

performing rights societies. Under the agreement between the Amusement and Music Operators of America (AMOA) and the three performing rights societies, the 1990 license fee was \$275 for the first jukebox, \$55 each for jukeboxes 2-10, and \$48 each for eleven or more jukeboxes. The license fee will be adjusted for 1991 and subsequent years under a formula that takes account of the number of jukeboxes licensed in relation to the "benchmark" royalty pool agreed to by the parties.

The Copyright Office is amending section 201.16 of the regulations to make clear that the compulsory license is suspended through December 31, 1999. The regulations continue to govern procedures for jukebox operators belatedly seeking to comply with the compulsory license for calendar year 1989 and earlier, and the regulations may apply in the year 2000, depending on the finding of the Copyright Royalty Tribunal regarding the existence of voluntary licenses in sufficient quantities.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, which is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, chapter 5 of the U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.¹

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that this final regulation will have no significant impact on small businesses.

List of Subjects in CFR Parts 201 and 202:

Copyright registration.

¹ The Copyright Office was not subject to the Administrative Procedure Act before 1970, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title (17), except with respect to the making of copies of copyright deposits" (17 U.S.C. 706(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

Final Regulations

In consideration of the foregoing, parts 201 and 202 of 37 CFR chapter II are amended as follows:

PART 201—[AMENDED]

1. The authority citation for part 201 continues to read in part as follows:

Authority: Section 702, 90 Stat. 2541; 17 U.S.C. 702; * * * § 201.16 is also issued under 17 U.S.C. 116.

2. Section 201.16(a) is revised to read as follows:

§ 201.16 [Amended]

(a) *General.* This section prescribes the procedures to be followed by operators of coin-operated phonorecord players who wish to obtain a compulsory license for the public performance of nondramatic musical works, and by the Copyright Office in issuing certificates, under section 116 of title 17 of the United States Code as amended by Public Law 94-553. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (e) of that section. In calendar 1990 and thereafter through December 31, 1999, this compulsory license is suspended by decision of the Copyright Royalty Tribunal pursuant to section 116A of title 17 of the United States Code, as amended by the Berne Implementation Act of 1988, Public Law 100-568. During this period, operators of coin-operated phonorecord players who publicly perform nondramatic musical works must obtain a negotiated license from the copyright owner or duly authorized agent such as a performing rights society.

PART 202—[AMENDED]

3. The authority citation for part 202 is amended by adding the following citation:

Authority: Section 702, 90 Stat. 2541; 17 U.S.C. 702; * * * §§ 202.3 and 202.22 are also issued under 17 U.S.C. 407 and 408.

4. Section 202.3(b)(5)(i)(D) is revised to read as follows:

§ 202.3 [Amended]

- (b) * * *
(5) * * *
(i) * * *

(D) Each of the works, if first published before March 1, 1989, bore a separate copyright notice, and the name

of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice; and

5. Section 202.22(c) (7) and (8) are revised to read as follows:

§ 202.22 [Amended]

(c) * * *

(7) If it is declared that the program was published at the time of transmission, the Library of Congress is entitled under this section to retain the copy to satisfy the deposit requirement of section 407(a) of title 17 of the United States Code.

(8) The Library of Congress in making fixations of unpublished transmission programs transmitted by commercial broadcast stations shall not do so without notifying the transmitting organization or its agent that such activity is taking place. In the case of network stations, the notification will be sent to the particular network. In the case of any other commercial broadcasting station, the notification will be sent to the particular broadcast station that has transmitted, or will transmit, the program. Such notice shall, if possible, be given by the Library of Congress prior to the time of broadcast. In every case, the Library of Congress shall transmit such notice no later than fourteen days after such fixation has occurred. Such notice shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement asserting the Library of Congress' belief that the transmission program has been, or will be by the date of transmission, fixed and is unpublished, together with language converting the notice to a demand for deposit under section 407 (a) and (b) of title 17 of the United States Code, if the transmission program has been published in the United States.

Dated: February 14, 1991.

Ralph Oman,
Register of Copyright.

Approved:
James H. Billington,
The Librarian of Congress.

[FR Doc. 91-4409 Filed 2-25-91; 8:45 am]

BILLING CODE 1410-07-M

37 CFR Part 211

[Docket No. 88-7B]

Registration of Claims of Protection in Mask Works; Gate Arrays**AGENCY:** Library of Congress, Copyright Office.**ACTION:** Final regulations.

SUMMARY: The Copyright Office of the Library of Congress is amending its regulations on mask work registration to provide an exception to the most complete form requirement. Paragraphs (c) and (e) of § 211.4 require one registration per work and that the registration cover the most complete form of the semiconductor chip product in existence. The final regulation permits separate registration of unpersonalized gate arrays and the customized metallization layers despite the existence of a completed final form.

