Rules and Regulations

Federal Register
Vol. 58, No. 6
Monday, January 11, 1993

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

[INS No. 1349–92]

RIN 1115–AC95

Statement of Organization; Name Change for Border Patrol Sector Number 3

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends 8 CFR 100.4 by changing the name of sector headquarters number 3 from "Mayaguez, Puerto Rico" to "Ramey, Puerto Rico". This change is necessary to avoid confusion, since sector number 3 is physically located in Ramey, Puerto Rico.

EFFECTIVE DATE: January 11, 1993.

FOR FURTHER INFORMATION CONTACT: Marion E. Moody, Assistant Chief Patrol Agent, Border Patrol, Immigration and Naturalization Service, 425 I Street, NW., room 7227, Washington, DC 20536, telephone (202) 514–1109.

SUPPLEMENTARY INFORMATION: Originally the Immigration and Naturalization Service intended to install a Sector Headquarters and station in Mayaguez, Puerto Rico, along with maintaining a station in Ramey, Puerto Rico. As a result of budget constraints and lack of suitable space, the Service no longer plans to open a Sector office in Mayaguez. Therefore 8 CFR 100.4 is being amended to change the name of sector headquarters number 3 from "Mayaguez, Puerto Rico" to "Ramey, Puerto Rico", since the sector number 3 headquarters is physically located in Ramey, Puerto Rico.

The Service's implementation of this rule as a final rule is based upon 5 U.S.C. 553(b)(A) as it is a rule of agency organization. The immediate implementation of this final rule is based upon the "good cause" exception found at 5 U.S.C. 553(d) in that the usual notice provisions are unnecessary because the rule will benefit the public by showing the actual city in which the sector headquarters is physically located.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 100

Authority delegation (Government agencies), Organization and functions (Government agencies).

Accordingly, part 100 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

1. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

§ 100.4 [Amended]

2. In section 100.4, paragraph (d) is amended by changing the name of Sector number 3 from "Mayaguez, Puerto Rico", to "Ramey, Puerto Rico".

Dated: December 9, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–461 Filed 1–8–93; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 932

[No. 92–749]

Eligibility of Federal Home Loan Bank Directors

AGENCY: Federal Housing Finance Board.

ACTION: Interim rule.

SUMMARY: The Federal Housing Finance Board (Board) is amending its regulations to revise the dates by which all incumbent directors of the Federal Home Loan Banks (FHLBanks) must submit Personal Certification and Disclosure forms to the Board. The amendments also clarify the date by which nominees for elective director must submit Personal Certification and Disclosure forms to the Board. The amendments also change the date by which the Board must announce the results of the election for FHLBank directors. These date changes are intended to apportion the submission of forms over a longer period in order to enable the Board to devote more time to the review of the forms. The amendments also define more precisely the period during which a director or officer of a member of the FHLBank System who was formerly ineligible to be a FHLBank elective director may once again be eligible to hold that office.

DATES: Interim rule effective on January 11, 1993. Comments must be received on or before March 12, 1993.

ADDRESSES: Comments may be mailed to: Executive Secretariat, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Program Analyst, District Banks Directorate, (202) 408–2872; Brandon Straus, Attorney-Advisor, Office of Legal and External Affairs, (202) 408–2589, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 7 of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1421 *et seq.* (Supp. I 1989), vests the management of each FHLBank in a board of elective and appointive directors. *Id.* sec. 1427(a). Bank Act subsection 7(d) authorizes the Board to prescribe rules for the nomination and election of elective FHLBank directors. *Id.* sec. 1427(d). The Board has authority to prescribe rules governing the appointment of appointive FHLBank directors pursuant to its general rulemaking authority in Bank Act subsection 2B(a). See *id.* sec. 1422b(a)(1).

The current Board regulations on appointive director eligibility and elective director eligibility set forth dates by which incumbent directors, nominees for elective director (director nominees), and candidates for appointive director (director candidates) must submit to the Board a certification that they meet certain statutory and regulatory eligibility requirements as well as a statement of disclosure of certain financial relationships. See 12 CFR 932.18(f), 932.21(g). These certifications and disclosures must be made by completing Personal Certification and Disclosure Forms (Forms), denominated A–1, A–2, E–1, or E–2. These forms have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 3069–0002. Satisfactory completion of the Forms is a prerequisite for incumbent elective and appointive directors to remain eligible to serve on a FHLBank board. Satisfactory completion of the Forms is also a prerequisite to the ratification of the election of director nominees and the appointment of director candidates by the Board.

Under the current regulations, incumbent appointive directors must submit their Forms annually by November 15, and incumbent elective directors must do by December 1. However, during the months of October through December, the Board also must review Forms submitted by director candidates and director nominees. Director candidates are required to submit their Forms "[p]rior to the initial appointment." *Id.* § 932.18(f). Most director appointments are made near the end of the year because the four year terms of appointive directors expire on December 31. However, some appointments are made other than at year end in order to fill appointive directorships that have been vacated at mid-term.

Director nominees must submit their Forms "[p]rior to each election." *Id.* § 932.21(g). The process of election of director nominees takes place from September 25 to October 25 of each year. *Id.* § 932.14(a), (c). The Board must announce the results of the election by November 15. *Id.* § 932.14(d). As a result of this series of deadlines set forth in the current regulations, the Board is required to review the incoming Forms of approximately 110 incumbent directors while at the same time reviewing Forms from up to sixty director nominees in time for the Board to ratify the election of those nominees by November 15.

II. Analysis of Interim Rule

A New Date For Submission of Personal Certification and Disclosure Forms by Incumbent Directors

In order to allow the Board more time to review the Forms of director candidates and director nominees, which are submitted to the Board in the final months of the calendar year, the Board is amending § 932.18 and § 932.21 of its regulations to provide that incumbent elective and appointive directors must submit Forms E–2 and A–2, respectively, annually by March 1. This change is intended to apportion the submission of Forms over a longer period so that the Board has more time to review individual Forms.

In order to avoid duplicative certification and disclosure requirements for certain new directors, the interim rule creates some exceptions to the requirements for submission of Forms E–2 and A–2. Newly elected elective directors, who were required to submit a Form E–1 in the year in which they were elected, would be exempt from submitting a Form E–2 in the following year. Similarly, appointive directors who submitted a Form A–1 in October, November, or December of the year prior to the year in which their appointment took effect would be exempt from submitting a Form A–2 by March 1 of the following year.

As a consequence of these exceptions, newly elected directors will not be required to submit Forms for up to a fifteen month period: from late October of the year in which they were elected to March 1 of the second year of their terms. In addition, appointive directors who submitted Form A–1 in October, November, or December of the year prior to the year in which their appointment took effect will not be required to submit a Form for up to a seventeen month period: from October 1 of the year prior to the year in which their appointment was effective to March 1 of the second year of their terms.

The Board believes that allowing first-year directors to serve several added months before they are required to meet the certification and disclosure requirements as incumbent directors poses minimal risk to the FHLBanks and the FHLBank System because all incumbent directors are required by regulation to report, on their own initiative, any ineligibility or suspected ineligibility to the Board within thirty days of occurrence. *See id.* §§ 932.18(f)(2), 932.21(g)(2).

B New Dates for Submission of Personal Certification and Disclosure Forms By Elective Director Nominees

The current regulation governing the nomination of director nominees requires each director nominee to complete a "questionnaire" and return it to the Board prior to August 20 in order for the director nominee's name to be placed on the ballot for the next election. *Id.* § 932.13(c)(3). In practice, the Board now requires that director nominees fill out and return to the Board by August 20 that portion of Form E–1 in which director nominees certify that they meet all statutory and regulatory eligibility requirements for election. The Board no longer uses a "questionnaire." Therefore, the interim rule changes the language of § 932.13(c)(3) to reflect this practice.

The current elective director eligibility regulations require that "[p]rior to each election," director nominees must certify in Form E–1 that they meet certain statutory and regulatory eligibility requirements and must disclose to the Board certain financial relationships. See *id.* § 932.21(g)(1), (3). However, it is the current Board practice to wait until after the ballots have been opened to require those director nominees with the highest number of votes for each directorship to complete a Form E–1. The Board must, by regulation, wait until 5 p.m. on October 25 before opening ballots. *Id.* § 932.14(c). The reason for this practice is that the Board wishes to require disclosure of personal financial relationships only by director nominees whose election has some likelihood of being ratified by the Board.

The interim rule therefore replaces the phrase "[p]rior to each election" in subparagraphs (g)(1) and (g)(3) of § 932.21 with "[p]rior to the ratification of the election results by the Board." This change is intended to make clear that director nominees are not required to disclose their financial relationships to the Board on Form E–1 until after members cast their ballots and after the results are tabulated. See *id.* § 932 14(c). However, director nominees must submit the completed Form E-l before the Board will ratify their election and declare the election results The change made by the interim rule is intended to reflect this practice.

The Board recognizes that those director nominees who must fill out Form E–1 prior to ratification of their election by the Board will have filled out the certification section of Form E–1 twice: once by August 20 in order to have his or her name placed on the ballot and again after the election when disclosing his or her financial relationships. The purpose of requiring director nominees to again certify eligibility after the election is to ensure that director nominees are still eligible to be FHLBank directors at the time the Board ratifies their election. Further, by certifying their eligibility after they are elected, director nominees are exempted from submitting a Form E-2 during the following year.

C New Date for Declaration of Election Results

The current Board regulation governing the election of FHLBank elective directors provides that the Board will determine and announce the winners of the election by November 15. *Id.* § 932.14(d). However, director nominees are not required to complete Form E-1 until after they have been elected. Therefore, the November 15 date allows only three weeks for director nominees to submit their Forms and for the Board to review the Forms before the election results must be announced. Section 932.14(c) of the interim rule changes the announcement date to December 31. This change is intended to ensure that the Board will have sufficient time to review Forms of director nominees and ratify their election, should director nominees wait until mid- or late December to submit their Forms. The Board does not intend to delay the announcement of election results until December 31, if the Board can ratify the results prior to that date.

D Clarification of Eligibility Requirement For Elective Directors Whose Institution Fails To Meet Its Capital Requirements

The Board is also amending the regulation governing eligibility of a person who was formerly ineligible to be an elective director due to non-compliance with minimum regulatory capital requirements by the member institution that the person serves as an officer or director. See id. § 932.21(d)(2). The current regulation provides that a "director" who was formerly ineligible is once again eligible in the succeeding calendar year if the member meets the minimum regulatory capital requirements during each phase of the election process for the succeeding calendar year. *Id.*

The interim rule clarifies the regulation by expressly making it applicable to a "person" who was formerly ineligible rather than a "director" who was formerly ineligible. This change is intended to clarify the Board's intent and to reflect current Board practice of applying the regulation not only to incumbent elective directors but also to director nominees and prospective director nominees. This change is also intended to make the regulation's language parallel the language of paragraph (d)(1) of § 932.21, which defines the period during which a "person" who is an officer or director of a member that fails to meet minimum regulatory capital requirements is ineligible to be an elective director. *Id.* § 932.21(d)(1).

The interim rule further amends the regulation governing re-eligibility by rephrasing the time frame during which a member must meet minimum regulatory capital requirements in order for a formerly ineligible person to once again be eligible to be an elective director. The interim rule does not change the time frame, but it defines the time frame in terms of the calendar year rather than in terms of a "phase of the election process."

III. Notice and Public Participation

A. General Notice of Proposed Rulemaking

The Board is requesting public comment on this interim rule, although it is not required by the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, to publish a general notice of proposed rulemaking. Publication of notice of a proposed rulemaking is not required because the Board finds that there is good cause that notice and comment procedure is unnecessary and contrary to the public interest in this instance. See *id.* sec. 553(b)(3)(B). Compliance with the public procedure requirements of APA section 553 is unnecessary because the interim rule makes minor technical amendments to the director eligibility regulations. The amendments do not impose any new substantive requirements on FHLBank directors and therefore do not involve matters of public interest or concern.

Implementation of the interim rule without prior public notice will not create a hardship for those people who are subject to the rule. The deadlines set forth in the new rule will allow incumbent directors an extra three months in which to comply with the certification and disclosure requirements. Director nominees will also have more time to comply with the certification and disclosure requirements because the interim rule makes clear that the deadline for submission of their Forms is no longer prior to the election, but prior to ratification of the election results by the Board, which takes place after the election. Public notice and comment is therefore unnecessary in the promulgation of the interim rule.

Although the content of the interim rule does not involve matters of the public interest, delaying the effect of the interim rule would be contrary to the public interest. The deadline changes in the interim rule allow the Board more time in which to review the Forms of FHLBank directors during the election process. It is in the public interest for the Board to have more time in which to review the qualifications of FHLBank directors because the safe and efficient operation of the FHLBank System is dependent upon the selection of qualified FHLBank directors. Delaying the effect of the interim rule in order to follow the notice and comment procedures would cause the rule to become effective after the deadlines that are changed by the rule have passed. This would deprive the Board of the benefit of the rule in the current election cycle. Therefore, delaying implementation of the interim rule would be contrary to the public interest.

The Board therefore finds good cause that compliance with notice and comment procedures in adoption of this interim rule is unnecessary and contrary to the public interest. Further, the interim rule comes within the exception to the notice and comment requirement for rules of agency procedure, under section 553(b)(3)(A) of the APA. See *id.* section 553(b)(3)(A).

B. Effective Date

The Board finds that section 553(d) of the APA, which generally requires publication of a substantive rule at least thirty days before the rule's effective date, is not applicable to this interim rule. The interim rule makes changes in the Board's procedure for accepting certification and disclosure Forms from FHLBank directors. The interim rule is not a substantive rule because it does not change any of the substantive requirements for director eligibility. Therefore, the requirement of a thirty-day delay in the effective date of a substantive rule does not apply to this interim rule, which is procedural.

The Board also finds that under APA subsection 553(d)(3), there is good cause that the interim rule be effective upon publication for the reasons stated in section III.A.

Although this interim rule is effective immediately, the Board requests public comment. The Board considers comments from the public helpful in formulating clear and effective regulations. Therefore, the Board will consider public comments on this interim rule in developing a final rule.

IV. Regulatory Flexibility Act

The Board is not required by the Regulatory Flexibility Act (Reg Flex Act), 5 U.S.C. 601 *et seq.*, to prepare a regulatory flexibility analysis for this interim rule. The Reg Flex Act requires that a regulatory flexibility analysis be prepared whenever an agency promulgates a proposed or final rule after being required by the APA to publish a general notice of proposed rulemaking pursuant to section 553 of the APA. See 5 U.S.C. 603(a), 604(a). The Board is not required to publish a general notice of proposed rulemaking for this interim rule because the Board has found good cause that notice and comment is unnecessary and contrary to the public interest in the adoption of this interim rule. See *id.* sec. 553(b)(3)(B). Further, the rule comes within the exception to the notice and comment requirement for rules of agency procedure, under APA subsection 553(b)(3)(A). See *id.* sec. 553(b)(3)(A).

The interim rule does not impose any new reporting requirements. It merely changes the deadlines by which existing requirements must be met. The interim rule therefore will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 932

Banks, Banking, Conflicts of interest, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

Accordingly, chapter IX, title 12, part 932, Code of Federal Regulations, is hereby amended as follows:

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 is revised to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1426, 1427, 1464; 18 U.S.C. 207; 42 U.S.C. 8101 *et seq.*

2. Section 932.13 is amended by revising the first two sentences of paragraph (c) concluding text to read as follows:

§ 932.13 Designation and nomination of elective directorship.

* * * * *

(c) * * *

With such letter will be sent a list of nominees and a copy of Form E–1. Each nominee must certify to the Board on Form E–1 by August 20 that such nominee meets all applicable eligibility qualifications for his election set forth in section 7 of the Act and this part. * * *

* * * * *

3. Section 932.14 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 932.14 Election of directors.

* * * * *

(d) By December 31, the Board will declare elected the candidate receiving the highest number of votes cast, and where two or more directorships are to be filled from the ballot, the Board will declare elected each candidate receiving the next succeeding highest number of votes until the number of candidates declared elected equals the number of directorships to be filled. * * *

* * * * *

4. Section 932.18 is amended by revising paragraphs (f)(1) and (f)(3) introductory text to read as follows:

§ 932.18 Appointive director eligibility.

* * * * *

(f) *Certification and reporting.* (1) Prior to the initial appointment, each director candidate for appointive director shall certify in writing to the Board on Form A–1 that he or she meets all applicable eligibility qualifications for his or her appointment set forth in section 7(a) of the Act and this part. By March 1 of each year during the term of the directorship, each appointive director shall certify in writing to the Board on Form A–2 that he or she meets all applicable eligibility qualifications for his or her appointment set forth in section 7(a) of the Act and this part, except that any appointive director who submitted Form A–1 to the Board in October, November, or December of the year prior to the year in which his or her appointment took effect is not required to submit Form A–2 by March 1 of the year in which the appointment took effect.

* * * * *

(3) Prior to the initial appointment, each director candidate for appointive director shall fully disclose in writing to the Board on Form A–1 the financial relationships (as defined in § 931.30 of this chapter) set forth in paragraphs (f)(3) (i), (ii), (iii), and (iv) of this section of such director candidate. By March 1 of each year during the term of directorship, each appointive director shall fully disclose in writing to the Board on Form A–2 the financial relationships (as defined in § 931.30 of this chapter) set forth in paragraphs (f)(3) (i), (ii), (iii), and (iv) of this section of such appointive director, except that any appointive director who submitted a Form A–1 to the Board in October, November, or December of the year prior to the year in which his or her appointment took effect is not required to submit Form A–2 by March 1 of the year in which the appointment took effect.

* * * * *

5. Section 932.21 is amended by revising paragraphs (d)(2), (g)(1), and (g)(3) to read as follows:

§ 932.21 Elective director eligibility.

* * * * *

(d) * * *

(2) A person who is ineligible pursuant to paragraph (d)(1) of this section shall once again be eligible for election in the next succeeding calendar year in which the member(s) he or she serves as an officer or director meet(s) the applicable minimum regulatory capital requirements throughout the entire calendar year. Such compliance with applicable minimum regulatory capital requirements shall not be satisfied by the granting of an exemption or exception to such capital requirements by the appropriate federal regulatory agency.

* * * * *

(g) *Certification and reporting.* (1) Prior to the ratification of the election results by the Board, each director nominee for elective director shall certify in writing to the Board on Form E–1 that he or she meets all applicable eligibility qualifications for his or her election set forth in section 7 of the Act and this part. By March 1 of each year during the term of directorship, each elective director who was not elected in the immediately preceding year shall certify in writing to the Board on Form E–2 that he or she meets all applicable eligibility qualifications for his or her election set forth in section 7 of the Act and this part.

* * * * *

(3) Prior to the ratification of the election results by the Board, each director nominee for elective director shall fully disclose in writing to the Board on Form E–1, and by March 1 of each year thereafter during the term of the directorship each elective director who was not elected in the immediately preceding year shall fully disclose in writing to the Board on Form E–2, any financial relationships (as defined in § 931.30 of this chapter) set forth in § 932.18(f)(3) of this part of such director nominee or elective director.

* * * * *

By the Federal Housing Finance Board

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93–537 Filed 1–8–93; 8:45 am]

BILLING CODE 6725–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ANE–61; Amendment 39–8445]

Airworthiness Directives; Garrett Engine Division, Allied-Signal Incorporated, Model TFE731–5BR Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) priority letter 92–02–18 that was sent previously to all known U.S. owners and operators of Garrett Engine Division, Allied-Signal Incorporated, Model TFE731–5BR turbofan engines by individual letters. This AD requires discontinuation of inflight operation of certain engines. This amendment is prompted by two reports of inflight shutdowns due to fan gearbox failures. The actions specified by this AD are intended to prevent multiple inflight engine failures.

DATES: Effective February 10, 1993, to all persons except those persons to whom it was made immediately effective by priority letter AD 92–02–18, issued January 14, 1992, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before February 10, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–61, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Propulsion Branch, ANM–140L, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, Aircraft Certification Service, FAA, 3229 East Spring Street, Long Beach, California, 90806–2425; telephone (310) 988–5246; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: On January 14, 1992, the FAA issued priority letter AD 92–02–18, applicable to Garrett Engine Division, Allied-Signal Incorporated, Model TFE731 series turbofan engines, which requires discontinuation of inflight operation of certain engines. That action was prompted by reports of two recent inflight engine shutdowns due to fan gearbox failures that occurred within 8 hours time in service following conversion of the engines from Garrett Model TFE731–5AR to Garrett Model TFE731–5BR engines. Preliminary investigation has revealed fatigue cracks originating from the aft damper ring groove of the sun gear. These cracks progressed until the gear cracked along the gear tooth root, which caused a vibration and fragmentation of the sun gear. This condition, if not corrected, could result in multiple inflight engine failures.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued priority letter AD 92–08–18 to prevent multiple inflight engine failures. The AD requires discontinuation of further flight of certain engines.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on January 14, 1992, to all known U.S. owners and operators of Garrett Engine Division, Allied-Signal Incorporated, Model TFE731–5BR turbofan engines. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD 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 92–ANE–61." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-18: Garrett Engine Division, Allied-Signal Incorporated: Amendment 39-8445. Docket No. 92-ANE-61.

Applicability: Garrett Engine Division, Allied-Signal Incorporated, Model TFE731-5BR turbofan engines installed on but not limited to Dassault Aviation Model Mystere Falcon 20 and 900 series airplanes.

Compliance: Required prior to further flight, unless accomplished previously.

To prevent multiple inflight engine failures, accomplish the following:

(a) For engines identified on the data plate as Part Number (P/N) 3075330-2 or P/N 3075370-1, discontinue inflight operation.

(b) This AD is an interim directive until approved corrective action is available.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on February 10, 1993, to all persons except those persons to whom it was made immediately effective by priority letter AD 92-02-18, issued January 14, 1992, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on December 16, 1992.

Jay J. Pardee,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93-476 Filed 1-8-93; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA-09-01-5383; A-1-FRL-4538-7]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Revised Regulations Controlling Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving portions of the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts which amend its volatile organic compound (VOC) regulations. The intended effect of this action is to approve portions of the Massachusetts revised SIP for ozone. This action is being taken in accordance with section 110 and part D of the Clean Air Act (CAA).

EFFECTIVE DATE: This rule will become effective on February 10, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Department of Environmental Protection, One Winter Street, 7th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Emanuel Souza, Jr., (617) 565-3248.

SUPPLEMENTARY INFORMATION: On February 3, 1983 (48 FR 5044), June 1, 1987 (52 FR 20422) and May 29, 1990 (55 FR 21755), EPA published Notices of Proposed Rulemakings (NPR) for the Commonwealth of Massachusetts. The February 3, 1983 NPR proposed approval of Massachusetts' 1982 SIP. The June 1, 1987 NPR proposed approval of Massachusetts' generic bubble regulations, 310 CMR 7.18(2)(b) and 310 CMR 7.00: Appendix B. EPA's May 29, 1990 NPR proposed approval of an August 17, 1989 SIP revision of VOC regulations. Massachusetts submitted the formal SIP revisions on August 27, 1982, June 27, 1984, March 6, 1985, April 12, 1985, August 17, 1989 and June 7, 1991. Additionally, the state submitted a letter on December 17, 1991 withdrawing portions of the June 7, 1991 submittal because of typographical errors.

Background

On August 27, 1982, Massachusetts submitted its 1982 SIP to EPA for approval. On February 3, 1983, EPA published an NPR for Massachusetts' 1982 SIP. However, in the final rulemaking notice for Massachusetts' 1982 SIP (48 FR 51480), EPA stated that all the issues regarding the bubble regulations (310 CMR 7.18(2)(b) and 310 CMR 7.00: Appendix B) were not resolved, and that, EPA would take final action on the two bubble regulations at a later date.

On June 27, 1984, March 6, 1985 and April 12, 1985, Massachusetts submitted revisions to its generic bubble regulations, 310 CMR 7.18(2)(b) and 310 CMR 7.00: Appendix B to EPA for approval. On June 1, 1987, EPA published an NPR for Massachusetts' generic bubble regulations. In that notice EPA listed 14 conditions that Massachusetts had to satisfy before EPA would take final action on these regulations.

On May 25, 1988, EPA sent a letter to the Governor of Massachusetts notifying him that the Massachusetts SIP was substantially inadequate to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the entire State. EPA requested the State to respond to that letter in two phases—the first in the near future and the second following EPA's issuance of a final policy on how the States should correct their SIPs. One of the requirements of the first phase of the State's response was to correct the deficiencies identified by EPA in the existing SIP's VOC regulations.

On June 16, 1988, EPA sent a letter to the Acting Director of the Massachusetts Department of Environmental Protection (DEP) Division of Air Quality Control outlining the corrections that needed to be made to Massachusetts' existing regulations in order to eliminate the identified deficiencies and inconsistencies in the regulations as compared to EPA's national guidance.

The Commonwealth of Massachusetts made changes to its VOC regulations as required by EPA's May 25 and June 16, 1988 letters, and submitted the revised adopted VOC regulations as a formal SIP revision on August 17, 1989.

EPA proposed approval of the August 17, 1989 submittal in two notices. The automobile surface coating regulation was published separately as a proposed partial disapproval and proposed partial approval. This notice was published in the **Federal Register** on October 12, 1990 (55 FR 41553). EPA acted on the automobile surface coating regulation separately because a portion of the submittal, the compliance dates for the topcoat and final repair applications, had already been disapproved by EPA on September 16, 1988 (53 FR 36011).

The remainder of the regulations submitted on August 17, 1989 were published as a proposed approval. EPA proposed approval of the remaining VOC regulations submitted on August 17, 1989, in an NPR on May 29, 1990 (55 FR 21755). That notice proposed approval of all of Massachusetts' August 17, 1989 submittal with the exception of the automobile surface coating regulation.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. In section 182(a)(2)(A) of the amended Act, Congress codified the requirement that states revise their SIPs for ozone nonattainment areas so that they conform with EPA's preamendment guidance.

On June 7, 1991, Massachusetts submitted revisions to its VOC regulations pursuant to the changes requested in the NPRs published in the **Federal Register**. Today's action approves only certain portions of that submittal. Other portions of the June 7, 1991 submittal dealing with gasoline marketing, solvent metal degreasing and surface coating of miscellaneous parts and products are being proposed for approval in a separate action because EPA never proposed them for public comment.[1] In addition, EPA finally approved as a separate action, revisions to Massachusetts' automobile surface coating regulation in the **Federal Register** on October 8, 1992 (57 FR 46313).

On December 17, 1991 the DEP submitted a letter to EPA withdrawing certain portions of the June 7, 1991 submittal due to typographical errors. This letter does not affect the enforceability or approval of today's action because it affects separable rules that are not the subject of today's action.

EPA is taking final action because this action is consistent with the guidance that existed at the time of the proposal and because it strengthens the SIP. Additionally, these amendments, although submitted in response to the SIP call letter, also fulfill part of the RACT fix-up requirement.

Summary of Amendments Made To Secure Final EPA Approval

EPA's NPR published on June 1, 1987, for Massachusetts' generic bubble regulations, required that 15 issues be addressed prior to final rulemaking. In response to these conditions, Massachusetts' August 17, 1989 SIP revision included an amendment in 310 CMR 7.00: Appendix B: (1)(a)7. stating: "The Department will not issue any new approvals for alternative emission limitations to any facility that did not apply in writing for approval prior to May 25, 1988 until these regulations are amended to be consistent with the National Emissions Trading Policy issued on December 4, 1986 and approved into the SIP by EPA." This amendment to Massachusetts' bubble regulation eliminates the State's authority to issue generic bubbles. Therefore, all issues listed in the June 1, 1987 NPR have been resolved.

EPA's NPR published on May 29, 1990 for its revised VOC regulations required that 10 issues be addressed prior to final rulemaking. In the June 7, 1991 submittal, Massachusetts made the following changes to satisfy the requirements as listed in NPR:

1. Several definitions were revised to correct deficiencies and typographical errors specifically outlined in the NPR.
2. The May 29, 1990 NPR listed corrections Massachusetts needed to make to 310 CMR 7.24, "organic material storage and distribution," 310 CMR 7.18(8), "solvent metal degreasing" and 310 CMR 7.18(11), "miscellaneous metal parts and products regulations." Massachusetts made changes to these regulations and submitted them on June 7, 1991. Revisions to regulation 310 CMR 7.24, portions of 310 CMR 7.18(8) and portions of 310 CMR 7.18(11) are being proposed in another notice since the changes submitted on June 7, 1991 were more significant than those required by EPA in the **Federal Register** on May 29, 1990.
3. Massachusetts made a clarification to 310 CMR 7.18(2)(c). Additionally, EPA listed a requirement in the NPR stating that additional language was needed, which specifically said that sources applying for an alternative RACT would be subject to the underlying SIP until EPA approves an alternative RACT for that source. Massachusetts has explained that no exemption exists in the regulations relieving sources from complying with the SIP, therefore, additional language is not warranted. EPA accepts this explanation and concurs with DEP's response.
4. An addition was made to 310 CMR 7.18(2)(e) to include monitoring requirements for emission capture and control equipment.
5. The definition of halogenated organic compound was not officially removed from the submittal. However, the presence of this definition does not affect the enforceability of 310 CMR 7.18 because no regulations referencing this definition have been submitted as part of the SIP. Therefore, EPA is approving this definition.
6. The typographical error in 310 CMR 7.18(12) was corrected.
7. An addition was made to 310 CMR 7.18(3)(a), (4)(a), (5)(a), (6)(a), (10)(a), (14)(a), (15)(a), (16)(a) and (18)(a) to include the language "before application of air pollution control equipment."
8. A change was made to 310 CMR 7.18(17)(a) to clarify the applicability of the regulation. The State also clarified 310 CMR 7.18(17)(f), so that any RACT determination made pursuant to 310 CMR 7.18(17)(a)–(e) must be approved by EPA.

A more detailed description of these revisions and EPA's rationale for approving them was provided in the NPR and will not be restated here. For additional details of each portion of Massachusetts' regulations, see the Technical Support Document prepared on the revision available at the locations listed in the ADDRESSES section of this notice.

Response to Public Comments

EPA received 8 letters of public comment; 7 letters were submitted on NPR published on June 1, 1987 on the proposed approval of the generic bubble rule and 1 letter on the NPR published on May 29, 1990. Consequentially, since Massachusetts has recognized that its generic bubble was not consistent with EPA guidance, Massachusetts has amended its generic bubble regulation so that no additional "bubbles" will be issued. Accordingly, EPA has not prepared a response to the comments submitted on June 1, 1987 because the State revised its regulation to disallow emission trading. Furthermore, the letter submitted on the May 29, 1990 NPR by the MA DEP will be addressed when EPA publishes a final rulemaking notice for those actions proposed on September 22, 1992 (57 FR 43651) since that letter addresses revisions to Massachusetts' regulations which were proposed by EPA on September 22, 1992.

Final Action

EPA is approving the SIP revisions submitted by the Commonwealth of Massachusetts on August 27, 1982, June 27, 1984, March 6, 1985, April 12, 1985, August 17, 1989, and portions of the SIP revision request submitted on June 7, 1991. These revisions amend Massachusetts' VOC regulations. For the reasons described here and in the Technical Support Document, EPA is approving the additions and/or

[1] These revisions were proposed in the **Federal Register** on September 22, 1992 (57 FR 43651).

revisions made to the Massachusetts VOC regulations.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

In addition, although portions of these submittals preceded the date of enactment of the CAAA, EPA is approving the submittals as meeting part of the requirements of section 182(a)(2)(A) of the amended Act. Areas designated nonattainment before enactment of the Amendments and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT fix-up requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under preamended section 172(b) as that requirement was interpreted in preamendment guidance.[2] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. The entire state of Massachusetts is classified as a serious, ozone nonattainment area and is, therefore, subject to the RACT fix-up requirement. The portions of Massachusetts' revised regulations that were submitted in response to the SIP call letter, therefore, also fulfill part of the RACT fix-up requirement.

[2] Among other things, the preamendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Bluebook) (notice of availability published in the Federal Register on May 25, 1988); and the existing CTGs.

Because EPA proposed approval of this submittal prior to enactment, EPA did not propose approval based on the requirements of new section 182(a)(2)(A). However, EPA believes that the good cause exception to notice-and-comment rulemaking applies and that the Agency, therefore, is not required to repropose approval of the submittal as meeting section 182(a)(2)(A). The Agency's action on a SIP or SIP elements is rulemaking that is subject to the procedural requirements of the Administrative Procedure Act (APA). Section 553(b)(B) of the APA provides that the Agency need not provide notice and an opportunity for comment if the Agency for good cause determines that notice and comment are "impracticable, unnecessary, or contrary to the public interest."

Notice and comment are impracticable and unnecessary in the present circumstance. Section 182(a)(2)(A) does not impose new requirements on the subject nonattainment areas. Rather, section 182(a)(2)(A) codifies the corrections certain nonattainment areas needed to make subject to the EPA SIP call letters issued in 1987 and 1988. Because the Massachusetts SIP submittal meets the SIP call requirements and, therefore, is consistent with the applicable pre-amendment guidance, EPA believes that the submittal also necessarily meets the requirements of section 182(a)(2)(A) of the amended Act. In EPA's earlier proposed approval of the Massachusetts SIP, EPA provided notice and an opportunity for comment on the consistency of the state's rules with EPA's pre-enactment guidance. Since notice and an opportunity for comment have been provided on that set of issues, and section 182(a)(2)(A) does not expand those requirements, it is unnecessary to repeat that process. In addition, it is impracticable for the Agency to take such action because in light of the statutory time constraints on acting on SIPs, such a process would divert valuable agency resources from action on the large number of SIPs addressing new substantive requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 12, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the Federal Register on July 1, 1992.

Dated: November 12, 1992.

Julie Belaga,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Subpart W—Massachusetts

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1120 is amended by adding paragraph (c)(93) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(93) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on August 27, 1982, June 27, 1984, March 6, 1985, April 12, 1985, August 17, 1989, June 7, 1991 and December 17, 1991.

(i) Incorporation by reference.

(A) Letters from the Massachusetts Department of Environmental Protection dated August 27, 1982, April 12, 1985, August 17, 1989, and June 7, 1991, submitting revisions to the Massachusetts State Implementation Plan.

(B) Amendment to 310 CMR 7.18(2)(b) submitted on August 27, 1982 and effective on September 16, 1982.

(C) Addition of 310 CMR 7.00: Appendix B submitted on April 12, 1985 and effective on September 30, 1984.

(D) Amendments to portions of 310 CMR 7.00 submitted on August 17, 1989 and effective September 15, 1989.

(E) Amendments to portions of 310 CMR 7.00 submitted on June 7, 1991 and effective on April 12, 1991.

(F) Amendments to portions of 310 CMR 7.00 submitted on June 7, 1991 and effective on June 21, 1991.

(ii) Additional materials.

(A) A letter from the Massachusetts Department of Environmental Quality Engineering dated June 27, 1984 submitting 310 CMR 7.00: Appendix B.

(B) A letter from the Massachusetts Department of Environmental Quality Engineering dated March 6, 1985 submitting additional information on 310 CMR 7.00: Appendix B and referencing 310 CMR 7.18(2)(b).

(C) A letter dated December 17, 1991 from the Massachusetts Department of Environmental Protection withdrawing the emission limit for the Primer-surfacer application in 310 CMR 7.18(7)(b) from the June 7, 1991 submittal.

(D) Nonregulatory portions of state submittal.

3. In § 52.1167 Table 52.1167 is amended by adding new entries to existing state citations for "310 CMR 7.00", "310 CMR 7.18(3)", "310 CMR 7.18(4)", "310 CMR 7.18(5)", "310 CMR 7.18(6)", "310 CMR 7.18(8)", "310 CMR 7.18(9)", "310 CMR 7.18(10)", "310 CMR 7.18(11)", "310 CMR 7.18(12)", "310 CMR 7.18(13)", "310 CMR 7.18(14)", "310 CMR 7.18(15)", "310 CMR 7.18(16)", "310 CMR 7.18(17)", and "310 CMR 7.18(18)"; and by adding new state citations for "310 CMR 7.02(12)", "310 CMR 7.18(1)", "310 CMR 7.18(2)" and "310 CMR 7.00: Appendix B" to read as follows:

§ 52.1167 EPA-approved Massachusetts regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date Submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.00	Definitions	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Approving the following amended or additional definitions: Application area, asphalt, automobile, bottom filling, bulk terminal, coating line(s), commissioner, condensate, continuous compliance, crude oil, department, end sealing compound, exterior base coat, extreme environmental conditions, flashoff area, freeboard height, freeboard ratio, halogenated organic compound, interior base coat, interior body spray, knife coating, lease custody transfer, light duty truck, manufacturing plant, miscellaneous metal parts and products, overvarnish, paper surface coating, penetrating prime coat, petroleum liquids, prime coat, publication rotogravure printing, quench area, refrigerated chiller, Reid vapor pressure, roll printing, roll coating, single coat, solids, specialty printing, splash filling, standard conditions, submerged filling, three piece can side seam spray, topcoat, transfer efficiency, two piece can exterior end coating, vinyl surface coating, volatile organic compound, waxy, heavy pour crude oil. The definitions of "coating application system" and "bulk plants and terminals" have been deleted.
*	*	*	*	*	*	*
310 CMR 7.02(12)	U Organic Material	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	310 CMR 7.02(12) has been recodified and relocated in 310 CMR 7.24, "U Organic Material Storage and Distribution." All subsections and references in 310 CMR 7.02(12) have been recodified accordingly.
*	*	*	*	*	*	*
310 CMR 7.18(1)	U Applicability and Handling Requirements	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR CMR 7.18(1), (a), (c), (d) and (e).

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS—Continued

State citation	Title/subject	Date Submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(2)	U Compliance with Emission Limitations	August 27, 1982; August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR 7.18(2), (2)(a), (2)(b), (2)(c) and (2)(e).
*	*	*	*	*	*	*
310 CMR 7.18(3)	U Metal Furniture Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(3).
*	*	*	*	*	*	*
310 CMR 7.18(4)	U Metal Can Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(4).
*	*	*	*	*	*	*
310 CMR 7.18(5)	U Large Appliance Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(5).
*	*	*	*	*	*	*
310 CMR 7.18(6)	U Magnet Wire Insulation Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(6).
*	*	*	*	*	*	*
310 CMR 7.18(8)	U Solvent Metal Degreasing	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR 7.18(8), (8)(d), (8)(d)1., (8)(e), (8)(f) and (8)(g).
*	*	*	*	*	*	*
310 CMR 7.18(9)	U Cutback Asphalt	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(9).
*	*	*	*	*	*	*
310 CMR 7.10	U Metal Coil Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(10).
*	*	*	*	*	*	*
310 CMR -7.18(11)	U Surface Coating of Miscellaneous Metal Parts and Products	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR 7.18(11), (11)(b), (11)(c), (11)(d) and (11)(e).
*	*	*	*	*	*	*
310 CMR 7.18(12)	U Graphic Arts	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(12).
*	*	*	*	*	*	*
310 CMR 7.18(13)	U Dry Cleaning Systems-Percholor-ethylene	August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR 7.18(13), (13)(c), (13)(d) and (13)(e). 310 CMR 7.18(13)(a) 8. has been deleted.
*	*	*	*	*	*	*
310 CMR 7.18(14)	U Paper Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(14).
*	*	*	*	*	*	*
310 CMR 7.18(15)	U Fabric Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(15).
*	*	*	*	*	*	*
310 CMR 7 18(16)	U Vinyl Surface Coating	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(16).

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS—Continued

State citation	Title/subject	Date Submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	U Reasonable Available Control Technology	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Approval of 310 CMR 7.18(17), (17)(a), (17)(b), (17)(c), (17)(d), (17)(e) and (17)(f).
*	*	*	*	*	*	*
310 CMR 7.18(18)	U Polystyrene Resin Manufacturing Technology	August 17, 1989; June 7, 1991	January 11, 1993	[Insert FR citation from published date].	93	Replacement of 310 CMR 7.18(18).
*	*	*	*	*	*	*
310 CMR 7.00: Appendix B	Alternative Emission Limitations (Bubble) for Volatile Organic Compounds	April 12, 1985; August 17, 1989	January 11, 1993	[Insert FR citation from published date].	93	Addition of 310 CMR 7.00: Appendix B.
*	*	*	*	*	*	*

[FR Doc. 93-534 Filed 1-8-93; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 272

[FRL-4507-1]

Final Authorization of State Hazardous Waste Management Program: Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), provides for the U.S. Environmental Protection Agency (EPA) to grant authorization to State agencies to operate their hazardous waste management programs in lieu of the Federal program. The State of Missouri has applied for authorization of revisions to its previously authorized hazardous waste management program under RCRA. EPA has reviewed Missouri's application and has made a decision, subject to public review and comment, that Missouri's hazardous waste management program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is approving Missouri's hazardous waste management program revisions.

DATES: Final authorization for the Missouri program revisions shall be effective March 12, 1993, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Missouri's program revision application must be received by the close of business February 10, 1993. The incorporation by reference of certain Missouri statutes and regulations was approved by the Director of the Federal Register as of March 12, 1993, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Copies of Missouri's program revision application are available for inspection and copying during normal business hours at the following addresses: Hazardous Waste Program, Missouri Department of Natural Resources, Jefferson Building, 205 Jefferson Street, Jefferson City, Missouri 65102, Phone: 314-751-3176; U.S. EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, Phone: 913-551-7241. Written comments should be sent to Gary Bertram, U.S. EPA Region VII, RCRA Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Gary Bertram, U.S. EPA Region VII, RCRA Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; 913-551-7533.

SUPPLEMENTARY INFORMATION:

A. Background

Authorization Process

Section 3006 of RCRA, 42 U.S.C. 6926 *et seq.*, allows EPA to authorize State hazardous waste management programs to operate in the states in lieu of the Federal hazardous waste program. This is done when a state submits to EPA a request for authorization demonstrating that the state program is equivalent to the Federal program.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter referred to as "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary whenever Federal or State statutory or regulatory authority is modified or when certain other changes occur. This is because states with final authorization under section 3006(b) of RCRA have continuing obligations to maintain state programs that are equivalent to, consistent with, and no less stringent than the Federal hazardous waste management program. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266 and 124 and 270 that require corresponding changes in the state program in order for the state to maintain its authorization.

EPA Approval of State Programs

EPA codifies its approval of State programs in part 272 of title 40, Code of Federal Regulations (CFR) and incorporates by reference in part 272 the State statutes and regulations that EPA will enforce under section 3008, 3013 and 7003 of RCRA. The purpose of incorporation by reference is to provide clear notice to the public of the scope of the authorized program in each State. Such notice is particularly important in view of the HSWA amendments and the changes in authorized State programs required to reflect these new Federal requirements. By incorporating by reference authorized State programs and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized, the status of federally approved requirements in each State will be readily discernible. Thus, EPA is today incorporating by reference the Missouri authorized program in 40 CFR part 272. (See 50 FR 28702, July 15, 1985, for a full discussion of the codification process. For further information, contact EPA Office of Solid Waste, State & Regional Programs Branch, 401 M Street, SW., Washington, DC 20460, Mail Code 5303W.)

The Agency will only incorporate by reference for enforcement purposes those provisions of the Missouri hazardous waste management program for which authorization approval has been granted by EPA. Concerning HSWA, some state requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that state. However, a state's HSWA-type requirements are not authorized and will not be included in the CFR until the Regional Administrator publishes his final decision to authorize the state for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the state analogues.

B. Missouri

On November 20, 1985, EPA published a **Federal Register** notice announcing its decision to grant final authorization for the RCRA base program to the State of Missouri (50 FR 47740). EPA's decision to grant authorization for revisions to the Missouri hazardous waste program was published on February 27, 1989 (54 FR 8190).

As noted above, a State with final authorization has a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent that the Federal hazardous waste program. To meet its obligation, Missouri submitted a request for additional program approvals. The Missouri request was submitted to EPA on March 8, 1991. The State is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Missouri's application, and determined that Missouri's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA is granting final authorization for the additional program modifications to Missouri. Today's decision is being published as an "immediate final" rule in accordance with the provisions of 40 CFR 271.21(b)(3). The public may submit written comments on this immediate final decision until the date noted in the "DATES" section of this document. Approval of Missouri's program revision shall become effective 60 days from today unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comment which either affirms that the immediate final decision takes effect or reverses the decision.

The State has adopted and applied for authorization of the program provisions. For a full discussion of each of the provisions, the reader is referred to the **Federal Register** promulgation of that provision. The provisions are: Radioactive Mixed Waste (July 3, 1986, 51 FR 24504), Standards for Hazardous Waste Storage and Treatment Tank Systems (July 14, 1986), Revised Manual SW–846 (March 16, 1987), Closure/Post-Closure Care for Interim Status Surface Impoundments (March 19, 1987, 52 FR 8704), Definition of Solid Waste (June 5, 1987, 52 FR 21306), Amendments to Part B Information Requirements for Land Disposal Facilities (June 22, 1987, 52 FR 23447), List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring (July 9, 1987, 52 FR 25942), Identification and Listing of Hazardous Waste (July 10, 1987, 52 FR 26012), Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee (November 18, 1987, 52 FR 44314), Hazardous Waste Miscellaneous Units (December 10, 1987, 52 FR 46946), Technical Correction; Identification and Listing of Hazardous Waste (April 22, 1988, 53 FR 13382), Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption (July 19, 1988, 53 FR 27290), Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems (September 2, 1988, 53 FR 34079), Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification (September 13, 1988, 53 FR 35412), Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities (October 11, 1988, 53 FR 39720), Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes (October 31, 1988, 53 FR 43878), Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes (October 31, 1988, 53 FR 43881), Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators (January 8, 1989, 54 FR 615), Amendment to Requirements for Hazardous Waste Incinerator Permits (January 30, 1989, 54 FR 4286), and Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting (March 7, 1989, 54 FR 9596).

In addition to the seventeen non-HSWA provisions, the State has adopted and requested authorization for the following HSWA provisions: HSWA Codification Rule (With the exception of Delisting and Corrective Action) (July 15, 1985, 50 FR 28702), Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces (November 29, 1985, 50 FR 49164), Listing of Spent Solvents (December 31, 1985, 51 FR 2702), Generators of 100 to 1000 kg Hazardous Waste (March 24, 1986, 51 FR 10146), Codification Rule, Technical Correction (May 28, 1986, 51 FR 19176), Biennial Report; Correction (August 8, 1986, 51 FR 28556), Exports of Hazardous Waste (August 8, 1986, 51 FR 28664), Standards for Generators—Waste Minimization Certifications (October 1, 1986, 51 FR 35190), Listing of EBDC (October 24, 1986, 51 FR 37725), Land Disposal Restrictions (November 7, 1986, 51 FR 40572), HSWA Codification Rule 2 (With the exception of Corrective Action for Injection Wells) (December 1, 1987, 52 FR 45788), and Identification and Listing of Hazardous Waste; Technical Correction (July 19, 1988, 53 FR 27162).

EPA has reviewed the State program in light of current and proposed activities and has determined that authorizing these new provisions will not have a profound effect on the ability of the State to carry out the program.

The State requested authorization for Direct Action Against Insurers (November 8, 1984, HSWA section 3004(t)), however, EPA has determined this to be a non-delegable authority. Reference to this provision remains in the State Authorization Request, however, authorization for the provision is not granted.

The State is not currently requesting Corrective Action authority. Any reference to Corrective Action in the State Authorization Request is not authorized by this notice.

The State will assume lead responsibility for issuing permits for those program areas authorized today. For those HSWA provisions for which the State is not authorized, EPA will retain lead responsibility. For those permits which will now change to State lead from EPA, EPA will transfer copies of any pending applications, completed permits or pertinent file information to the State within thirty days. EPA will be responsible for enforcing the terms and conditions of federally issued permits while they remain in force. EPA will also be responsible for enforcing the terms and conditions of RCRA permits regarding HSWA provisions that the State does not have the authority to address. The State has agreed to review all State issued permits and to modify or reissue them as necessary to require compliance with the currently approved State law and regulations. When the State reissues federally issued permits as State permits, EPA will rely on the State to enforce them, with the exception of those HSWA provisions not yet authorized.

C. Decision

I conclude that Missouri's application for program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Missouri is granted final authorization to operate its hazardous waste management program, as revised. Missouri now has responsibility for the permitting of treatment, storage and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitation of its revised program application and previously approved authorities. Missouri also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under sections 3007, 3013, and 7003 of RCRA.

D. Missouri Authorized Hazardous Waste Program

As noted above, EPA is incorporating by reference for enforcement purposes those provisions of the Missouri hazardous waste management program for which authorization approval has been granted by EPA.

The Missouri authorized hazardous waste program is incorporated by reference in subpart AA to part 272 title 40 of the CFR. The State statutes and regulations are incorporated by reference at § 272.1301(a) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at § 272.1301(b), (c) and (d), respectively.

The Agency retains the authority under sections 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities and the Federal Administrative Procedure Act rather than the State authorized analogues to these requirements. Therefore, the Agency does not intend to codify for purposes of enforcement such particular, authorized Missouri enforcement authorities. Section 272.1301(a) lists those Missouri authorities that are part of the authorized program but are not codified.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C. As a result, State provisions which are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in part 272. Section 272.1301(a) lists for reference and clarity the statutory and regulatory provisions which are "broader in scope" than the Federal program and which are therefore not part of the authorized program being incorporated by reference. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

E. HSWA Provisions

As noted above, the Agency is not amending part 272 to include many HSWA requirements and prohibitions that are immediately effective in all States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized states at the same time that it takes effect in non-authorized states. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA. (See 50 FR 28702, July 15, 1985.) Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their program to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to part 271. EPA expects that the States will be modifying their program substantially and repeatedly. Instead of amending part 272 every time a new HSWA provision takes affect under the authority of RCRA section 3006(g), EPA will wait until the state receives authorization for its analog to the new HSWA provision before amending the state's part 272 incorporation by reference. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Missouri's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Dated: August 31, 1992.

Morris Kay,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.1 is revised to read as follows:

§ 272.1 Purpose and scope.

This part sets forth the applicable State hazardous waste management programs under section 3006(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6926, and 40 CFR 260.10. "State" is defined in 42 U.S.C. 1004(31) as "any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."

3. Section 272.2 is added to read as follows:

§ 272.2 Incorporation by reference.

Material listed as incorporated by reference in part 272 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Copies may be obtained or inspected at EPA Waste Management Rules Docket, 401 M Street, SW., Washington, DC 20460 and at the appropriate EPA Regional Office. Copies may be inspected at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. For an informational listing of the State and local requirements incorporated in part 272, see appendix A to this part.

4. Section 272.1301 is amended by revising the introductory text and paragraphs (a), (b) and (c)(2) to read as follows:

§ 272.1301 State-administered program; Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Missouri has final authorization for the following elements as submitted to EPA in Missouri's program application for final authorization which was approved on November 20, 1985. Subsequent program revision applications were approved on February 27, 1989, and March 12, 1992. Copies may be obtained from the Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102.

(a) *State statutes and regulations.* (1) The Missouri statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) Missouri Statutory Requirements Applicable to the Hazardous Waste Management Program, 1990.

(ii) Missouri Regulatory Requirements Applicable to the Hazardous Waste Management Program, December 31, 1990.

(2) The following statutes and regulations, although not incorporated by reference for enforcement purposes, are part of the authorized State program. The statutory provisions include: 260.360(4), 260.360(20)–260.377, 260.393–260.394, 260.400, 260.410–260.420, 260.425–260.430. The regulatory provisions include 3.260(1)(A)24–3.260(1)(A)25, 3.260(1)(B)–3.260(1)(D), 4.261(2)(D)3, 5.262(2)(B)2, 5.262(2)(C)2, 5.262(2)(D)1, 6.263(2)(A)10.D–6.263(2)(A)10.I, 6.263(2)(D)3, 7.264(2)(B)1, 7.265(2)(B), 7.266(2)(E)–7.266(2)(E)3, 7.268(2)(A)1, 7.268(2)(A)3, 7.268(2)(E), 7.270(2)(B)12–7.270(2)(B)13, 7.270(2)(B)18, 7.270(2)(C)1.D, 7.270(2)(C)3, 7.270(2)(D)4.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, and are not part of the authorized State program. The statutory provisions include: 260.360(13), 260.379, 260.380–1.(10), 260.385(1), 260.390(8), 260.391, 260.395–1–260.295–5, 260.395–7.(5)–260.395–7.(6), 260.396, 260.405, 260.423–260.424, 260.431–260.434. The regulatory provisions include: 3.260(1)(A)21, 4.261(2)(A)6–4.261(2)(D)2, 5.262(2)(I), 6.263(2)(A)3–6.263(2)(A)4, 7.264(2)(P), 7.266(2)(C)–7.266(2)(D), 7.266(2)(E)4–7.266(2)(G), 7.270(2)(B)7–7.270(2)(B)8, 7.270(2)(B)10, 7.270(2)(C)1.A, 7.270(2)(H).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VII and the Missouri Department of Natural Resources, signed by the EPA Regional Administrator on August 30, 1988, and the subsequent Agreement signed on August 31, 1992 are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) * * *

(2) "Attorney General's Statement for Final Authorization of Changes to the Federal RCRA Program," signed by the delegated Assistant Attorney General of Missouri on December 1, 1987, and the subsequent Statement signed on February 28, 1992, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA; 42 U.S.C. 6921 *et seq.*

* * * * *

5. Appendix A to part 272 is added to read as follows:

Appendix A to Part 272

The following is an informational listing of the State and local requirements incorporated in part 272 of the Code of Federal Regulations:

The statutory provisions include: 260.350–260.360(3), 260.360(5)–260.360(12), 260.360(14)–260.360(19), 260.380–1.–260.380–1.(9), 260.380–2., 260.385(2)–260.390(7), 260.390(9), 260.395–6.–260.395–7.(4), 260.395–7.(7)–260.395–18.

The regulatory provisions include: 3.260–3.260(1)(A)20, 3.260(1)(A)22–3.260(1)(A)23, 3.260(2), 4.261–4.261(2)(A)5, 5.262–5.262(2)(B)1., 5.262(2)(B)3.–5.262(2)(C)1., 5.262(2)(C)2.A.–5.262(2)(D), 5.262(2)(D)2.–5.262(2)(H), 6.263–6.263(2)(A)2., 6.263(2)(A)5.–6.263(2)(A)10.C, 6.263(2)(B)–6.263(2)(D)2., 7.264–7.264(2)(A)2., 7.264(2)(B)2.–7.264(2)(O), 7.264(2)(X), 7.265–7.265(2)(A), 7.265(2)(E)–7.265(2)(K), 7.266–7.266(2), 7.268–7.268(2), 7.268(2)(A)., 7.268(2)(A)4.–7.268(2)(C), 7.270–7.270(2)(B)6., 7.270(2)(B)9., 7.270(2)(B)11., 7.270(2)(B)14.–7.270(2)(B)17., 7.270(2)(C)–7.270(2)(C)1., 7.270(2)(C)1.B.–7.270(2)(C)1.C., 7.270(2)(C)2.–7.270(2)(C)2.C., 7.270(2)(C)2.E., 7.270(2)(D)–7.270(2)(D)3., 7.270(2)(E)–7.270(2)(G).

[FR Doc. 93–196 Filed 1–8–93; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87–6; Notice 5]

RIN 2127–AD84

Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule facilitates the introduction of daytime running lamps (DRLs) as an item of optional motor vehicle lighting equipment. The purpose of the rule is to ensure that manufacturers may offer DRLs in all 50 States, and that specifications are adopted so that DRLs do not reduce the current level of highway safety. Any pair of lamps that Standard No. 108 requires on the front of a vehicle (other than parking lamps), or other lamps (except for fog lamps) with lenses marked "DRL", may serve as DRLs by automatically operating during daylight, provided that the minimum candela output of each lamp exceeds 500 at test point H–V, and that the maximum

candela output does not exceed 3,000 at any location (or 7,000 at test point H–V if the lamp is mounted no higher than 864 mm (34 in.), and that steps are taken to prevent their light from masking turn and hazard warning signals.

DATES: Effective date of the final rule is February 10, 1993.

ADDRESSES: Petitions for reconsideration should refer to Docket 87–6; Notice 5, be addressed to the Administrator, and be submitted to: Docket Section, room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, NHTSA, Washington, DC (202–366–5276).

SUPPLEMENTARY INFORMATION: On March 24, 1987, NHTSA opened Docket 87–6, to receive comments on a notice of proposed rulemaking (NPRM) under which Motor Vehicle Safety Standard No. 108 would be amended to permit daytime running lights (DRLs) as optional front lighting equipment on passenger cars, multipurpose passenger vehicles, trucks, and buses (Notice 1). In 1988, NHTSA announced that it was terminating rulemaking on the subject without an amendment (Notice 2), and later that year it denied a petition for reconsideration of the termination (published without docket or notice number, but referred to as Notice 3). The agency reopened rulemaking in 1991, and published a proposal (Notice 4) upon which this final rule is based. The reader is referred to these notices for background information on this topic (52 FR 8316, 53 FR 23673, 53 FR 40921, and 56 FR 38104).

Rulemaking Petition for DRLs

Notice 4 implemented the grant of a petition for rulemaking submitted by General Motors Corporation (GM). The petitioner asked the agency to facilitate the introduction of motor vehicles to be equipped with DRLs. In GM's view, such an amendment "would allow manufacturers to install DRLs on new vehicles without being in violation of the multitude of state laws which currently have the unintended effect of prohibiting them." However, GM did not believe that there is justification for mandating DRLs as standard equipment because there is not yet evidence of a "national safety need" in the United States. Because DRLs are more effective in Northern latitudes where ambient daytime light levels differ from those of the South, they appear to have a greater likelihood of assisting in crash prevention in Alaska or Maine, instead of Florida or Hawaii. Further, as GM had noted in 1987, fuel economy may be reduced by as much as a quarter mile per gallon when some DRLs are used. The petitioner argued that the ability to test DRLs on vehicles in the U.S. could enable it to assess the potential safety benefits of DRLs in this country, and at the same time, their limited use would minimize the penalty of overall fleet fuel economy.

In response to Notice 4, comments were submitted from the following 27 respondents, listed in the order received: John W. Kourik, P.E., Virginia State Police (Virginia), American Motorcycle Association, Department of California Highway Patrol (California), Navistar International, Carter Hart, Ontario Ministry of Transport, Mack Trucks, Inc. (Mack), Hino Motors Inc. (Hino), Saab Cars USA, Inc., Truck-Lite Co. Inc., Volkswagen of America, Inc. (VW), University of Michigan Transport Research Institute, Hella KG, American Honda Motor Co., General Electric Lighting (GE), C.R. Blydenburgh, National Automobile Dealers Association, Volvo Cars of North America, Motor Vehicle Manufacturers Association (MVMA), General Motors Corporation (GM), Advocates for Highway and Auto Safety (Advocates), Chrysler Corporation, American Automobile Association, Ford Motor Company, Insurance Institute for Highway Safety (IIHS), and Ohio Department of Public Safety (Ohio).

Existing State Laws That Could Prohibit DRLs

NHTSA was not aware of any State laws that prohibit DRLs per se. However, GM brought to the agency's attention State laws requiring pre-approval of supplemental lighting devices, and the fact that there is currently no SAE standard for DRLs on which such approval could be based. Further, GM found a variety of State laws that might affect DRLs. 35 States have regulations prohibiting supplemental lighting from projecting light that strikes the roadway at a specified distance in front of the vehicle. In addition, there appeared to be State laws which prohibit the use of lights in tunnels, the use of the parking lamps without headlamps when the car is being driven, and the illumination of fog lamps without the headlamps. GM, which offers DRLs in Canada as mandated by that country's lighting standard, stated that it was impossible to determine whether a particular DRL design that it uses there would be prohibited under this array of State laws. It concluded that DRLs are potentially affected by the laws of 40 to 45 States.

GM also argued that the trend in State lighting laws is towards increasing the daytime conspicuity of vehicles, and that allowing DRLs would be consistent with this trend. Several jurisdictions (Cape Cod and the State of Washington are referenced) now require 24-hour a day headlamp use on some roads. Legislation to mandate DRLs has been introduced in Connecticut. California now specifically regulates DRLs, but only those that are optionally installed. Thus, GM argued that adding a DRL provision to Standard No. 108, thereby preempting under 15 U.S.C. 1392(d) State laws prohibiting DRLs, would not contravene the spirit of Executive Order 12612 (Federalism).

NHTSA reviewed these arguments. It believes that manufacturers who wish to offer this option should not be precluded from doing so, provided that their DRLs do not derogate from existing levels of highway safety. For example, the agency believes that it is necessary to amend Standard No. 108 in a way that ensures the States do not allow DRLs having an intensity that may cause excessive glare. Therefore, NHTSA issued an NPRM to achieve these objectives.

In drafting the proposal, the agency took careful note of the Executive Order on Federalism which seeks to limit preemption of State laws, but recognizes the right of a Federal agency to preempt a State where Congress has provided express preemption authority, such as exists in 15 U.S.C. 1392(d). NHTSA sought to minimize, to the extent consistent with safety, the preemptive effect of the NPRM in accordance with the regulatory philosophy behind the Executive Order. It believed that the Executive Order on Federalism is primarily concerned with Federal preemption of State laws that differ in a fundamental manner from Federal requirements. In this instance, there is no State law that prohibits DRLs per se. Thus, a Federal standard whose effect is to allow DRLs would not be directly preemptive of existing State laws, since there is no existing State law that expressly prohibits DRLs.

The Executive Order requires NHTSA to examine the indirect, as well as the direct, preemptive effect of its regulations as well. NHTSA considered the issue of whether an amendment allowing DRLs would, as a matter of law, preempt State laws that do not deal with DRLs, but whose provisions might be construed to prohibit them. The agency concluded that its preemption authority addresses this possibility as well. Under section 1392(d), NHTSA's safety standards preempt those State standards covering "the same aspect of performance". This is a broad phrase, and is to be interpreted broadly in the fulfillment of the agency's mission. Therefore, to the extent that any State standard might affect the operation and performance of front lamps used as DRLs, NHTSA considers that, to the same extent, such a State standard may be viewed as covering the same aspect of performance as NHTSA's DRL specifications. For example, if Standard No. 108 allows lamps to be wired to operate automatically as DRLs, and to be specifically marked "DRL", the performance of that lamp is no longer subject to State restrictions on daytime use. As a further example, if the DRL that would be allowed under this rulemaking were provided by a pair of new lamps, and not by the existing lamps required by Standard No. 108, NHTSA believes that such a lamp system would be covered by Standard No. 108, instead of being considered supplementary lighting devices subject to state approval programs for supplemental equipment. Given the apparent trend in the States toward promoting greater daytime conspicuity for motor vehicles, NHTSA argued that preempting the indirect effects of State regulations would be acceptable under the regulatory philosophy of Executive Order 12612.

However, NHTSA did not wish to proceed to a final rule without offering States an opportunity to comment on the safety rationale of statutes and regulations that might be preempted by NHTSA action. For example, comments were invited on the effects that might be attendant to overriding a state prohibition against headlight use in tunnels, or against use of parking lamps alone.

California appeared to be the only state with a DRL law that would be preempted by a Federal specification. Its more stringent regulation establishes a minimum intensity of 500 candela for DRLs, the effect of which is to prohibit the use of parking lamps for this purpose, since the maximum intensity permitted for these lamps is only 250 candela. In its comments, California urged that the States be allowed to continue to regulate DRLs. While NHTSA has decided to adopt its proposal to regulate DRLs, it has, in response to California's comment, adopted a 500 candela minimum in the final rule. The agency notes that this minimum requirement also exists in the Canadian standard for certain non-headlamp DRLs. A proposal to adopt such a minimum appeared in an earlier notice in this series of notices on DRL.

The responses to Notice 4 did not note any State laws that would be inadvertently preempted by Federal DRL requirements. Those states that commented did so in relation to the effects on enforcement of other State laws. The NPRM proposed a maximum DRL mounting height of 83 inches (the maximum permissible for turn signal lamps), far higher than the maximum of 42-inches allowed for auxiliary lamps in Minnesota, Mississippi, and Iowa. The final rule limits DRLs that are not combined with other required lighting equipment to a mounting height of 1.067 m (42 inches) in recognition of the laws of these States.

Virginia requires taillamps to be activated when fog lamps are used, but commented that taillamp use would not be desirable when DRLs are used. California requires that fog lamps be connected to the headlamp circuit. Thus, in California, if DRLs were combined with fog lamps, the headlamps would have to be on. NHTSA has reviewed these comments and understands how the States perceive that a DRL specification might appear to preempt their laws. NHTSA does not believe that having a DRL within a fog lamp actually preempts a State law; however, it might make it more difficult for a State to enforce its law. Thus, to avoid any question of express or implied preemption, NHTSA has decided to exclude fog lamps from use as DRLs.

Front Lamps Likely To Be Used as DRLs

With a few exceptions, the final rule permits the use of any front lamps, whether required by Standard No. 108 or not, as DRLs. For the reasons discussed above, neither parking lamps nor fog lamps may be used as DRLs. On some vehicles, the DRL may be optically combined with a headlamp, i.e., provided by the lower headlamp beam at full or reduced intensity, and, on others, by the upper headlamp beam at a reduced intensity. DRLs may be optically combined with the turn signal lamps and used at the same operational intensity. DRLs may also be provided by a pair of front lamps specifically designed for this purpose.

The NPRM did not address the use of the lower beam headlamps as DRLs, either at full or lower intensity. Both are permitted in Canada. No commenter addressed this issue. There appears to be no reason to prohibit use of the lower beam at full intensity as a DRL. If the lower beam were used for DRLs, one might expect the side and taillamps to be activated when the DRLs are activated just as the side and taillamps are when the lower beam is used for road illumination purposes; in fact, this is a requirement in Canada. However, Canada does not require illumination of the side and taillamps when the lower beam is used at a reduced intensity. NHTSA is concerned about this. The intensity of the lower beam is reduced to about 70 percent of full intensity, creating the possibility that vehicles so equipped will be driven in the DRL mode at night without side and rear marking, instead of with their headlamps at full lower beam intensity. Although the final rule allows use of a lower intensity of a lower beam without activation of side and rear lamps, NHTSA will consider proposing simultaneous activation, or a "DRL on" indicator should accident or complaint records show an emerging problem.

See the further discussion of lower beam photometrics in the section of this notice on "Lamp Intensity."

Appropriate Performance Requirements for DRLs-GM's Recommendation

GM called the agency's attention to three possible models on which to base the agency's DRL requirements. These were the requirements adopted by Canada, those proposed by NHTSA in Notice 1, and those currently under consideration by the SAE in its draft Recommended Practice J2087 Daytime Running Lamps for Use on Motor Vehicles. GM strongly supported adoption of the Canadian requirements because it would facilitate transfer of existing DRL designs in Canada to U.S. production with minimum cost and delay, and that the U.S. standard should harmonize with the Canadian one. With respect to the agency's proposal in Notice 1, GM asked NHTSA to consider the remarks it made in response to it, as the company continued to have reservations about the proposal. Finally it had no fundamental objections to the SAE document and believed that the design criteria contained therein are sufficiently flexible to accommodate many of the DRL designs presently used in Canada.

NHTSA's 1991 NPRM

Notice 4 and this final rule are based upon several considerations. First, some regulation of DRLs is necessary to ensure that they perform in a manner that does not detract from existing levels of highway safety. The two chief goals in this regard are ensuring that the lamps do not create excessive glare, and that their use does not mark the ability of the front turn signal to send its message. To address these issues, the NPRM set forth some very simple proposals. It would establish a maximum candela limitation, a minimum spacing requirement affecting the distance of a DRL from the turn signal lamp, and a requirement that the lens of any lamp used as a DRL, other than a headlamp, be marked "DRL". It would also specify a range of permissible colors, and that DRLs be provided in pairs, instead of a single lamp. The specific characteristics of a DRL system are discussed below.

A. Number of DRLs

For some years, the single headlamp on a great majority of motorcycles has been wired to light when the ignition is on. This design has provided a DRL for motorcycles. In order to avoid possible misidentification of four-wheeled vehicles as motorcycles, which are much narrower than other vehicles, NHTSA tentatively concluded that the DRL "signature" for vehicles other than motorcycles should be comprised of two symmetrically located lamps. No commenter opposed the proposal, or suggested any benefits accruing from the provisions of a single DRL on 4-wheeled vehicles. Therefore, the DRL system that will be required for vehicles other than motorcycles will consist of a pair of front lamps.

B. Lamp Color

Required lighting equipment under Standard No. 108 may be red, white, or yellow (paragraph S5.1.5) as defined by SAE Standard J578c, February 1977. Standard No. 108 reserves the use of red to rear lighting devices. In addition, red (and blue) are used by States to denote emergency, police, or towing vehicles. NHTSA tentatively concluded in the NPRM that the color of a DRL should be one that the motoring public associates with the front of a vehicle, that is to say, either white or yellow. Thus, if a headlamp or turn signal lamp were used as a DRL, the light from the DRL would be the same color as the light from that lamp. If a front lamp other than one of these were used as a DRL, manufacturers would be required to choose among the following color range: white, white to yellow, white to selective yellow, yellow, or selective yellow, as defined in SAE Standard J587 MAY88.

Comments varied on the proposal. Virginia, Michigan, and GM opted for white, a color associated with the front of motor vehicles, while Ohio and Advocates wanted a color with yellow in it because, in adverse lighting conditions, the amber spectrum is more visible than white. Others, such as Chrysler, supported the NPRM as written. NHTSA has reviewed these comments, and finds no safety disbenefit to allowing any of the colors proposed. Therefore, the color requirements are adopted as proposed.

C. Lamp Intensity

The effectiveness of interior and exterior rear view mirrors is essential for safe vehicle operation in traffic at all times of day. It is important, therefore, to ensure that DRL operation does not interfere with mirror use. NHTSA has completed three research programs to determine acceptable limits of DRL intensity. The most recent, "Evaluation of Glare from Daytime Running Lights", October 1989 (DOT–HS–807–502), is the basis for NHTSA's proposal. (See also "Evaluation of the Conspicuity of Daytime Running Lights", April 1990 (DOT–HS–807–613), and "A Study of Daytime Running Light Design Factors", August 1987 (DOT–HS–807–193). Copies of the three Reports are available in NHTSA's Technical Reference Library.)

The 1989 Report addresses driver perceived glare increases from a succession of increasingly intense DRLs. Separate experiments covered by this Report provided subjective data which indicated that approximately 2,800 candela can be tolerated before the "Just Acceptable" rating on the De Boer glare scale is exceeded. Under Standard No. 108, the maximum allowable intensity of glare test points of a complying lower beam is 2,700 candela. The effect of the proposal was that a lower beam that provides the maximum allowable candela could not function as a DRL. For these reasons, NHTSA tentatively concluded that 2,600 candela appeared to be an appropriate value regardless of how a DRL is provided, and that a maximum for the DRL compatible with the maximum for glare of the U.S. lower beam should be acceptable to U.S. drivers.

Commenters disagreed with NHTSA. Vehicle manufacturers and IIHS urged the agency to allow 7,000 candela at test point H–V as a maximum intensity for two reasons. The simplest DRL is an upper beam headlamp operating at half the voltage with a maximum output at H–V of about 7,000 candela. Canada allows a maximum of 7,000 candela at H–V for a DRL provided by a reduced intensity upper beam headlamp, even though the intensity could be higher elsewhere. Further, Ford, Chrysler, GM, and MVMA questioned the agency's research that led to the proposed limit of 2,600 candela. This limit, nevertheless, was supported by Virginia, Ohio, Advocates, John Kourik, VW, and by GE with respect to certain test points above the horizontal.

There are two kinds of glare: That which discomforts and that which disables. The agency proposed 2,600 candela to limit discomfort from glare from rear view mirrors caused by vehicles with DRLs following closely behind. Canada, however, has adopted a maximum value of 7,000 candela at test point H–V, which was supported by some commenters, and NHTSA reexamined its position on this issue.

In its reexamination, NHTSA proceeded with the assumption that the most likely DRL would be an upper beam headlamp operated at low voltage (the type of DRL found on approximately 53 percent of Canadian DRL-equipped vehicles). The second assumption was that it was unlikely that the greater percentage of DRLs would be mounted at an exterior height near the height of an interior rear view mirror so that they would project light directly upon it. Higher mounted DRLs appeared most likely to be on a comparatively small part of the vehicle population, larger trucks and multipurpose passenger vehicles. The intensity of the upwardly directed light rays of upper beams diminishes rapidly as the angle above the horizontal increases. NHTSA's calculations show, for example, that only 220 to 350 candela would be directed into the rear view mirror of a Honda Civic CRX (mirror height 44 inches) by DRLs of 6,600 candela on a Ford Taurus or Buick Regal (headlamp height 25.5 inches) about one car length (20 feet) behind. The steady intensity of light in the mirrors of cars being followed by cars with DRLs of 7,000 candela at test point H–V would be only about one eighth of the level considered to be discomforting. The driver of a small car would not be exposed to an intensity greater than 2,600 candela unless the mounting height of the DRL of the vehicle behind exceeded 34 inches. This conclusion takes into consideration the imperfectly centered pattern of an actual headlamp (the maximum intensity is not always located at H–V) as well as one half degree upward misaim of the lamp. NHTSA has therefore concluded that DRLs with a maximum intensity of 7,000 at H–V candela may be allowed as long as they are mounted at a height that does not exceed 34 inches, and has so stated in the final rule.

This leaves the question of the appropriate maximum value for DRLs mounted higher than 34 inches. Manufacturers commenting to Notice 4 stated that the proposed 2,600 candela was not practicable. For the reasons set forth below, NHTSA has chosen 3,000 candela as the maximum beam intensity.

The lower limit in Canada for the upper beam operated at low voltage is

2,000 candela. Standard No. 108 establishes a limit of 75,000 candela at test point H–V for the upper beam. Sealed beam headlamps designed to conform to SAE J579c achieve 50,000 to 75,000 candela in NHTSA tests. If a manufacturer were to design an upper beam headlamp to operate as a DRL, it would need to provide an intensity reducing device that achieves only 4 percent of the nominal intensity to give a range. Chrysler of Canada uses similar devices to achieve reduced intensities below 4,500 candela. NHTSA believes that it is possible to adjust these devices to provide lower intensities, and that this is likely to be the most practicable means in the range necessary to minimize discomfort glare, 2,000 to 3,000 candela. If a manufacturer is unable to achieve this limitation by use of upper beam headlamps, it may still use lower beam headlamps, either at full or reduced intensity.

Finally, under the NPRM, DRL photometry would be tested in accordance with SAE J575 DEC88, when a test voltage of 12.8V +/– 20 mV is applied to the input terminals of the DRL lamp switch module or voltage-reducing equipment, whichever is closer to the electrical source on the vehicle. The test distance from the DRL to the photometer would be not less than 18.3 meters (60 feet) if the DRL is optically combined with a headlamp, or 3 meters (10 feet) if the DRL is a lamp, or is optically combined with a lamp other than a headlamp.

GM commented that it did not understand the reference to SAEJ575 and recommended deletion. The final rule clarifies that NHTSA intended to refer only to the photometric test procedures. The NPRM erroneously referenced S5.5.11(b) as the criteria to be met in the photometric test, and the rule corrects that provision so that it refers to S5.5.11(a).

D. Turn Signal Masking Effect

Notice 1 would have prohibited operation of a DRL when a turn signal or hazard warning signal is activated if the distance from the lighted edge of the DRL to the optical axis of the turn signal lamp were less than 4 inches. Notice 4 reproposed this prohibition. However, the spacing requirement would not apply if the turn signal lamp complies with the increased intensity specifications of S5.3.1.7 of Standard No. 108, or if the DRL is deactivated when the turn or hazard warning signal is on.

GM stated that the spacing requirement is an unnecessary impediment to DRLs combined with upper beam headlamps, and is inconsistent with the Canadian standard. It provided data from an SAE Committee test in which observers were asked if they could detect a turn signal of 250 candela located 3/8ths of an inch from a DRL of 5,000 candela at a distance of 500 feet. Although GM stated that performance was acceptable, the data that it submitted indicate that only 46.9 percent of the observers could see the turn signal. This is far below the 80 percent that the SAE considers the minimum acceptable for incorporation into its standards.

Contrary to GM's assertion, NHTSA's proposal and the Canadian requirements for DRL-turn signal spacing are identical. Additionally, the data provided by GM contradicts its assertion that a spacing requirement is unnecessary. After submitting its data, GM supplemented its submission, saying that the data implied that the turn signals would have been more visible at distances less than the test distance of 500 feet, and that turn signal visibility is not necessary beyond 200 feet. Since the stopping distance of trucks from 60 mph is 200 to 300 feet, NHTSA does not consider that 200 feet is an adequate distance. At least one state, Indiana, requires turn signal use for at least 200 feet before turning or changing lanes, unless the speed limit is 50 mph, in which case the distance is 300 feet.

NHTSA conducted its own demonstration for 9 members of the agency staff. The test distance was 300 feet. The test DRL intensities were 2,600, 5,000, and 7,000 candela. The turn signal intensities were 250 and 500 candela. The turn signal/DRL spacings were 2 and 4 inches. At a 2-inch spacing, 70 to 80 percent of the observers could detect turn signals adjacent to a DRL of 2,600 candela. At the higher DRL intensities, only 10 to 25 percent of the observers could detect the turn signals (which were masked almost equally, whether of 250 or 500 candela). However, about 80 to 90 percent of the observers saw the 250 candela turn signal at a 4-inch spacing. This demonstration suggests that spacing is effective, and that an increase in turn signal brightness does not compensate for inadequate spacing. Thus, GM's request for the agency not to adopt a spacing requirement does not appear to be in the interest of safety if DRLs substantially brighter than 2,600 candela are permitted. The alternative of brighter (500 candela) turn signals does not resolve the issue. The only effective alternative to prevent turn signal masking would be to extinguish the DRLs during signaling. Therefore, the final rule adopts the proposed 4-inch minimum spacing requirement, with its exception of temporary DRL deactivation. However, the 4-inch spacing requirement will continue to apply even if a higher candela turn signal is used.

E. Lens Marking

Under Notice 1, there would have been no requirement to identify the lamps used as DRLs. However, in commenting on that proposal, States asked for a lens marking requirement. In their view, State enforcement and vehicle inspection officials would be unable to distinguish between legal and illegal lamps and lamp combinations in the absence of marking. NHTSA tentatively concluded that those arguments had merit, and, further, that resolution of preemption questions would be assisted by a clear designation of the lamps used as DRLs. Under Notice 4, the agency proposed that these lamps would be marked "DRL" in letters not less than 4 mm high. A lamp that optically combines a DRL with a headlamp would be excluded from this requirement.

GM and Ford suggested that the lamps be marked with the SAE identification code, "YZ". To be consistent with the marking procedure specified in the SAE specification on marking of lighting equipment, SAE J759, GM also requested that the size of the lettering be 3 mm. The agency has adopted the latter suggestion in the final rule, but is requiring the "DRL" mark. The SAE specifications and Federal ones differ. To adopt the SAE designation would be inaccurate and confusing because it would signify adoption of the SAE requirements, instead of the different ones that NHTSA is promulgating.

Other Issues on Which Comment Was Requested or Received

The agency proposed that DRLs be activated when the transmission is in any position other than "park" or "neutral", and deactivated when the headlamp control is in the "headlamp on" position. Ford, Mack, Hino, and VW requested that the wording be compatible if not identical to the Canadian requirement. After consideration of the comments, and because the rule does not mandate DRLs, NHTSA has decided to adopt a final rule that is more flexible than either the Canadian requirement or the one that NHTSA originally proposed. It simply requires automatic activation of the system under circumstances to be determined by the vehicle manufacturer, e.g., when the transmission is in any position other than park or neutral, as NHTSA originally proposed, or operation of the engine without operation of the headlamp switch, the Canadian requirement. The DRL would be deactivated when the headlamp control is in any "on" position, and as otherwise determined by the vehicle manufacturer, such as deactivation of the engine.

Standard No. 108 presently requires the taillamps and side marker lamps to be activated simultaneously with the headlamps. The question arises whether, when a DRL is optically combined with a headlamp, the taillamps and side marker lamps must also be activated when the DRL is. Since there is a fuel economy penalty associated with side and rear lamp use, it is possible that manufacturers combining DRLs with headlamps will not wish to activate simultaneously the side and rear lamps. Further, data exist from some studies conducted on high mounted stop lamps that indicate a negative safety effect can exist on the vehicle's required pair of lower mounted stop lamps when the taillamps are activated. This occurred because the stop lamps were not as readily perceived on some cars when the taillamps were on during the day.

NHTSA requested comments on whether a prohibition against activation of the taillamps and side marker lamps is appropriate when a DRL is optically combined with a headlamp. Notice 4 proposed that the use of side and rear lamps with the DRL be a manufacturer's option. Chrysler and VW concurred with allowance as an option. GM was concerned lest the use become a requirement, a concern also of West Virginia in response to Notice 1. Michigan in its comment to Notice 1, on the other hand, favors simultaneous activation of the taillamps with DRLs so that the rear of the vehicle will be marked in the event that headlamps are not activated during periods in which visibility is reduced. PACCAR recommended that taillamps not be used with DRLs to avoid confusion with stop lamps. After reviewing the comments, the agency finds no compelling reason to prohibit the use of side and rear lamps with DRLs.

NHTSA was also concerned about the possible increases in rear crashes from the effect of daytime taillamp operation upon the efficacy of the stop lamp signal. The presence of the CHMSL ought to provide a distinguishable signal even if the taillamps and other stop lamps are combined in the same lamp housing. However, the NHTSA Report "An Evaluation of Center High Mounted Stoplamps" (DOT-HS-807442) showed that the greatest accident reduction benefit occurred during daylight (a 20 percent reduction, compared with an 8 percent reduction during dusk, nighttime, and dawn). The CHMSL may provide greater benefits when the taillamps are off. Thus, NHTSA requested that commenters address the issue of whether daytime taillamp operation could also lessen the effectiveness of the center stop lamp.

Commenters did not address this issue. NHTSA assumes that because the center highmounted stop lamp is dedicated to a single function, while a stop and taillamp may be combined in a single housing, the center highmounted stop lamp will not be masked by taillamp operation. Beginning September 1, 1993, all new motor vehicles with a GVWR of 10,000 pounds or less will be equipped with the third stop lamp which mitigates against any long term masking problem concerning the other two stop lamps. NHTSA does not believe that larger trucks without the center lamp are likely to be designed so that the rear lamps are activated during DRL operation because of high maintenance costs. For the foregoing reasons, NHTSA has found no safety need to prohibit manufacturers from simultaneous activation of DRLs and taillamps.

The rule indirectly affects States which now have or are considering enacting laws to require operation of the headlamps when the windshield wipers are activated. Some operators of vehicles with DRLs may not, because of the operation of their DRLs, activate the headlamp switch when the wipers are activated. The intent of these laws is to improve vehicle detection in low light levels, an intent that may be fulfilled by DRLs. NHTSA wants to encourage States to allow DRLs as an alternative to headlamps in their wiper use laws. However, this rule does not change normal headlamp functioning. Drivers can still use the master headlamp switch to actuate the headlamps when state laws or driver vision requires it.

Finally, this rule will ensure that DRLs are allowed on vehicles throughout the United States. This will afford an opportunity to evaluate DRL performance under the broad geographic and road conditions that exist throughout the country. However, past DRL studies indicate that unless evaluation studies are carefully controlled, the results are likely to be misleading or inconclusive. NHTSA is interested in evaluating the effectiveness of DRLs in the U.S. and requested that commenters submit suggestions as to how this might best be accomplished.

GM believes that the most effective study can be accomplished through the implementation of a harmonized rule between the U.S. and Canada. In its opinion, this would allow a data base of a large volume of vehicles all meeting the same requirements. However, the suggestion contained no specifics, and no commenter offered more than cursory thoughts on how an evaluation might be done. NHTSA is interested in the ability of manufacturers to identify DRL-equipped vehicles, and suggests that such information be available, at least for make and model of vehicles if it is standard equipment, or by VIN if installed specially, such as on fleet purchases.

GM, Ford, and MVMA stated that the NPRM was not consistent with the goal of international harmonization of regulations within the North American Free Trade Agreement. NHTSA has taken this into account in fashioning the final rule. Harmonization does not require that regulations be identical. The final rule permits a wide range of Canadian DRLs to be used, and establishes a window of harmonization that permits a common design to meet the requirement of both countries.

IIHS commented that DRLs should not be limited to newly manufactured vehicles, and it urged that Standard No. 108 apply to aftermarket DRLs as well. Since the agency is not mandating DRLs, it had given no thought to issues of retrofit, and, in any event, the subject was beyond the scope of the NPRM and not a part of the petition upon which the rulemaking was based.

NHTSA does not believe that the lack of a regulation covering vehicles-in-use that were originally manufactured without DRLs will result in aftermarket DRLs that are contrary to the final rule. State lighting laws for vehicles-in-use are generally identical to Standard No. 108's requirements for new vehicles.

This final rule does not have any retroactive effect. Under 15 U.S.C. 1392(d), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 15 U.S.C. 1394 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Shift to Expression of Measurements in Metrics

In implementation of the Department's policy to use the international metric system wherever possible in rulemakings, the values that are adopted are expressed in metrics. This shift will result temporarily in Standard No. 108 using the conventional system of measurement in some sections and the metric system in others. However, eventually, Standard No. 108 will be converted entirely to metric terms, in accordance with a NHTSA timetable.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the economic impacts of this rule and has made a determination that it is not major within the meaning of E.O. 12291 nor significant under Department of Transportation policies and procedures. The rule is not mandatory upon persons otherwise regulated by Standard No. 108, therefore there is no cost impact upon any manufacturer who does not choose to offer a DRL. NHTSA has no information on whether manufacturers other than GM will avail themselves of the option. Because DRL's are not required, any cost from implementing them will be at the manufacturer's choice. There may be a small incremental increase over some standard Canadian DRL models for the purpose of limiting possibly negative safety effects, but NHTSA has not quantified these costs as DRL's are not required. Therefore, preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. It will not have a significant effect upon the environment because there is no requirement that a manufacturer provide DRLs. As noted previously in this notice, there could be a fuel economy penalty of up to one quarter mile per gallon, depending on the type of DRL.

Regulatory Flexibility Act

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact upon a substantial number of small entities, because its adoption will not establish a mandatory requirement on regulated persons. Further, the rule will not affect the price of vehicles purchased by small jurisdictions and organizations. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Paragraph S5.5.3 is revised to read as follows:

S5.5.3 The taillamps on each vehicle shall be activated when the headlamps are activated in a steady-burning state, but need not be activated if the headlamps are activated at less than full intensity as permitted by paragraph S5.5.11(a).

3. New paragraph S5.5.11 is added to read as follows:

S5.5.11(a) Any pair of lamps on the front of a passenger car, multipurpose passenger vehicle, truck, or bus, whether or not required by this standard, other than parking lamps or fog lamps, may be wired to be automatically activated, as determined by the manufacturer of the vehicle, in a steady burning state as daytime running lamps (DRLs) and to be automatically deactivated when the headlamp control is in any "on" position, and as otherwise determined by the manufacturer of the vehicle, provided that each such lamp:

(1) Has a luminous intensity not less than 500 candela at test point H–V, nor more than 3,000 candela at any location in the beam, when tested in accordance with Section S11 of this standard, unless it is:

(i) A lower beam headlamp intended to operate as a DRL at full voltage, or at a voltage lower than used to operate it as a lower beam headlamp; or

(ii) An upper beam headlamp intended to operate as a DRL, whose luminous intensity at test point H–V is not more than 7,000 candela, and which is mounted not higher than 864 mm above the road surface as measured from the center of the lamp with the vehicle at curb weight;

(2) Is permanently marked "DRL" on its lens in letters not less than 3 mm high, unless it is optically combined with a headlamp;

(3) Is designed to provide the same color as the other lamp in the pair, and that is one of the following colors as defined in SAE Standard J578 MAY88: White, white to yellow, white to selective yellow, selective yellow, or yellow;

(4) If not optically combined with a turn signal lamp, is located so that the distance from the edge of the illuminated surface of its lens to the optical axis (filament center) of the nearest turn signal lamp is not less than 100 mm, unless its luminous intensity as a DRL is not more than 2,600 candela at any location in the beam, or unless it is deactivated when the turn signal lamp is activated; and

(5) If optically combined with a turn signal lamp, is automatically deactivated as a DRL when the turn signal lamp or hazard warning lamp is activated, and automatically reactivated as a DRL when the turn signal lamp or hazard warning lamp is deactivated.

(b) Any pair of lamps that are not required by this standard and are not optically combined with any lamps that are required by this standard, and which are used as DRLs to fulfill the specifications of S5.5.11(a), shall be mounted at the same height, which shall be not more than 1.067 m above the road surface measured from the center of the lamp on the vehicle at curb weight, and shall be symmetrically disposed about the vertical centerline of the vehicle.

4. New paragraph S11 is added to read as follows:

S11. *Photometric Test.* A lamp that is wired in accordance with paragraph S5.5.11 of this standard, shall be tested for compliance with S5.5.11(a)(1) in accordance with the test method specified for photometric testing in SAE Standard J575 DEC88 when a test voltage of 12.8V +/20 mV is applied to the input terminals of the lamp switch module or voltage-reducing equipment, whichever is closer to the electrical source on the vehicle. The test distance from the lamp to the photometer shall be not less than 18.3 m, if the lamp is optically combined with a headlamp, or is a separate lamp, and not less than 3 m, if the lamp is optically combined with a lamp, other than a headlamp, that is required by this standard.

Issued on: January 6, 1993.

Marion C. Blakey,

Administrator.

[FR Doc. 93-531 Filed 1-8-93; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 58, No. 6
Monday, January 11, 1993

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 410

RIN 3206–AF05

Training

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend its regulations governing the training of Federal employees in areas described in OPM's Memorandum for Heads of Departments and Independent Agencies, January 10, 1992, Subject: Human Resources Development Policy Initiatives. The Policy Initiatives outline a series of actions to strengthen human resources development in the Federal Government. Federal agencies are increasingly dependent on the skills and capabilities of their workforce to enhance productivity and ensure quality service to the American public. The Policy Initiatives provide broad direction and support to agencies in the management of training resources and programs. The proposed regulatory change is seen as a key element in building responsive, cost-effective, and sustained human resource development programs in Federal agencies. Regulations on training needs assessment will require each agency to establish a process that systematically links its training and development plans and resources to the agency's mission, strategic plans, performance goals, and priorities.

DATES: Written comments will be considered if received no later than February 10, 1993.

ADDRESSES: Send or deliver written comments to Dona Wolf, Director, Human Resources Development Group, U.S. Office of Personnel Management, room 5554, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Barbara Smith, (202) 376–6804.

SUPPLEMENTARY INFORMATION: The major objective of human resource management in the Federal Government is to attract, develop, and retain a quality, balanced workforce. In its leadership capacity, OPM, in partnership with the agencies, has developed Human Resources Development Policy Initiatives as part of its plan to address this important objective. The initiatives outline critical areas for policy direction and program guidance and focus on a planned, balanced, and continuous approach to the growth and development of Government employees at all levels. In accordance with its authority under 5 U.S.C. 4118, OPM plans to issue regulatory changes as described below.

Training Needs Assessment

OPM proposes to amend its regulations in subpart B of part 410, Determining Training Needs. Needs assessment is the critical first step in a systematic approach for developing plans and programs designed to improve organizational and individual performance. The well-planned and timely assessment of needs ensures that organizational training and development resources are committed to the highest priority needs and provides the most cost effective basis for an agency's expenditure of training dollars.

Through extensive studies, OPM has found that training needs assessment practices vary widely from agency to agency. Some have very sophisticated needs assessment processes, encompassing formal task analyses of key occupations followed by systematic comparisons of employee skill levels to occupational requirements, while other agencies assess needs randomly and haphazardly. Some agencies assess employee needs on an annual basis, while others assess needs only sporadically. The variations and inconsistencies in needs assessment practices are further documented by the Volcker Commission Report, Leadership for America: Rebuilding the Public Service (Washington 1989). The Commission found that at both the career and non-career levels, training is frequently ad hoc and self initiated. Further, the Commission found agencies are not certain what they should train for (short- or long-term), which employees should receive the greatest training emphasis (entry, mid- or senior-level), or when or how often employees need additional education. The Commission also found that career paths are not well planned or designed and, "* * * with a few exceptions, most Federal training is voluntary, individually focused, and job-specific and bears little discernible relation to major agency objectives and missions. Nor is training tied to any performance goals, leaving agencies unable to justify costs in an era of tight budgets."

Based on these findings and the results of its studies on practices in both the private and public sectors, OPM proposes to regulate needs assessment to ensure that agency practices are comprehensive, uniform, and ongoing. The regulations will increase the likelihood that budget and program resources committed to training relate directly to agency mission and performance priorities. Needs assessment based on the identification of agency mission needs and critical occupational and individual performance requirements can help agencies eliminate redundant training efforts, substantially reduce the unnecessary expenditure of training dollars, and assist managers in identifying performance requirements that can best be satisfied by training and other developmental strategies.

The proposed regulations will require agencies to describe desired levels of organizational, occupational, and individual performance. Through its needs assessment process, an agency will determine the difference between actual and desired performance levels. If a gap exists, an agency will identify the underlying cause(s) for the difference. If training is determined to be appropriate, an agency will use information furnished by the needs assessment to identify who needs training and when and how it can best be provided.

The regulations propose a systematic approach to planning career development strategies for Government employees. They focus on the use of training and other development to maintain and improve organizational, occupational, and individual performance. Further, the regulations reflect the importance of a well-trained, fully developed, and balanced workforce in which needs are assessed fairly and equitably for all employees.

To assist agencies in implementing these regulations, OPM will prepare guidance through the Federal Personnel Manual Chapter 410 (Training) that illustrates performance models, best practices, and useful needs assessment techniques and tools.

Other Development

The proposed regulations provide for consideration of developmental options (e.g., apprenticeships, reassignments, details, rotational assignments, etc.) in determinations covered by subparts B and C of part 410. This reflects OPM's view that these options should be considered in establishing priorities for meeting developmental needs. In some situations, a developmental option could be a more appropriate mechanism for skills development and less costly than formal training.

Training of Persons With Disabilities

The proposed regulations insert a reference to "persons with disabilities" in the sections dealing with "using needs assessment to manage human resources" and "selection and assignments" to ensure that agencies' procedures provide safeguards against unjustified denial of developmental opportunities for persons with disabilities.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined in E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because they affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 410

Authority delegation, Education, Government employees, Manpower training programs, Personnel Management Office.

Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 410 as follows:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275. § 410.503 also issued under 5 U.S.C. 5364. § 410.506, § 410.511, and § 410.602 also issued under 5 U.S.C. 1104. § 410.902 also issued under 42 U.S.C. 4746.

2. Subpart B, consisting of § § 410.201 and 410.202, is revised to read as follows:

Subpart B—Planning for Human Resource Development

Sec.

410.201 Assessment of needs.

410.202 Using needs assessment to manage human resources and plan human resource development programs.

Subpart B—Planning for Human Resource Development

§ 410.201 Assessment of needs.

(a) *General.* To prepare human resources to accomplish agency goals and program objectives effectively and efficiently, the head of an agency shall establish and maintain a system to assess training and other developmental needs and set priorities for meeting identified needs. Training needs assessment shall be an ongoing activity and incorporated within the agency's overall human resources planning process. Assessing training needs is a collaborative effort requiring the support and involvement of agency management. Agency policies on conducting needs assessment shall be set forth in writing and incorporated into policies established under § 410.301(a) of this part.

(b) *Needs Assessment System.* In conducting the reviews of training needs required by section 4113 of title 5, United States Code, and by Executive Order 11348, an agency shall identify training and other developmental needs using the criteria in paragraphs (c), (d), (e), and (f) of this section.

(1) Organizational assessment will identify broad priorities and objectives established to maintain and improve the performance of the agency and its work units. Organizational assessment ensures that the budget and program resources committed to training and other development will directly support the mission, goals, and performance requirements of the agency.

(2) Occupational assessment will identify short- and long-term job requirements that are essential to achieve operational goals and objectives for each major occupation within the agency including executive, managerial, and supervisory positions.

(3) Individual assessment will identify particular knowledge, skills, and abilities required of employees to perform their jobs. Individual employee needs will be assessed to ensure professional growth and development of employees within career paths, particularly during periods of organizational and technological change to maintain desired levels of performance. At a minimum, needs of individuals will be assessed at critical career stages, including:

(i) Initial entry to the agency;

(ii) Progression from one level of job responsibility to another within a career path, as from entry to journey level to supervisory level; and

(iii) Transition to a new career or job as from one occupation to another, technical expert to team leader, supervisor to manager, and manager to executive.

(d) *Performance Requirements.* Needs assessment will focus on the required or desired performance of the agency, the organizational unit, or the individuals being assessed. Needs assessment will be conducted to determine the difference between required or desired and actual performance levels. The agency will determine if the required or desired level of performance should be attained through training or through other methods, such as modifying systems and procedures, changing working conditions, or improving communications.

(e) *Needs Assessment Planning.* In planning and conducting needs assessments, an agency shall design and develop an assessment plan that:

(1) Identifies the goal, purpose, and level (organizational, occupational, or individual) of the particular assessment;

(2) Uses relevant documents such as productivity reports, work studies, evaluations, trend analyses, and other data sources, including needs assessment instruments, to provide accurate and reliable information on organizational, occupational, and individual performance; and

(3) Incorporates, as needed, other systems to retrieve information on organizational, occupational, and individual performance such as performance appraisal processes, succession planning strategies, and career planning systems.

(f) *Management Involvement.* Managers and supervisors will actively support the agency's needs assessment process. Management actions shall include setting human resources goals, establishing training and other development priorities, making decisions about the investment of resources and assessing the performance of individuals and occupational groups.

(g) *Needs Assessment Implementation and Evaluation.* At least annually, an agency shall:

(1) Analyze findings on new or previously identified needs to:

(i) Assure they are accurate and provide reliable information on the present and projected critical skill requirements of the organization and individuals; and

(ii) Determine whether the findings are being used effectively by the agency to close identified gaps between desired and actual levels of performance assessed for the organization, occupational groups and individual employees; and

(2) Analyze the effectiveness and efficiency of their documented needs assessment system and procedures to determine:

(i) If they generate relevant information;

(ii) If they are practical to conduct; and

(iii) How needs assessment findings are used by the agency, including how they are used in decisions to allocate agency training resources.

§ 410.202 Using needs assessment to manage human resources and plan human resource development programs.

(a) An agency shall evaluate information derived from organizational, occupational, and individual assessments and use these findings to make decisions on training resource allocations and plan human resources development programs.

(b) Organizational assessment findings shall be used by agency officials as the basis for:

(1) Establishing human resources development goals and priorities;

(2) Integrating human resources development planning with work planning, budgeting, and other personnel management systems;

(3) Making short- and long-term decisions on investment of resources to plan for training and other developmental activities within the agency;

(4) Designing, developing, conducting, and evaluating training, new employee orientation programs, and other development programs and activities for the agency through internal and external resources; and

(5) Assessing agency plans to ensure consistency with the merit system principles set forth in 5 U.S.C. 2301(b) (1) and (2), taking into consideration the need to maintain a diversified workforce in which women, minorities, and persons with disabilities are appropriately represented and developed in the agency.

(c) Occupational assessment findings shall be used as the basis for:

(1) Evaluating workforce trends and occupational forecasts to determine what short- and long-term strategies will be undertaken to attain the future skill requirements;

(2) Developing strategies to address recruiting and retention issues for mission-critical occupations;

(3) Identifying and tracking career paths, where feasible, and the training needs of employees on those paths, including needs for continuing technical/professional development, based on an analysis of the occupation's tasks and an identification of the competencies associated with various stages of advancement in that occupation;

(4) Establishing training and other development programs to meet the knowledge and skill needs of employees in key occupations; and

(5) Ensuring that budget and program resources allocated for mission-related training and other development in key occupations are supportive of organizational or agencywide priorities.

(d) Individual assessment findings shall be used as the basis for:

(1) Developing plans for career and personal growth and to improve individual performance;

(2) Identifying areas where training and other development could improve the performance of an employee rated at a level below "Fully Successful" or enhance the competencies of an employee already performing at a "Fully Successful" or higher level to achieve the highest level of proficiency and to help prepare for future assignments on his/her career path or for occupational change.

(3) Selecting training and other developmental activities for employees; and

(4) Ensuring that resources allocated for individual training and other development are linked to organizational human resources development priorities.

3. Subpart C, consisting of §§ 410.301 through 410.304, is revised to read as follows:

Subpart C—Establishing human resource development programs

Subpart C—Establishing Human Resource Development Programs

§ 410.301 Scope and general conduct of programs.

(a) The head of an agency shall determine the policies which are to govern the development of the agency's workforce. These policies shall be set forth in writing and include a statement of the broad purposes for which training and other development will be given and of the assignment of responsibilities for seeing that these purposes are achieved.

(b) The head of an agency also shall take such administrative action as is necessary to assure that:

(1) Plans and programs are developed to meet the short- and long-range training and other developmental needs within the agency;

(2) Priorities are established for training and other developmental programs of the agency;

(3) Provision is made for the use of funds and staff hours in accordance with established priorities for training and other developmental programs of the agency;

(4) Employee self-development is fostered through a work environment in which self-development is encouraged, self-study materials are reasonably available, and self-initiated improvement in performance is recognized; and

(5) Information with respect to the general conduct of the training program of the agency is availabled to enable the Office of Personnel Management, the President, and Congress to discharge their respective responsibilities under chapter 41 of title 5, United States Code.

(c) Training programs established by the agencies under chapter 41 of title 5, United States Code, shall to the maximum extent feasible:

(1) Be based on short- or long-range needs, existing or reasonably foreseeable;

(2) Meet as many of these needs as possible, with priorities considered;

(3) Use work assignment flexibility to provide experience to promote employee growth for the purpose of increasing the quality and quantity of work produced; and

(4) Be integrated with other personnel management and operating activities.

(d) As provided in subsection (b) of section 4103 of title 5, United States Code, an agency may train any employee of the agency to prepare the employee for placement in another agency when the following conditions are met:

(1) The head of the agency must determine that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of title 5, United States Code;

(2) Before undertaking any training under this section, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency; and

(3) In selecting an employee for training under this section, the head of the agency shall consider:

(i) The extent to which the current skills, knowledge, and abilities of the employee may be used in the new position;

(ii) The employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(iii) The benefits to the Government which would result from retaining the employee in the Federal service.

§ 410.302 Selection and assignment of employees for development.

(a)(1) Except as provided by paragraph (a)(2) of this section, an agency must follow its merit promotion procedures when selecting a career or career-conditional employee for training or other development which is:

(i) Part of an authorized training agreement;

(ii) Part of a promotion program; or

(iii) Required before an employee may be considered for a promotion.

(2) Paragraph (a)(1) of this section does not apply if:

(i) The agency's merit promotion procedures have already been applied; or

(ii) The development is associated with an action not covered by or excepted from those procedures.

(b) With respect to selection and assignment of employees to training by, in, or through non-Government facilities, the head of an agency shall provide that each assignment of an employee who is stationed within the continental limits of the United States to training outside these limits be approved by a specifically designated official at the headquarters level of the agency.

(c) The head of an agency shall prescribe such procedures as are necessary to assure that the selection of employees for development is made without regard to race, color, religion, sex, national origin, age, disability, or other factors unrelated to the need for employee development.

§ 410.303 Utilization of trainees.

An agency, in effecting position changes, shall consider significant training and other developmental activities undertaken by employees.

§ 410.304 Evaluation of training.

An agency shall evaluate the results and effects of training programs and other developmental activities in such manner and with such frequency as the agency head considers appropriate.

[FR Doc. 93-397 Filed 1-8-93; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Rice

AGENCY: Federal Grain Inspection Service, USDA.[1]

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review of regulations, the Federal Grain Inspection Service (FGIS) is proposing to revise the United States Standards for Rice. Specifically, FGIS proposes to revise the United States Standards for Rough Rice, Brown Rice for Processing, and Milled Rice by establishing a special grade for aromatic (scented) rice and eliminating the requirement that rough rice or brown rice for processing must contain more than 25 percent of whole kernels in order to be classed as Long grain, Medium grain, Short grain, or Mixed rough rice or brown rice for processing.

DATES: Comments must be submitted on or before April 12, 1993.

ADDRESSES: Written comments must be submitted to George Wollam, FGIS, USDA, Room 0632 South Building, P.O. Box 96454, Washington, DC, 20090-6454; FAX (202) 720-4628. All comments received will be made available for public inspection in Room 0632 USDA South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720-0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities.

Review of Standards

On January 22, 1992, FGIS published in the **Federal Register** (57 FR 2482) a request for public comment on the review of the United States Standards for Rice. The objective of the review is to ensure that the standards continue to serve the needs of the marketplace to the greatest extent possible. In keeping with this objective, FGIS requested comments on the need for revising various sections of the standards, the potential for improvements, and language clarity. Specifically, FGIS has focused on reviewing the need to:

1. Establish standards for edible brown rice,
2. Establish a special grade for aromatic rice,
3. Increase the limits for broken kernels removed by a 5 plate for U.S. Nos. 1 and 2 milled rice,
4. Eliminate the class Screenings milled rice,
5. Revise the definitions of the classes of rough rice by eliminating the requirement that these classes must contain more than 25 percent whole kernels, and
6. Revise the definitions of the classes Second Head, Screenings, and Brewers milled rice by eliminating the southern production criteria and adopting the western production criteria for rice grown in all areas of production.

Interested parties were invited to participate in the rulemaking process by submitting written comments and/or recommendations on the suggested changes to the official standards. During the 90-day comment period, a total of nine comments were received from private companies, governmental and educational organizations, and groups representing rice growers and millers.

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.5).

Establishing Standards for Edible Brown Rice

Presently, there are no U.S. standards for edible brown rice; i.e., brown rice that is intended to be consumed without being milled. The current U.S. Standards for Brown Rice for Processing were developed solely for brown rice intended to be processed into milled rice. Most edible brown rice is marketed on private specifications. For this reason, FGIS sought to determine whether there was a need to develop U.S. standards specifically for edible brown rice.

Four groups representing rice growers, millers, and processors commented on the need to establish standards for edible brown rice. It was the view of two of those groups that standards for edible brown rice are not needed. One other group commented that they would not oppose standards for edible brown rice, "but question the industry's desire or need for edible brown rice standards at this time." Only one commenter expressed any support for the establishment of standards provided that "standards do not allow the inclusion of white milled broken rice."

From the comments received, FGIS has determined that a majority of the market would not use U.S. standards for edible brown rice if they were available. Consequently, FGIS will not propose establishing standards for edible brown rice at this time.

Establishing a Special Grade for Aromatic Rice

The amount of aromatic or scented rice produced in the United States has grown steadily in the last decade, as has the demand for relevant standards of quality. In response, FGIS requested comments on the need to establish a special grade for aromatic rice. The present U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice are being applied to aromatic rice. But, the current standards do not provide for grading or otherwise identifying such rice as "Aromatic."

Groups representing rice growers, millers, and processors commented that aromatic rice has the potential to greatly expand both production and consumption beyond current levels. Establishing a special grade for aromatic rice could facilitate this expansion and assist consumers. Therefore, FGIS, is proposing to revise the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice to establish a special grade for aromatic rice.

Increasing Limits on Broken Kernels Removed by a 5 Plate

A 5 plate is a laminated metal plate with rows of perforated round holes that are 5/64 inch in diameter. "Broken kernels removed by a 5 plate" consist of very small particles of broken rice that become trapped in the plate's holes when a 50 gram sample is poured over the plate. According to the U.S. Standards for Milled Rice, the maximum limit for "broken kernels removed by a 5 plate" in U.S. Nos. 1 and 2 milled rice is 0.04 percent and 0.06 percent, respectively.

FGIS sought comments on whether the limits for "broken kernels removed by a 5 plate" should be increased to 0.1 percent for both U.S. Nos. 1 and 2 milled rice. This action would compensate for the normal variability of the scales used to determine the amount of this material in a sample. The scales used by FGIS to determine the amount of "broken kernels removed by a 5 plate" in a 50 gram sample of milled rice are accurate to plus or minus 0.02 gram. Therefore, the results of any "broken kernels removed by a 5 plate" determination may vary by as much as plus or minus 0.04 percent.

Several of the groups that commented on this suggestion expressed deep concerns about changing the current levels. These commentors felt that allowing a greater amount of small broken kernels in high-quality U.S. rice would reduce the marketability of U.S. Nos. 1 and 2 milled rice. FGIS believes that a slight increase in the limits would not have a noticeable effect on rice quality or appearance. But, FGIS is concerned that any loosening of grade limits may inadvertently harm the United States' reputation for producing and marketing high-quality rice. To avoid any such negative consequences, FGIS plans to investigate other alternatives (e.g., use more accurate scales or increase the sample size to 100 grams), rather than increasing the "broken kernels removed by a 5 plate" limit.

Eliminating the Class Screenings Milled Rice

Broken milled rice, rice that contains less than 25 percent of whole kernels, is currently classed as either Second Heads, Screenings, or Brewers milled rice, depending on the size of the broken kernels. FGIS suggested that consideration be given to eliminating the class Screenings milled rice because there was no known price discount or premium for this class of rice.

Most commenters stated that Screenings milled rice is still a viable and useful classification and that the elimination of it could have a potentially significant negative impact on trade. As a result, FGIS has determined that further review would be necessary before FGIS would propose any change in the classification of broken milled rice.

Revising the Class Definitions for Rough Rice and Brown Rice for Processing

FGIS suggested that the definitions of the classes Long grain, Medium grain, Short grain, and Mixed rough rice may need to be revised by eliminating the requirement that these classes must contain more than 25 percent whole kernels. Rough rice and brown rice for processing that contains less than 25 percent whole kernels cannot be identified by a class name. As a result, this rice cannot be graded. Milled rice, on the other hand, that contains less than 25 percent whole kernels can be identified by class name (e.g., Second Head, Screenings, or Brewers milled rice) and can be graded.

Elimination of the 25 percent whole kernel requirement for classing rough rice and brown rice for processing is supported by rice grower and miller groups who believe that this change will facilitate the marketing of rice and benefit both farmers and rice mills. Therefore, FGIS is proposing to revise the U.S. Standards for Rough Rice and Brown Rice for Processing by eliminating the requirement that rice in the classes Long grain, Medium grain, Short grain, and Mixed rough rice or brown rice for processing must contain more than 25 percent whole kernels.

Eliminating the Southern Production Criteria for Classing Second Head, Screenings, and Brewers Milled Rice

FGIS evaluated the need to revise the definitions of the classes Second Head, Screenings, and Brewers Milled Rice by eliminating the Southern production method and adopting the Western production method for rice grown in all areas. FGIS found that adopting one method for all rice would eliminate buyer confusion and provide nationwide uniformity. Also, sieves (Western production equipment) are less expensive and more portable than sizing plates (Southern production equipment).

Six groups commented on this suggestion. Two private companies and one State governmental organization supported eliminating the Southern production method and using the Western production method for all rice. But, a group that represents rice millers and two groups that represent rice growers were strongly opposed to adopting the Western production method for rice grown in all areas. They stated that the Western production method would be costly and cumbersome for Southern mills. They also stated that "because of the shape of the kernel, Long grain does not size well on sieves. Therefore, to be tested fairly, a sizing separation using plates is needed." Long grain rice is predominately-grown in the South. There organizations also stated that there is insufficient data to support the elimination of the Southern production method and that another method should be developed that replaces both the Southern and the Western production methods. After due consideration, FGIS has determined that further review would be necessary before FGIS would propose the elimination of either the Southern or Western production methods.

Proposed Action

Based on current market needs, FGIS is proposing to revise:

1. Section 68.202(c)(1) by removing "which contains more than 25 percent of whole kernels and."
2. Section 68.202(c)(2) by removing "which contains more than 25 percent of whole kernels and."
3. Section 68.202(c)(3) by removing "which contains more than 25 percent of whole kernels and."
4. Section 68.202(c)(4) by removing "which contains more than 25 percent of whole kernels and."
5. Section 68.212 by adding a new paragraph (e), that defines aromatic rough rice.
6. Section 68.213 by adding a special grade designation for aromatic rough rice.
7. Section 68.252(d)(1) by removing "more than 25.0 percent of whole kernels of brown rice and."
8. Section 68.252(d)(2) by removing "more than 25.0 percent of whole kernels of brown rice and."
9. Section 68.252(d)(3) by removing "more than 25.0 percent of whole kernels of brown rice and."
10. Section 68.252(d)(4) by removing "more than 25.0 percent of whole kernels of brown rice and."
11. Section 68.263(d)(2) by adding a new paragraph (d), that defines aromatic brown rice for processing.
12. Section 68.264 by adding a special grade designation for aromatic brown rice for processing rice.
13. Section 68.315 by adding a new paragraph (f), that defines aromatic milled rice.
14. Section 68.316 by adding a special grade designation for aromatic milled rice.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992 memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this notice.

List of Subjects in 7 CFR Part 68

Administrative practice and procedures, Agricultural commodities, Rice.

For reasons set forth in the preamble, 7 CFR part 68 is proposed to be amended as follows:

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND THEIR PRODUCTS

1. The authority citation for part 68 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Subpart C—United States Standards for Rough Rice

Subpart D—United States Standards for Brown Rice for Processing

Subpart E—United States Standards for Milled Rice

2. Section 68.202(c) (1) through (4) are revised to read as follows:

§ 68.202 Definition of other terms.

* * * * *

(c) * * *

(1) "Long grain rough rice" shall consist of rough rice which, after milling to a well-milled degree, contains not more than 10.0 percent of whole or broken kernels of medium or short grain rice.

(2) "Medium grain rough rice" shall consist of rough rice which, after milling to a well-milled degree, contains not more than 10.0 percent of whole or large broken kernels of long grain rice or whole kernels of short grain rice.

(3) "Short grain rough rice" shall consist of rough rice which, after milling to a well-milled degree, contains not more than 10.0 percent of whole or large broken kernels of long grain rice or whole kernels of medium grain rice.

(4) "Mixed rough rice" shall consist of rough rice which, after milling to a well-milled degree, contains more than 10.0 percent of "other types" as defined in paragraph (h) of this section.

* * * * *

3. Section 68.212(e) is added after the note to read as follows:

§ 68.212 Special grades and requirements.

* * * * *

(e) *Aromatic rough rice.* Aromatic rough rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

4. Section 68.213 is revised to read as follows:

§ 68.213 Special grade designation.

The grade designation for infested, parboiled, smutty, glutinous, or aromatic rough rice shall include, following the class, the word(s) "Infested," "Parboiled Light," "Parboiled," "Parboiled Dark," "Smutty," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.211.

5. Section 68.252(d) (1) through (4) are revised to read as follows:

§ 68.252 Definition of other terms.

* * * * *

(d) * * *

(1) "Long grain brown rice for processing" shall consist of brown rice for processing which contains not more than 10.0 percent of whole or broken kernels of medium or short grain rice.

(2) "Medium grain brown rice for processing" shall consist of brown rice for processing which contains not more than 10.0 percent of whole or large broken kernels of long grain rice or whole kernels of short grain rice.

(3) "Short grain brown rice for processing" shall consist of brown rice for processing which contains not more than 10.0 percent of whole or large

broken kernels of long grain rice or whole kernels of medium grain rice.

(4) "Mixed brown rice for processing" shall consist of brown rice for processing which contains more than 10.0 percent of "other types" as defined in paragraph (i) of this section.

* * * * *

6. Section 68.263(d) is added after the note to read as follows:

§ 68.263 Special grades and special grade requirements.

* * * * *

(d) *Aromatic brown rice for processing.* Aromatic brown rice for processing shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

7. Section 68.264 is revised to read as follows:

§ 68.264 Special grade designation.

The grade designation for parboiled, smutty, glutinous, or aromatic brown rice for processing shall include following the class, the word(s) "Parboiled," "Smutty," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.262.

8. Section 68.315(f) is added after the note to read as follows:

§ 68.315 Special grades and special grade requirements.

* * * * *

(f) *Aromatic milled rice.* Aromatic milled rice shall be special varieties of rice (Oryza sativa L. scented) that have a distinctive and characteristic aroma; e.g., basmati and jasmine rice.

9. Section 68.316 is revised to read as follows:

§ 68.316 Special grade designation.

The grade designation for coated, granulated brewers, parboiled, undermilled, glutinous, or aromatic milled rice shall include, following the class, the word(s) "Coated," "Granulated," "Parboiled Light," "Parboiled," "Parboiled Dark," "Undermilled," "Glutinous," or "Aromatic," as warranted, and all other information prescribed in § 68.314.

Dated: December 14, 1992.

John C. Foltz,

Administrator.

[FR Doc. 93-399 Filed 1-8-93; 8:45 am]

BILLING CODE 3410-EN-M

Commodity Credit Corporation

7 CFR Part 1446

RIN 0560-AC89

Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would amend regulations with respect to the "disaster transfer" of peanuts for pricing purposes from an additional loan pool to a quota loan pool. The proposed change would exclude any peanut poundage quota transferred to a farm under the "fall transfer" provision from the poundage quota available to that farm to effect a transfer under the "disaster transfer" provision. This change is needed to prevent the possibility of increased cost to the peanut program and related increases in the public debt. This action is necessary to provide applicable rules for 1993 through 1995 crops of peanuts with respect to transfer restrictions.

DATES: Comments must be received on or before February 10, 1993 in order to be assured of consideration.

ADDRESSES: Send comments to the Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013-2415, or deliver to room 5750, South Building, 14th Street and Independence Avenue, SW., Washington, DC. All written comments received in response to this request will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., on regular workdays.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Deputy Director, Tobacco and Peanuts Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013-2415, telephone 202-720-0156.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this proposed rule applies are: Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Commodity Credit Corporation (CCC) and ASCS are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The information collection requirements contained in the regulations in 7 CFR part 1446 for the peanut price support program were approved by the Office of Management and Budget (OMB), as required by 44 U.S.C. chapter 35, and assigned OMB control numbers 0560-0006, 0560-0014, and 0560-0033. This proposed rule does not change the information collection as approved by OMB. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0506-0006), Washington, DC 20503.

Regulatory Reform: Less Burdensome or More Efficient Alternatives

USDA is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, USDA actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for