

■ 2. Add new § 841.110 to read as follows:

§ 841.110 Garnishment of FERS payments.

FERS payments are not subject to execution, levy, attachment, garnishment or other legal process except as expressly provided by Federal law.

■ 3. Add a new § 841.111 to read as follows:

§ 841.111 Garnishment of payments after disbursement.

(a) Payments that are covered by 5 U.S.C. 8470(a) and made by direct deposit are subject to 31 CFR part 212, Garnishment of Accounts Containing Federal Benefit Payments.

(b) This section may be amended only by a rulemaking issued jointly by the Department of the Treasury and the agencies defined as a “benefit agency” in 31 CFR part 212.

By the Department of the Treasury.

Dated: February 3, 2011.

Richard L. Gregg,

Fiscal Assistant Secretary.

By the Social Security Administration.

Michael J. Astrue,

Commissioner of Social Security.

Dated: January 31, 2011.

By the Department of Veterans Affairs.

John R. Gingrich,

Chief of Staff.

By the Railroad Retirement Board.

Beatrice Ezerski,

Secretary to the Board.

By the Office of Personnel Management.

John Berry,

Director.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

RIN 3245-AG14

Surety Bond Guarantee Program; Timber Sales

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is issuing this final rule to amend its Surety Bond Guarantee Program rules to guarantee bid and performance bonds for timber sale contracts awarded by the Federal Government or other public and private landowners.

DATES: This rule is effective on March 25, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Brannan, Office of Surety Guarantees, 202-205-6545, e-mail: Barbara.brannan@sba.gov.

SUPPLEMENTARY INFORMATION: SBA guarantees bonds for small contractors who cannot obtain surety bonds through the traditional commercial market. SBA's guarantee provides surety companies with the incentive to bond these contractors, enabling them to bid on and be awarded more contracts. The Surety Bond Guarantee (SBG) Program consists of the Prior Approval Program and the Preferred Surety Bond (PSB) Program. In the Prior Approval Program, each bond guarantee application must be submitted to SBA individually for approval, while PSB sureties have the delegated authority to issue, monitor, and service bonds without SBA's prior approval.

The Forest Service of the U.S. Department of Agriculture (USDA), and other public and private entities that manage forests, may permit the harvesting of timber in exchange for the payment of an agreed upon sum of money. To bid on these timber sale contracts, the USDA and these other public and private entities may require the bidder to obtain a bond to ensure satisfactory compliance with the contract terms and conditions associated with forest management, such as the protection of natural resources, soil, water, erosion control and road maintenance. Unlike the typical contract for supplies or services where the Obligor pays the Principal for providing supplies or rendering services, the Principal in the timber sale contract (the harvester of the timber) pays the Obligor (e.g. the Federal Government) for the right to cut the designated trees. However, under the current definition of “Contract” in 13 CFR 115.10, a contract for which SBA may issue a Surety Bond Guarantee cannot include a contract requiring any payment by the Principal to the Obligor. This final rule amends the definition of “Contract” to permit SBA to issue bid or performance bond guarantees for contracts that require the Principal to pay the Obligor for harvesting timber or other forest products, such as biomass. This change applies to contracts involving forests managed by the U.S. Forest Service as well as other public and private entities.

Discussion of Public Comments

On October 15, 2010, SBA published the notice of proposed rulemaking with request for comments on this change to

the SBG Program in the **Federal Register**. See 75 FR 63419. SBA received comments from four submitters before the comment period ended on November 15, 2010 and from two submitters after the comment period ended. SBA has considered all of the comments received.

Three submitters stated that small businesses have difficulty or are unable to obtain bonding to bid on timber sale contracts. They expressed support for the proposed rule because it will enable small contractors to obtain bonding more easily, making it possible for them to bid against larger companies and compete for timber sale contracts.

One submitter expressed concern that the fee assessed by SBA on the Principal for the bond may make it difficult or economically unfeasible for them to obtain timber sale contracts. SBA periodically reviews the program fees charged, which are established in the amounts SBA deems reasonable and necessary, in accordance with § 411(h) of the Small Business Investment Act of 1958.

One submitter suggested that SBA paperwork requirements, specifically the submission of SBA Form 990, Surety Bond Guarantee Agreement, with each bond could be cumbersome for timber sale bonds. However, SBA is not requiring any additional paperwork for timber sale bonds, and electronic application submission and processing is available in the Prior Approval Program. In addition, PSB sureties do not have to submit SBA Form 990 for any bond. The same submitter suggested that there is limited access to participating sureties in rural areas. SBA admitted six new sureties to the program in fiscal year 2010 and is working to expand access to the program.

Lastly, one submitter suggested that SBA clarify its intent to exclude payment bonds from eligibility by changing the definition of Payment Bond. SBA agrees that payment bonds in connection with timber sale contracts should be excluded, as the guarantee on payment bonds under the SBG Program was not intended to reimburse the Obligor for amounts owed the Obligor by the Principal, but to cover the claims caused by the Principal's failure to pay others furnishing supplies and materials for use in the performance of the Contract. SBA has added language to the rule to make it clear that the exception for timber sale contracts applies only to bid and performance bonds. Bid bonds are included because a small contractor may be required to submit a bid bond with its bid for the timber sale contract.

The two comments that were received after the deadline have also been considered by SBA. Both submitters suggested that the regulation be amended to include contracts for the sale of biomass products to increase the number of contracts for which small businesses could obtain bonding. SBA agrees and has modified the definition of "Contract" in this final rule to clarify that this change applies to contracts for the sale of timber as well as other forest products, including biomass.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866. This rule is also not a major rule under the Congressional Review Act.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that this final rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purpose of Executive Order 13132, Federalism, SBA has determined that this final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Regulatory Flexibility Act, 5 U.S.C. 601–612

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to the RFA, when an agency issues a rulemaking,

the agency must prepare a regulatory flexibility analysis which describes the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Within the meaning of RFA, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. There are seventeen Sureties that participate in the SBA program, and no part of this final rule would impose any significant additional cost or burden on them.

List of Subjects in 13 CFR Part 115

Claims, Small businesses, Surety bonds.

For the reasons stated in the preamble, the Small Business Administration amends 13 CFR Part 115 as follows:

PART 115—SURETY BOND GUARANTEE

- 1. The authority citation for part 115 continues to read as follows:

Authority: 5 U.S.C. app. 3, 15 U.S.C. 687b, 687c, 694b, 694b note, Pub. L. 106–554; and Pub. L. 108–447, Div. K, Sec. 203.

- 2. Amend § 115.10 by revising the third sentence of the definition of "Contract" to read as follows.

§ 115.10 Definitions.

* * * * *

Contract * * * A contract does not include a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (e.g., a contract requiring any payment by the Principal to the Oblige, except for contracts in connection with bid and performance bonds for the sale of timber and/or other forest products, such as biomass, that require the Principal to pay the Oblige), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond). * * *

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Karen G. Mills,
Administrator.

[FR Doc. 2011–4010 Filed 2–22–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0892; Directorate Identifier 2010–NE–32–AD; Amendment 39–16615; AD 2011–05–06]

RIN 2120–AA64

Airworthiness Directives; Thielert Aircraft Engines GmbH Models TAE 125–02–99 and TAE 125–02–114 Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Service experience has shown that fracture of the timing chain has occurred due to chain wear. This condition, if not corrected, could lead to in-flight cases of engine shutdown.

We are issuing this AD to prevent engine in-flight shutdown leading to loss of control of the airplane by requiring life limits for the timing chain.

DATES: This AD becomes effective March 30, 2011.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: alan.strom@faa.gov; telephone (781) 238–7143; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 28, 2010 (75 FR 66342). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Service experience has shown that fracture of the timing chain has occurred due to chain