EFFECTIVE DATE: February 26, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, Telephone: (202) 707-8380.

SUPPLEMENTARY INFORMATION: On February 7, 1989, the Copyright Office published a notice of proposed rulemaking regarding modifications in its mask work regulations. The Office proposed creating an exception to its most complete form requirement which generally limits applicants to one registration per mask work. The proposed modification authorized separate registration of unpersonalized gate arrays and customized metallization layers.

The Copyright Office received four comments on the proposed regulation. All of the comments expressed support for the general policies advanced by the proposal. Two of the comments, however, suggested that certain clarifications be adopted.

The Copyright Office has studied carefully the comments that were submitted. For reasons detailed in this announcement, the Copyright Office has adopted as final the proposed regulation with a few technical changes.

1. Background

On November 8, 1984, the President signed into law the Semiconductor Chip Protection Act of 1984, Public Law 98-620. The Act created a new form of intellectual property law separate and apart from any earlier law. The legislation consisted of an amalgam of patent and copyright principles, but also contained new features. The law was codified as chapter 9 of title 17 of the

U.S. Code, and is primarily administered by the Copyright Office.

On June 28, 1985, the Copyright Office issued final regulations implementing the Semiconductor Chip Protection Act. A public hearing (49 FR 39171) and interim regulations (50 FR 263) preceded the formulation of final regulations.

One of the most controversial issues during the rulemaking proceeding was the registrability of "intermediate forms" of semiconductor chip products. Section 901 of the Act defines "semiconductor chip product" as including the final or intermediate form of any product. A mask work cannot be protected under the Act until it has been fixed in such a product.

The policy adopted by the 1985 regulations allowed only one registration for the same version of a mask work. The regulations further required applicants to register mask work contributions in their most complete form. The purpose of these policies was to discourage applicants from fractionalizing their mask work contributions into smaller portions, thereby creating an ambiguous public record.

The general policies adopted in the final regulations worked well. While some may continue to dispute the necessity of the most complete form requirement, applicants experienced few problems in complying with the policy.

Despite the general appropriateness of the most complete form regulation, it came to the attention of the Copyright Office that there was one instance where an exceptional hardship was created. That hardship concerned the different registration possibilities depending upon whether the owner was a merchant manufacturer or a captive manufacturer.

So-called merchant manufacturers are companies that license unpersonalized gate arrays to other who customize the chips into finished products by adding the customized metallization layers. In the typical circumstance, the merchant manufacturer owns the mask work contribution in the unpersonalized gate array, and the company creating the final product owns the rights in the customized metallization layers. As a result, two separate registrations may be made, one to cover each owner's mask work contribution.

The so-called captive manufacturer owns both the gate arrays and the metallization layers. Typically, captive manufacturers are large manufacturers of computer products. Once a captive manufacturer has produced any final product by adding the metallization layers the company loses the right to register separately the unpersonalized

gate arrays under the existing regulations.

Captive manufacturers whose mask work registrations now cover both gate arrays and the metallization layers, complained to the Copyright Office that the most complete form regulation puts them at a competitive disadvantage in protecting their unpersonalized gate arrays. They theorized that it would be more difficult for them to prove substantial similarity against an alleged infringer of only the gate arrays. They argued that merchant manufacturers, whose registrations typically cover only the gate arrays, would have substantially less difficulty in presenting an infringement case.

In order to put captive manufacturers on an equal footing with merchant manufacturers, the Copyright Office proposed a narrow exception to the "most complete form" regulation in order to extend to the captive manufacturers of gate arrays the same registration possibilities as merchant manufacturers.

2. Summary of Public Comments

The Copyright Office received four comments on the proposed amendment of the mask work regulation. The commentators were the Computer and Business Equipment Manufacturers Association (CBEMA), an attorney in private practice, Compaq, and IBM. All of the comments supported the proposal in principle. However, both Compaq and IBM asked that the proposed regulation be modified in order to provide further clarifications.

Compaq stated that under the proposed regulation, it was unclear whether the finished product could be submitted as the deposit, or whether the applicant was limited to submitting the intermediate forms. Compaq argued that requiring the intermediate forms to be deposited would be a hardship on proprietors. Compaq further asserted that the proposed exception should be expanded to include similar treatment for standard cells.

IBM contended that the phrase "unpersonalized gate array" is ambiguous. They asserted it is unclear whether the so-called "book metal layer" would be considered part of the base layers or the personality layers. In addition, IBM asserted that the regulation governing deposit of the most complete form should be modified to allow coverage of functional elements besides gates. In order to solve these problems, IBM proposed either defining the phrase "unpersonalized gate array" or substituting the phrase "semi-custom chip base".

3. Final Regulation on Registration of Claims of Protection in Mask Works

Mask work regulations are intended to provide only broad, general guidance to applicants in seeking registration. The regulations are supported by detailed registration practices.

From the outset of mask work registration, issues with respect to gate arrays have arisen. The explanation accompanying the final regulations in 1985 specifically discussed gate arrays and cell libraries. (50 FR 26716). The proposed regulation is the result of a long dialogue with the industry. As a result of this experience, the Copyright Office and the industry have a common understanding as to the general meaning of the terms utilized in the proposed regulation.

The Copyright Office has studied carefully the comments of Compaq and IBM. These two companies are leaders in the industry, and the Office appreciates the time and thought they have given this rulemaking proceeding. Nevertheless, the Copyright Office believes some of their suggestions are best left to registration practice.

a. Deposit and Scope of the Claim

Compaq raises the issue of whether the finished product will be accepted as a deposit of the "unpersonalized gate array" and "custom metallization layers". This issue is actually a deposit issue rather than a registration issue. As long as the finished product includes the entire mask work contribution underlying the unpersonalized gate array or the custom metallization layers, the finished product should be submitted as the deposit, along with the identifying material for the layers being registered, as specified in 37 CFR 211.5.

IBM appears to interpret proposed § 211.4(e) as limiting claims in base layers to the layout of gates. IBM argues that base layers may include other functional elements, such as memory cells.

The regulations do not establish the scope of mask work claims. Only the applicant can do that through designating the nature of the mask work contribution at line 8 of the application for registration. In claiming in the base layers, the layout of other functional elements besides gates may be asserted. For example, a typical statement might read: "New layout of base layers for a semi-custom chip, including memory cells."

With respect to the "book metal layer," the Copyright Office believes this is a matter best left to registration practice. From the explanation given in IBM's comment letter, it would appear

preferable to include the book metal layer as part of the custom metallization layers. However, the Copyright Office declines to establish a firm policy on the issue in the regulations.

b. Definition of "Unpersonalized Gate Array"

From the outset of establishing mask work registration practices, industry spokesmen have addressed problems associated with gate arrays, and the Examining Division has considerable experience in registering claims in semiconductor chip products created by adding customized metallization layers to gate arrays. The Copyright Office believes there is a common understanding concerning the material covered by the exception to the most complete form requirement. In the interest of clarification, however, we have adopted a special definition of "unpersonalized gate array." IBM's primary concern appears to be a belief that the Copyright Office might interpret the term "unpersonalized gate array" in a narrow, technical way whereby base layers containing other functional elements besides gates could be excluded from the exception. The Copyright Office plans no such restrictive interpretation.

c. Standard Cells

The Copyright Office believes expansion of the exception from the "most complete form" standard to include "standard cells" would be unwarranted. Cell libraries are collections of parts of semiconductor chip products stored in computer memory tape which are used by chip designers to create new semiconductor chip products. Mask works protectible under the Semiconductor Chip Protection Act must be fixed in a semiconductor chip product. Semiconductor materials include silicon, germanium, and gallium arsenide. According to House Report 98-781, 98th Congress, 2d Session (1984) at 16-17, fixation solely in computer tapes does not meet the fixation requirement for eligibility under the Act.

Under the existing regulations, all intermediate forms of mask works are eligible for registration once they are fixed. Individual cells are included when fixed.

Only one comment suggested expansion of the exception from the "most complete form" requirement to cover standard cells. Since cells can be registered as part of the owner's entire contribution if they are fixed, the Office is not willing to depart further from the "most complete form" requirement without a compelling justification. That

justification has not been presented. The Office continues to believe that the best representation of an original mask work is its most advanced form in the manufacturing process, and we conclude that exceptions from this requirement must be carefully circumscribed and allowed only in compelling cases. Accordingly we decline to make an exception for standard cells at this time.

d. Regulatory Flexibility Act Statement

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, chapter 5 of the U.S. Code, subchapter 11 and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.¹

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that this final regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 211

Mask works, Semiconductor chip products.

Final Regulations

In consideration of the foregoing, part 211 of 37 CFR chapter 11, is amended in the manner set forth below.

PART 211—[AMENDED]

1. The authority citation for part 211 is revised to read as follows:

Authority: 17 U.S.C. 702 and 908.

2. Section 211.4(c), (d), and (e) are revised to read as follows:

¹ The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act [i.e. "all actions taken by the Register of Copyrights under this title [17], except with respect to the making of copies of copyright deposits"]. (17 U.S.C. 708(b)). The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

§ 211.4 Registration of claims of protection in mask works.

(c) One registration per mask work.

(1) Subject to the exception specified in paragraph (c)(2) of this section, only one registration can generally be made for the same version of a mask work fixed in an intermediate or final form of any semiconductor chip product. However, where an applicant for registration alleges that an earlier registration for the same version of the work is unauthorized and legally invalid and submits for recordation a signed affidavit, a registration may be made in the applicant's name.

(2) Notwithstanding the general rule permitting only one registration per work, owners of mask works in final forms of semiconductor chip products that are produced by adding metal-connection layers to unpersonalized gate arrays may separately register the entire unpersonalized gate array and the custom metallization layers. Applicants seeking to register separately entire unpersonalized gate arrays or custom metallization layers should make the nature of their claim clear at Space 8 of application Form MW. For these purposes, an "unpersonalized gate array" is an intermediate form chip

product that includes a plurality of circuit elements that are adaptable to be personalized into a plurality of different final form chip products, in which some of the circuit elements are, or will be, connected as gates.

(d) Registration as a single work. Subject to the exception specified in paragraph (c)(2) of this section, for purposes of registration on a single application and upon payment of a single fee, the following shall be considered a single work.

(1) In the case of a mask work that has not been commercially exploited: All original mask work elements fixed in a particular form of a semiconductor chip product at the time an application for registration is filed and in which the owner or owners of the mask work is or are the same; and

(2) In the case of a mask work that has been commercially exploited. All original mask work elements fixed in a semiconductor chip product at the time that product was first commercially exploited and in which the owner or owners of the mask is or are the same.

(e) Registration in most complete form. Owners seeking registration of a mask work contribution must submit the entire original mask work contribution in its most complete form as fixed in a

semiconductor chip product. The most complete form means the stage of the manufacturing process which is closest to completion. In cases where the owner is unable to register on the basis of the most complete form because he or she lacks control over the most complete form, an averment of this fact must be made at Space 2 of Form MW. Where such an averment is made, the owner may register on the basis of the most complete form in his or her possession. For applicants seeking to register an unpersonalized gate array or custom metallization layers under paragraph (c)(2), the most complete form is the entire chip on which the unpersonalized gate array or custom metallization layers reside(s), and registration covers those elements of the chip in which work protection is asserted.

* * * * *

Dated: February 13, 1991.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 91-4412 Filed 2-25-91; 8:45 am]

BILLING CODE 1410-07-M

Proposed Rules

Federal Register

Vol. 56, No. 38

Tuesday, February 26, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 297

Privacy Act of 1974; Exempt Record System

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: OPM's Office of Personnel Research and Development (OPRD) is proposing to alter portions of the system of records currently constituted and described in the Federal Register (OPM/GOVT-6, Personnel Research and Test Validation Records) at 55 FR 3850, February 5, 1990. The purpose of this alteration is to permit OPRD to maintain research ratings within that system for use in conducting research on the effectiveness of human resource management initiatives.

The altered system will contain those research ratings that, if made available to the employee, would compromise the objectivity of the evaluating supervisory official. The releasing of information that has been supplied by individual evaluators would impede the forthrightness of the evaluation and otherwise impair the ability of the OPRD to conduct a proper assessment of workforce quality.

DATES: Comments must be received by April 29, 1991.

ADDRESSES: Comments should be addressed to Marilyn Gowing, Assistant Director for Personnel Research and Development, Career Entry Group, Room 6462, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jay Gandy (202) 606-1366.

SUPPLEMENTARY INFORMATION: The Assistant Director, Office of Personnel Research and Development, Career Entry Group, Office of Personnel Management (OPM), by separate Federal Register notice appearing this

day is proposing alteration in the system of records identified as OPM/GOVT-6, Personnel Research and Test Validation Records. The Office intends to exempt additional portions of this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(4) of the Privacy Act, which applies to records required by statute to be maintained and used solely as statistical records. The Office of Personnel Research and Development (OPRD), as part of OPM, is authorized to gather information for personnel research purposes as required by 5 U.S.C. 4702. In order to maintain the integrity of this OPRD process and to allow bona fide study of human resource management methods and initiatives, current information on the characteristics, qualities, and performance of all levels of the Federal workforce is needed. The results of these studies will help improve policies concerning personnel management. The success of this research depends upon frank appraisals of performance by supervisors; without the rating being protected from access by the employee, the confidentiality of the rating is lost and its value as reflecting judgments made free of biasing influences is destroyed. The data collected is used solely for research purposes; only designated OPM research staff members have access to individual responses. These ratings are never used for any personnel actions affecting the employee.

This need for confidentiality of the ratings is clear: Supervisors rate differently under research (confidential) conditions—this has substantial implications for the usefulness of the research studies conducted. To ensure the needed confidentiality, the Office proposes to exempt research performance appraisals from the notification, access, correction, and amendment provisions of the Privacy Act. The employee's annual performance appraisal will still be subject to the Privacy Act and this proposal will not affect the availability of that record to the data subject.

Research performance appraisals meet the statutory definition of "statistical record" as defined in subsection (a)(6) of the Privacy Act: They are records in a system of records maintained for statistical, research, or reporting purposes only, and are not

used to make any determination about the individuals who are rated. This rating procedure does not lead to an agency making any decisions on the rights, benefits, or entitlements of the individuals. Therefore, the Office believes the exemption is appropriately applied in this situation.

E.O. 12291, Federal Regulation

The proposed exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

Regulatory Flexibility Act

I certify that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 because it applies only to Federal employment records.

List of Subjects in 5 CFR Part 297

Administrative practice and procedure, Privacy.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM is amending 5 CFR part 297 as follows:

PART 297—PRIVACY PROCEDURES FOR PERSONNEL RECORDS

1. The authority citation for part 297 continues to read as follows:

Authority: Sec. 3, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. In § 297.501, paragraph (b)(8) is revised to read as follows:

§ 297.501 Exemptions.

* * * * *

(b) * * *

(8) *Personnel Research Test Validation Records (OPM/GOVT-6).* All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(4) is exempt from the requirements of 5 U.S.C. 552a(d), relating to access to or amendment of the records by the data subject. This exemption is claimed because portions of this system relate to records required by statute to be maintained and used solely for statistical purposes. Access to or amendment of this information by the

data subject would compromise the objectivity and fairness of these records.

[FR Doc. 91-4512 Filed 2-25-91; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-ANE-02]

Airworthiness Directives; General Electric Company (GE) CF6-45/-50 and CF6-80A Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain GE CF6-45/-50 and CF6-80A series turbofan engines, which would require ultrasonic and eddy current inspections of the high pressure compressor rotor (HPCR) stages 3-9 spools for cracks. This proposal is prompted by cracks found in two HPCR stages 3-9 spools. This condition, if not corrected, could result in an uncontained engine failure.

DATES: Comments must be received no later than April 4, 1991.

ADDRESSES: Comments on the proposal may be mailed in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 91-ANE-02, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, or may be delivered in duplicate to Room 311 at the above address.

Comments may be inspected at the above location in Room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, Ohio 45246, or may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington.

Massachusetts 01803-5299, telephone (617) 273-7096.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-ANE-02." The postcard will be date/time stamped and returned to the commenter.

Discussion

There have been two HPCR stages 3-9 spools found cracked in service. Although the specific cause of the cracks has not been determined, sufficient evidence exists to indicate the condition is limited to a specific forgoing population. This condition, if not corrected, could result in an uncontained engine failure.

The two cracked spools were discovered using the inspection techniques specified in GE CF6-50 Service Bulletin (SB) 72-888 and GE CF6-80A SB 72-500. Although these inspection techniques are adequate for detecting the condition, the engine manufacturer has subsequently issued GE CF6-50 SB 72-1000 and GE CF6-80A SB 72-583 which provides optimized inspection techniques.

The FAA has reviewed and approved GE CF6-50 SB 72-888, Revision 2, dated September 26, 1990, and SB 72-1000, dated December 14, 1990; and CF6-80A SB 72-500, Revision 1, dated April 5, 1990, and SB 72-583, dated December 20, 1990, which describe ultrasonic and eddy current inspection procedures for

detecting cracks in the HPCR stages 3-9 spool.

Since this condition is likely to exist or develop on other engines of the same type design, and AD is proposed which would require ultrasonic and eddy current inspections in accordance with GE CF6-50 SB 72-1000 and GE CF6-80A SB 72-583 to detect cracking of the HPCR stages 3-9 spool. Also, the requirements in this proposal may change after additional information on the specific cause of the cracking is obtained.

There are approximately 203 GE CF6-45/-50 and CF6-80A series engines of the affected design installed on aircraft of U.S. registry which would be affected by this AD. It is estimated that it would take approximately 85 manhours per engine to accomplish the required actions and that the average labor cost would be \$40 per manhour. Also, it is estimated that a material cost of \$400 per engine would be incurred at each inspection. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$771,400.

The regulations proposed herein would 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator the Federal Aviation Administration (FAA) proposes to amend 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows: