii. Excess mileage charges.

iii. Late payment and default charges.

iv. In simple-interest accounting leases, amount by which the unamortized cost exceeds the residual value because the lessee has not made timely payments.

4(n) Fees and taxes

1. *Treatment of certain taxes.* Taxes paid in connection with the lease are generally disclosed under § 213.4(n), but there are exceptions. To illustrate:

i. Taxes paid by lease signing or delivery are disclosed under § 213.4(b) and § 213.4(n).

ii. Taxes that are part of a regularly scheduled payments are reflected in the disclosure under § 213.4(c) and itemized under § 213.4(f)(10).

iii. A tax payable by the lessor that is passed on to the consumer and is reflected in the lease documentation must be disclosed under § 213.4(n). A tax payable by the lessor and absorbed as a cost of doing business need not be disclosed.

iv. Taxes charged in connection with the exercise of a purchase option are disclosed under § 213.4(i), not § 213.4(n).

4(o) Insurance

1. *Coverage.* If insurance is obtained through the lessor, information on the type and amount of insurance coverage (whether voluntary or required) as well as the cost, must be disclosed.

2. *Lessor's insurance.* Insurance purchased by the lessor primarily for its own benefit, and absorbed as a business expense and not separately charged to the lessee, need not be disclosed under § 213.4(o) even if it provides an incidental benefit to the lessee.

3. *Mechanical breakdown protection and other products.* Whether products purchased in conjunction with a lease, such as mechanical breakdown protection (MBP) or guaranteed automobile protection (GAP), should be treated as insurance is determined by state or other applicable law. In states that do not treat MBP or GAP as insurance, § 213.4(o) disclosures are not required. In such cases the lessor may, however, disclose this information in accordance with the additional information provision in § 213.3(b). For MBP insurance contracts not capped by a dollar amount, lessors may describe coverage by referring to a limitation by mileage or time period, for example, by indicating that the mechanical breakdown contract insures parts of the automobile for up to 100,000 miles.

4(p) Warranties or Guarantees

1. *Brief identification.* The statement identifying warranties may be brief and need not describe or list all warranties applicable to specific parts such as for air conditioning, radio, or tires in an automobile. For example, manufacturer's warranties may be identified simply by a reference to the standard manufacturer's warranty. If a lessor provides a comprehensive list of warranties that may not all apply, to comply with § 213.4(p) the lessor must indicate which warranties apply or, alternatively, which warranties do not apply.

2. *Warranty disclaimers.* Although a disclaimer of warranties is not required by the regulation, the lessor may give a disclaimer as additional information in accordance with § 213.3(b).

3. *State law.* Whether an express warranty or guaranty exists is determined by state or other law.

4(q) Penalties and Other Charges for Delinquency

1. *Collection costs.* The automatic imposition of collection costs or attorney fees upon default must be disclosed under § 213.4(q). Collection costs or attorney fees that are not imposed automatically, but are contingent upon expenditures in conjunction with a collection proceeding or upon the

employment of an attorney to effect collection, need not be disclosed.

2. *Charges for early termination.* When default is a condition for early termination of a lease, default charges must also be disclosed under § 213.4(g)(1). The § 213.4(q) and (g)(1) disclosures may, but need not, be combined. Examples of combined disclosures are provided in the model lease disclosure forms in appendix A.

3. *Simple-interest leases.* In a simple-interest accounting lease, the additional rent charge that accrues on the lease balance when a periodic payment is made after the due date does not constitute a penalty or other charge for late payment. Similarly, continued accrual of the rent charge after termination of the lease because the lessee fails to return the leased property does not constitute a default charge. But in either case, if the additional charge accrues at a rate higher than the normal rent charge, the lessor must disclose the amount of or the method of determining the additional charge under § 213.4(q).

4. *Extension charges.* Extension charges that exceed the rent charge in a simple-interest accounting lease or that are added separately are disclosed under § 213.4(q).

5. *Reasonableness of charges.* Pursuant to section 183(b) of the act, penalties or other charges for delinquency, default, or early termination may be specified in the lease but only in an amount that is reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

4(r) Security Interest

1. *Disclosable security interests.* See § 213.2(o) and accompanying commentary to determine what security interests must be disclosed.

4(s) Limitations on Rate Information

1. *Segregated disclosures.* A lease rate may not be included among the segregated disclosures referenced in § 213.3(a)(2).

Section 213.5—Renegotiations, Extensions and Assumptions

1. *Coverage.* Section 213.5 applies only to existing leases that are covered by the regulation. It does not apply to the renegotiation or extension of leases with an initial term of four months or less, because such leases are not covered by the definition of consumer lease in.

§ 213.2(e). Whether and when a lease is satisfied and replaced by a new lease is determined by state or other applicable law.

5(b) Extensions

1. *Time of extension disclosures.* If a consumer lease is extended for a specified term greater than six months, new disclosures are required at the time the extension is agreed upon. If the lease is extended on a month-to-month basis and the cumulative extensions exceed six months, new disclosures are required at the commencement of the seventh month and at the commencement of each seventh month thereafter for as long as the extensions continue. If a consumer lease is extended for terms of varying durations, one of which will exceed six months beyond the originally scheduled termination date of the lease, new disclosures are required at the commencement of the term that will exceed six months beyond the originally scheduled termination date.

2. *Content of disclosures for month-to-month extensions.* The disclosures for a lease extended on a month-to-month basis for more than six months should reflect the month-to-month nature of the transaction.

Section 213.7—Advertising

7(a) General Rule

1. *Persons covered.* All ''persons'' must comply with the advertising provisions in this section, not just those that meet the definition of a lessor in § 213.2(h). Thus, automobile dealers, merchants, and others who are not themselves lessors must comply with the advertising provisions of the regulation if they advertise consumer lease transactions. Pursuant to section 184(b) of the act, however, owners and personnel of the media in which an advertisement appears or through which it is disseminated are not subject to civil liability for violations under section 185(b) of the act.

2. *''Usually and customarily.''* Section 213.7(a) does not prohibit the advertising of a single item or the promotion of a new leasing program, but prohibits the advertising of terms that are not and will not be available. Thus, an advertisement may state terms that will be offered for only a limited period or terms that will become available at a future date.

7(b) Clear and Conspicuous Standard

1. *Standard.* The disclosures in an advertisement in any media must be reasonably understandable. For example, very fine print in a television advertisement or detailed and very rapidly stated information in a radio advertisement does not meet the clear and conspicuous standard if consumers cannot see and read or hear, and cannot comprehend, the information required to be disclosed.

7(b)(1) Amount due at Lease Signing or Delivery

1. *Itemization not required.* Only a total of amounts due at lease signing or delivery is required to be disclosed, not an itemization of its component parts. Such an itemization is provided in any transaction-specific disclosures provided under § 213.4.

2. *Prominence rule.* Except for a periodic payment, oral or written references to components of the total due at lease signing or delivery (for example, a reference to a capitalized cost reduction, where permitted) may not be more prominent than the disclosure of the total amount due at lease signing or delivery.

7(b)(2) Advertisement of a Lease Rate

1. *Location of statement.* The notice required to accompany a percentage rate stated in an advertisement must be placed in close proximity to the rate without any other intervening language or symbols. For example, a lessor may not place an asterisk next to the rate and place the notice elsewhere in the advertisement. In addition, with the exception of the notice required by § 213.4(s), the rate cannot be more prominent than any § 213.4 disclosure stated in the advertisement.

7(c) Catalogs and Multi-Page Advertisements

1. *General rule.* The multiple-page advertisements referred to in § 213.7(c) are advertisements consisting of a series of numbered pages—for example, a supplement to a newspaper. A mailing comprising several separate flyers or pieces of promotional material in a single envelope is not a single multiple-page advertisement.

12. *Cross-references.* A multiple-page advertisement is a single advertisement (requiring only one set of lease disclosures) if it contains a table, chart, or schedule with the disclosures required under § 213.7(d)(2) (i) through (v). If one of the triggering terms listed in § 213.7(d)(1) appears in a catalog or other multiple-page advertisement, the page on which the triggering term is used must clearly refer to the specific page where the table, chart, or schedule begins.

7(d)(1) Triggering Terms

1. *Typical example.* When any triggering term appears in a lease advertisement, the additional terms enumerated in § 213.7(d)(2) (i) through (v) must also appear. In a multi-lease advertisement, an example of one or more typical leases with a statement of all the terms applicable to each may be used. The examples must be labeled as such and must reflect representative lease terms that are made available by the lessor to consumers.

7(d)(2) Additional Terms

1. *Third-party fees that vary by state or locality.* The disclosure of the total amount due at lease signing or delivery may:

i. Exclude third-party fees, such as taxes, licenses, and registration fees and disclose that fact; or

ii. Provide a total that includes third-party fees based on a particular state or locality as long as that fact and the fact that fees may vary by state or locality are disclosed.

7(e) Alternative Disclosures—Merchandise Tags

1. *Multiple-item leases.* Multiple-item leases that utilize merchandise tags requiring additional disclosures may use the alternate disclosure rule.

7(f) Alternative Disclosures—Television or Radio Advertisements

7(f)(1) Toll-Free Number or Print Advertisement

1. *Publication in general circulation.* A reference to a written advertisement appearing in a newspaper circulated nationally, for example, USA Today or the Wall Street Journal, may satisfy the general circulation requirement in § 213.7(f)(1)(ii).

2. *Toll-free number, local or collect calls.* In complying with the disclosure requirements of § 213.7(f)(1)(i), a lessor must provide a toll-free number for nonlocal calls made from an area code other than the one used in the lessor's dialing area. Alternatively, a lessor may provide any

telephone number that allows a consumer to reverse the phone charges when calling for information.

3. *Multi-purpose number.* When an advertised toll-free number responds with a recording, lease disclosures must be provided early in the sequence to ensure that the consumer receives the required disclosures. For example, in providing several dialing options—such as providing directions to the lessor's place of business—the option allowing the consumer to request lease disclosures should be provided early in the telephone message to ensure that the option to request disclosures is not obscured by other information.

4. *Statement accompanying toll free number.* Language must accompany a telephone and television number indicating that disclosures are available by calling the toll-free number, such as ''call 1–800–000–0000 for details about costs and terms.''

Section 213.8—Record Retention

1. *Manner of retaining evidence.* A lessor must retain evidence of having performed required actions and of having made required disclosures. Such records may be retained in paper form, on microfilm, microfiche, or computer, or by any other method designed to reproduce records accurately. The lessor need retain only enough information to reconstruct the required disclosures or other records.

Section 213.9—Relation to State Laws

1. *Exemptions granted.* Effective October 1, 1982, the Board granted the following exemptions from portions of the Consumer Leasing Act:

i. *Maine.* Lease transactions subject to the Maine Consumer Credit Code and its implementing regulations are exempt from chapters 2, 4, and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a lessor.)

ii. *Oklahoma.* Lease transactions subject to the Oklahoma Consumer Credit Code are exempt from chapters 2 and 5 of the federal act. (The exemption does not apply to sections 132 through 135 of the federal act, nor does it apply to transactions in which a federally chartered institution is a lessor.)

Appendix A—Model Forms

1. *Permissible changes.* Although use of the model forms is not required, lessors using them properly will be deemed to be in compliance with the regulation. Generally, lessors may make certain changes in the format or content of the forms and may delete any disclosures that are inapplicable to a transaction without losing the act's protection from liability. For example, the model form based on monthly periodic payments may be modified for single-payment lease transactions or for quarterly or other periodic payments. The content, format, and headings for the segregated disclosures must be substantially similar to those contained in the model forms; therefore, any changes should be minimal. The changes to the model forms should not be so extensive as to affect the substance and the clarity of the disclosures.

2. *Examples of acceptable changes.*

i. Using the first person, instead of the second person, in referring to the lessee.

ii. Using ''lessee,'' ''lessor,'' or names instead of pronouns.

iii. Rearranging the sequence of the nonsegregated disclosures.

iv. Incorporating certain state ''plain English'' requirements.

v. Deleting inapplicable disclosures by blocking out, filling in ''N/A'' (not applicable) or ''0,'' crossing out, leaving blanks, checking a box for applicable items, or circling applicable items. (This should facilitate use of multi-purpose standard forms.)

vi. Adding language or symbols to indicate estimates.

vii. Adding numeric or alphabetic designations.

viii. Rearranging the disclosures into vertical columns, except for § 213.4 (b) through (e) disclosures.

ix. Using icons and other graphics.

3. *Model closed-end or net vehicle lease disclosure.* Model A–2 is designed for a closed-end or net vehicle lease. Under the ''Early Termination and Default'' provision a reference to the lessee's right to an independent appraisal of the leased vehicle under § 213.4(l) is included for those closed-end leases in which the lessee's liability at early termination is based on the vehicle's realized value.

4. *Model furniture lease disclosures.* Model A–3 is a closed-end lease disclosure statement designed for a typical furniture lease. It does not include a disclosure of the appraisal right at early termination required under § 213.4(l) because few closed-end furniture leases base the lessee's liability at early termination on the realized value of the leased property. The disclosure should be added if it is applicable.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, March 31, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–8574 Filed 4–3–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–06; Amendment 39–9973, AD 97–06–16]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems 1A103/TCM Series Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McCauley Propeller Systems 1A103/TCM series propellers. This action supersedes priority letter AD 95–21–01 that currently requires visual inspections for cracks in the propeller hub of certain propellers using a 10X power magnifying-glass. This action requires an initial inspection for cracks in the propeller hub in accordance with a dye penetrant inspection procedure, replacement of propellers with cracks that do not meet acceptable limits, rework of propellers with cracks that meet acceptable limits, and repetitive inspections of all affected propellers. This amendment is prompted by development of a dye penetrant inspection and rework procedures. The actions specified by this AD are intended to prevent propeller separation due to hub fatigue cracking, which can result in loss of control of the aircraft.

DATES: Effective April 24, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 24, 1997.

Comments for inclusion in the Rules Docket must be received on or before June 3, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–06, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from McCauley Propeller Systems 3535 McCauley Drive, P.O. Drawer 5053, Vandalia, OH 45377–5053; telephone (937) 890–5246, fax (937) 890–6001. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carrie Sumner, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Room 323, Des Plaines, IL 60018; telephone (847) 294–7132, fax (847) 294-7834.

SUPPLEMENTARY INFORMATION: On September 29, 1995, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive