

waters. The Chairman and other members of the BLI are selected from among the Canal's senior pilots and, hence, are experienced and knowledgeable in all aspects of navigating vessels through the waterway. Since 1966, the agency's Marine Director has served, ex officio, as Supervising Inspector and, in that latter capacity, has overseen the operations of the BLI.

Under an agency-wide reorganization plan motivated by the upcoming transfer of the Canal to Panama at the end of 1999, the Marine Director (previously an active-duty or retired U.S. Naval officer) is to be known as the Maritime Operations Director and is no longer required to have ship-handling experience. That change eliminates the need for, and utility of, that official's oversight of the investigative functions of the BLI and, in keeping with the goal of streamlining the agency, the administrative position of Supervising Inspector is being eliminated. Henceforth, the BLI will forward its investigative reports directly to the Administrator for approval. Duties previously performed by the Supervising Inspector are either being eliminated or, primarily in the area of licensing, assumed by the Maritime Operations Director or by the Administrator or his designee. In other portions of parts 115, 117 and 119 the title Marine Director is replaced by Maritime Operations Director as envisioned by the said reorganization.

The Commission is exempt from Executive Order 12866 and its provisions do not apply to this rule. Even if the Order were applicable, the rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Finally, the Administrator of the Panama Canal Commission certifies these changes meet the applicable standards set out in sections 2(a) and 2(b)(2) of Executive Order 12778.

**List of Subjects**

*35 CFR Part 115*

Organization and functions (Government agencies), Panama Canal.

*35 CFR Part 117*

Investigations, Marine safety, Reporting and recordkeeping requirements.

*35 CFR Part 119*

Administrative practice and procedure, Panama Canal, Seamen, Vessels.

For the reasons stated in the Preamble, the Panama Canal Commission amends 35 CFR Parts 115, 117 and 119 as follows:

**PART 115—BOARD OF LOCAL INSPECTORS; COMPOSITION AND FUNCTIONS**

1. The authority citation for part 115 is revised to read as follows:

**Authority:** 22 U.S.C. 3778; E.O. 12215, 45 FR 36043, 3 CFR, 1980 Comp., p. 257.

2. Revise § 115.1 to read as follows:

**§ 115.1 Board of Local Inspectors.**

There is hereby continued the Board of Local Inspectors of the Panama Canal Commission, constituted as provided in § 115.2, which shall perform, conduct and execute—

(a) The investigations called for by 22 U.S.C. 3778;

(b) The functions and responsibilities with which it is vested by this part and by parts 117 and 119 of this chapter; and

(c) Such other duties in matters of a marine character as it may be assigned from time to time by the Administrator.

3. Amend § 115.2 as follows:

a. In paragraph (a), introductory text, remove the words "in paragraphs (b) and (c)" and add, in their place, the words "in paragraph (b)";

b. Revise paragraph (b) to read as set forth below.

c. Remove paragraph (c); and

d. Redesignate paragraph (d) as paragraph (c), and remove the words "Supervising Inspector" and add, in their place, the word "Chairman".

**§ 115.2 Composition of the Board.**

\* \* \* \* \*

(b) In the absence of the Chairman, or where the subject matter or circumstances of a particular accident warrant such action, the Administrator may designate an alternate to replace any official regularly serving on the Board.

\* \* \* \* \*

**PART 117—MARINE ACCIDENTS; INVESTIGATIONS; CONTROL; RESPONSIBILITY**

1. The authority citation for part 117 is revised to read as follows:

**Authority:** 22 U.S.C. 3778; E.O. 12215, 45 FR 36043, 3 CFR, 1980 Comp., p. 257.

**§ 117.1 [Amended]**

2. Amend § 117.1 as follows:  
a. In paragraphs (b) and (d)(2), remove the words "Supervising Inspector" and add, in their place, the words "Maritime Operations Director"; and

b. In paragraph (c) introductory text, remove the words "Supervising Inspector or".

3. Revise § 117.3 to read as follows:

**§ 117.3 Reports by Board to the Administrator.**

The Board shall submit reports of all marine accident investigations conducted by it to the Administrator for approval. Such reports shall set forth in detail the facts and circumstances surrounding the accident and bearing upon its proximate causation, the nature and extent of the injury, and the amount of damages, if any, occasioned by such injury. The reports shall include a transcript of the record of the Board's investigation, together with its findings and opinions respecting the accident. All findings and opinions of the Board shall be rendered by a full Board after a review of the entire transcript, even though the hearing may have been conducted by a single member of the Board or by a two-man Board. Reports of the Board do not become final until they are approved by the Administrator.

**PART 119—LICENSING OF OFFICERS**

1. The authority citation for part 119 continues to read as follows:

**Authority:** Issued under authority of the President by 22 U.S.C. 3811, E.O. 12215, 45 FR 36043.

2. In part 119, remove the words "Supervising Inspector" and add, in their place, the words "Maritime Operations Director", wherever they appear.

Dated: January 7, 1998.

**Alberto Alemán Zubieta,**  
*Administrator.*

[FR Doc. 98-845 Filed 1-13-98; 8:45 am]

BILLING CODE 3640-04-P

**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 253**

[Docket No. 96-6 CARP NCBRA]

**Noncommercial Educational Broadcasting Compulsory License**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress is announcing the adoption of final rules governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works.

**EFFECTIVE DATE:** January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five year intervals. 17 U.S.C. 118(c). The last adjustment of the terms and rates for the section 118 license occurred in 1992, making 1997 a window year for the adjustment of these terms and rates. 57 FR 60954 (December 22, 1992).

Section 118(b) provides that any copyright owner and any public broadcasting entity may negotiate the rates and terms for the compulsory license, or in the absence of a negotiated license,

the Librarian of Congress shall, pursuant to Chapter 8, convene a copyright arbitration royalty panel to determine and publish in the **Federal Register** a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Librarian of Congress \* \* \*

Interested parties who submit proposals for adjusting the terms and rates for the section 118 license directly to the Librarian of Congress may petition the Librarian to submit these proposals to a public notice and comment proceeding, whereby copyright owners and users that would be affected by the proposals are given the opportunity to challenge them. 37 CFR 251.63. Any party who objects to

the proposed terms and rates must submit, in turn, their challenges by a date certain, and must be willing to participate in the Copyright Arbitration Royalty Panel (CARP) proceeding adjusting the section 118 terms and rates. If no challenges are received, or if challenges are received by an interested party who will not participate in a CARP proceeding, the Librarian may adopt the terms and rates of the proposals.

Accordingly, interested copyright owners and users of these works may file either a voluntary agreement or a joint proposal outlining the adjustments to the terms and rates for the section 118 license; or in the case of unaffiliated copyright owners,<sup>1</sup> the users may submit their proposals for the adjustment of the terms and rates of the section 118 license directly to the Librarian of Congress. See 62 FR 51619 (October 2, 1997) and 62 FR 63502 (December 1, 1997). A joint proposal differs significantly from a voluntary settlement. The parties to a voluntary agreement represent all persons who would be affected by the agreement and the parties have the authority to bind their members. In a joint proposal, the parties to the agreement do not represent all persons who would be affected by the agreement, or if they do, at least one of the parties does not have the authority to bind its members.

**II. This Proceeding**

The Office commenced the process for adjusting the section 118 rates and terms with the publication of a **Federal Register** notice announcing a negotiation period during which interested parties could negotiate voluntary license agreements that are "given effect in lieu of any determination by the Librarian of Congress: Provided, That copies of such agreements are filed in the Copyright Office within thirty days of execution." 17 U.S.C. 118(b)(2). The notice also requested comment on the need for a CARP to set the rates and terms, in addition to setting a precontroversy discovery schedule and an initiation date for the CARP. 61 FR 54459 (October 18, 1996).

On November 11, 1996, the National Public Radio, the Public Broadcasting Service, the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), SESAC, Inc., the National Music Publishers Association, Inc. (NMPA),

and the Harry Fox Agency, Inc. filed notices of intent to participate. On June 19, 1997, the National Religious Broadcasters Music License Committee requested leave to file its notice of intent to participate after the deadline for making this filing had passed. The Register granted its motion and accepted the filing. Order in Docket No. 96-6 CARP NCBRA (July 30, 1997). Two additional parties, The American Council on Education and The National Federation of Community Broadcasters, did not file notices of intent to participate, although they participated in the negotiations of certain rates and terms of interest to their members.

Upon the request of the parties, the Office vacated the schedule set in the October 18, 1996, order in order to allow the parties more time to negotiate the rates and terms for the section 118 compulsory license. In July 1997, however, the parties informed the Office that the negotiations had been unproductive and identified the need to convene a CARP to set reasonable terms and rates. At this time, the Office set a new schedule for the 45-day precontroversy discovery period, including a date for submitting proposals for the payment of royalties to unaffiliated copyright owners and a date for initiating the CARP. Order in Docket No. 96-6 CARP NCBRA (July 30, 1997).

In accordance with the new schedule, the National Religious Broadcasters Music License Committee (NRBMLC), the Public Broadcasting Service, and the National Public Radio filed proposed rates and terms for the payment of royalty fees to unaffiliated copyright owners on September 2, 1997. Subsequently, on October 1, 1997, the parties filed additional joint proposals for further adjusting the rates and terms of the section 118 compulsory license and notices of settlement. The only terms and rates not addressed in proposed regulations or a joint settlement concern the terms and rates relating to the performance of musical compositions in the repertoires of ASCAP and BMI by PBS and NPR.<sup>2</sup>

The Office has published all the proposed rates and terms in the **Federal Register** for public review and comment, pursuant to 37 CFR 251.63. 62 FR 51619 (October 2, 1997) and 62 FR 63502 (December 1, 1997). The December 1, 1997, notice announced that the proposed regulations would become final on January 1, 1998, unless an interested party filed a challenge to

<sup>1</sup> An unaffiliated copyright owner is one whose interests are not represented by a performing rights society, or by any other organization participating in the proceeding.

<sup>2</sup> The Office shall convene a CARP to determine the appropriate rates and terms in this instance. See Order in Docket No. 96-4 CARP NCBRA (July 30, 1997). Currently, these parties are engaged in precontroversy discovery.

the proposed regulations and a Notice of Intent to Participate in a CARP proceeding, on or before December 29, 1997. 62 FR 63502 (December 1, 1997). See also 62 FR 65777 (December 16, 1997) (correction notice clarifying the filing dates).

The proposed regulations, however, did not include the 1998 rates for the use of published nondramatic musical compositions in the repertoires of ASCAP and BMI by public broadcasting entities licensed to colleges, universities and other nonprofit educational institutions not affiliated with National Public Radio. In their direct cases, ASCAP and BMI proposed that the 1998 rate should be the current rate adjusted for a cost of living increase, according to the methodology adopted by the former Copyright Royalty Tribunal in the 1987 rate adjustment proceeding. 52 FR 49010 (December 29, 1987). The Office stated in the December 1, 1997, notice that it would publish these rates in the final regulations.

The Copyright Office has received no comments or Notices of Intent to Participate in a CARP proceeding in response to its notices announcing the proposed regulations for adjusting certain rates and terms of the noncommercial educational broadcasting compulsory license. Therefore, the Office announces the adoption of the proposed regulations published on December 1, 1997, as final regulations, including the rate for the performance of musical compositions in the ASCAP and BMI repertoires by public broadcasting entities licensed to colleges and universities.

The Office has calculated these rates based on a 2.1% change in the Consumer Price Index (CPI), during the period between the first CPI subsequent to December 1, 1996, and the last CPI published prior to the December 1, 1997. (1996's figure was 158.3; 1997's figure was 161.6, based on 1982-1984 equaling 100). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertory of ASCAP and BMI is \$222. The rate for the use of musical works in the SESAC repertory, which in subsequent years will be adjusted in a like manner, was set at \$60 in the joint proposal submitted by SESAC and the American Council on Education and included in the proposed regulations at 37 CFR 253.5(c)(3).

**Regulatory Flexibility Act**

Consistent with the requirements of the Regulatory Flexibility Act, the Copyright Office has considered the effect of this final regulation on small businesses and has determined that it

will have no significant impact. The Copyright Act creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. The purpose of such compulsory license is to allow any business small or large to make use of the compulsory license instead of privately negotiating rates and terms. Reliance on the compulsory license saves time, effort, and expense.

The rates and terms of such compulsory license are subject to adjustment at five year intervals. The last setting of terms and rates was published in the **Federal Register** in 1992. The Office initiated the process for adjusting rates and terms on October 18, 1996, by announcing a negotiation period. The law requires the Office to convene a Copyright Arbitration Royalty Panel (CARP) if the parties do not agree upon the rates and terms. The Office vacated the original schedule in order to allow the parties more time to negotiate the rates and terms for the section 118 compulsory license. All announcements that affected the parties were published both in the **Federal Register** and online (<http://lcwebs.loc.gov/copyright>). At the conclusion of the negotiation period, the rates and terms were agreed upon by the parties except in one area which does not affect any small business. The businesses which did not reach agreement are all dominant in their field of operation.

**List of Subjects in 37 CFR Part 253**

Copyright, Music, Radio, Television.

**Final Regulations**

For the reasons set forth in the preamble, the Library amends 37 CFR part 253 as follows:

**PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING**

1. The authority citation for part 253 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1) and 803.

**§ 253.1 [Amended]**

2. The first sentence of § 253.1 is amended to remove the year dates "1993" and "1997" and to add in their place "1998" and "2002", respectively.

3. Section 253.4 is amended by revising the introductory text, paragraphs (a)(1) through (8), and the last sentence of paragraph (c) to read as follows:

**§ 253.4 Performance of musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d).**

The following schedule of rates and terms shall apply to the performance by PBS, NPR and other public broadcasting entities engaged in activities set forth in 17 U.S.C. 118(d) of copyrighted published nondramatic musical compositions, except for public broadcasting entities covered by §§ 253.5 and 253.6, and except for compositions which are the subject of voluntary license agreements, or compositions in the repertoires of ASCAP, BMI or SESAC which are licensed on terms and conditions established by a duly empowered Copyright Arbitration Royalty Panel pursuant to the procedures set forth in subchapter B of 37 CFR, part 251.

(a) *Determination of royalty rates.* (1) For the performance of such a work in a feature presentation of PBS:

1998-2002 ..... \$211.53

(2) For the performance of such a work as background or theme music in a PBS program:

1998-2002 ..... \$53.59

(3) For the performance of such a work in a feature presentation of a station of PBS:

1998-2002 ..... \$18.08

(4) For the performance of such a work as background or theme music in a program of a station of PBS:

1998-2002 ..... \$3.81

(5) For the performance of such a work in a feature presentation of NPR:

1998-2002 ..... \$21.44

(6) For the performance of such a work as background or theme music in an NPR program:

1998-2002 ..... \$5.20

(7) For the performance of such a work in a feature presentation of a station of NPR:

1998-2002 ..... \$1.52

(8) For the performance of such work as background or theme music in a program of a station of NPR:

1998-2002 ..... \$.54

\* \* \* \* \*

(c) \* \* \* Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with ASCAP or BMI covering

the license period January 1, 1998, to December 31, 2002, to prepare a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

\* \* \* \* \*  
 4. In § 253.5, paragraphs (c) (1) through (3) are revised to read as follows:

**§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.**

\* \* \* \* \*  
 (c) \* \* \*  
 (1) For all such compositions in the repertory of ASCAP, \$222 annually.  
 (2) For all such compositions in the repertory of BMI, \$222 annually.  
 (3) For all such compositions in the repertory of SESAC, \$60 annually.

\* \* \* \* \*  
 5. In § 253.6, paragraph (c) is revised to read as follows:

**§ 253.6 Performance of musical compositions by other public broadcasting entities.**

\* \* \* \* \*  
 (c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, in 1998, \$375; in 1999, \$390; in 2000, \$405; in 2001, \$420; in 2002, \$440.  
 (2) For all such compositions in the repertory of BMI, in 1998, \$375; in 1999, \$390; in 2000, \$405; in 2001, \$420; in 2002, \$440.  
 (3) For all such compositions in the repertory of SESAC, in 1998, \$78; in 1999, \$82; in 2000, \$86; in 2001, \$89; in 2002, \$92.  
 (4) For the performance of any other such compositions, in 1998 through 2002, \$1.

\* \* \* \* \*  
 6. Section 253.7 is amended by revising paragraph (a); revising the schedules in paragraphs (b)(1) (i) and (ii), (b)(2) and (b)(4); and revising the last sentence of paragraph (b)(5) to read as follows:

**§ 253.7 Recording Rights, Rates and Terms.**

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, or compositions

represented by the Harry Fox Agency, Inc., SESAC, and/or the National Music Publishers Association and which are licensed on terms and conditions established by a duly empowered Copyright Arbitration Royalty Panel pursuant to the procedures set forth in this subchapter, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) \* \* \*  
 (1) \* \* \*  
 (i) \* \* \*

Feature .....	1998-2002	\$106.04
Concert feature (per minute) ...		31.84
Background .....		53.59
Theme:		
Single program or first series program .....		53.59
Other series program .....		21.75
(ii) * * *		

Feature .....	1998-2002	\$8.76
Concert feature (per minute) ...		2.30
Background .....		3.81
Theme:		
Single program or first series program .....		3.81
Other series program .....		1.52

\* \* \* \* \*  
 (2) \* \* \*

Feature .....	1998-2002	\$11.48
Concert feature (per half hour) .....		16.85
Background .....		5.75
Theme:		
Single program or first series program .....		5.75
Other series program .....		2.29

\* \* \* \* \*  
 (4) \* \* \*

Feature .....	1998-2002	\$7.74
Feature (concert)(per half hour) .....		1.54
Background .....		.37

(5) \* \* \* Such succeeding uses which are subsequent to December 31, 2002, shall be subject to the royalty rates established in this schedule.

\* \* \* \* \*

7. In § 253.8, paragraph (b)(1) and the last sentence of paragraph (f)(1) are revised as follows ( the undesignated paragraph following paragraph (b)(1) is unchanged):

**§ 253.8 Terms and rates of royalty payments for the use of published pictorial, graphic and sculptural works.**

\* \* \* \* \*  
 (b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

(i) For such uses in a PBS-distributed program:  
 (A) For a featured display of a work.  
 1998-2002 ..... \$64.78]

(B) For background and montage display.  
 1998-2002 ..... \$31.59

(C) For use of a work for program identification or for thematic use.  
 1998-2002 ..... \$127.71

(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of the schedule.

1998-2002 ..... \$41.95

(ii) For such uses in other than PBS-distributed programs:

(A) For featured display of a work.  
 1998-2002 ..... \$41.95

(B) For background and montage display.  
 1998-2002 ..... \$21.51

(C) For use of a work for program identification or for thematic use.  
 1998-2002 ..... \$85.76

(D) For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the semin reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule.  
 1998-2002 ..... \$21.51

\* \* \* \* \*

(f) *Terms of use.* (1) \* \* \* Such succeeding uses which are subsequent to December 31, 2002, shall be subject to the rates established in this schedule.  
 \* \* \* \* \*

8. In § 253.10, the first sentence of paragraph (a) is revised to read as follows:

**§ 253.10 Cost of living adjustment.**

(a) On December 1, 1998, the Librarian of Congress shall publish in

the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 1997, to the most recent Index published prior to December 1, 1998.

\* \* \* \* \*

Dated: January 6, 1998.

**David O. Carson,**  
General Counsel.

Approved by.

**James H. Billington,**  
The Librarian of Congress.

[FR Doc. 98-819 Filed 1-13-98; 8:45 am]

BILLING CODE 1410-33-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN80-1a; FRL-5929-5]

### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a State Implementation Plan (SIP) revision for the State of Indiana which was submitted January 23, 1997, pursuant to the Environmental Protection Agency (EPA) general conformity rules set forth at 40 Code of Federal Regulations (CFR) part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Section 51.851(a) of the general conformity rules requires each State to submit to EPA a revision to its applicable SIP which contains criteria and procedures for assessing conformity of Federal actions to applicable SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. Indiana's SIP submission incorporates by reference the criteria and procedures set forth at 40 CFR part 51, subpart W. This general conformity SIP revision will enable the State of Indiana to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level.

This approval is limited only to the general conformity SIP revision submitted pursuant to 40 CFR part 51, subpart W. Indiana submitted additional rules under 40 CFR part 51, subpart T, relating to conformity of Federal transportation actions funded or

approved under Title 23 U.S.C. or the Federal Transit Act, which will be addressed in a separate notice. This action provides the rationale for today's approval.

**DATES:** The "direct final" is effective on March 16, 1998, unless EPA receives written adverse or critical comments by February 13, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the revision request are available for inspection at the following address:

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Ryan Bahr, Environmental Engineer, at (312) 353-4366 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. **FOR FURTHER INFORMATION CONTACT:** Ryan Bahr, Environmental Engineer, at (312) 353-4366.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 176(c) of the Clean Air Act (Act), 42 U.S.C. 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP that has been approved or promulgated pursuant to the Act. "Conformity" is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. Section 176(c) further states that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Section 176(c)(4)(A) of the Act requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions to applicable SIPs. Criteria and procedures for determining conformity of Federal actions related to transportation projects funded or approved under Title 23 U.S.C. or the

Federal Transit Act are set forth at 40 CFR part 93, subpart A. The criteria and procedures for determining conformity of other Federal actions, the "general conformity" rules, were published in the November 30, 1993, **Federal Register** and codified at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

##### II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the Act, the Indiana Department of Environmental Management (IDEM) submitted its general conformity SIP revision to the EPA on January 23, 1997. In its submittal, the State provided rules codified at 326 Indiana Administrative Code (IAC) 16-3 which incorporated the Federal general conformity requirements by reference (40 CFR part 51, subpart W). EPA found the submittal complete in a letter dated June 24, 1997. Under 40 CFR 51.853 (b), general conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The Indiana area designations are listed in 40 CFR 81.315.

IDEM gave public notice and opportunity for comment on the general conformity submittal on January 11, 1996, February 7, 1996, and April 3, 1996. No adverse comments were received on this rule.

##### III. EPA Criteria for General Conformity Submittal

The State's SIP revision must contain criteria and procedures that are no less stringent than the Federal rule. The revision incorporated the provisions of the entire Federal general conformity rule, Subpart W: 40 CFR 51.850 to 51.860 with the exception of § 51.851. Section 51.851 requires that the State incorporate the provisions of the Federal rule into the State code and, therefore, does not need to be incorporated into the State Code.

##### IV. EPA Rulemaking Action

The EPA is approving the general conformity SIP revision for the State of Indiana. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules set forth at 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations were undertaken during development and adoption of this SIP revision. Because EPA considers this action to be noncontroversial and routine, EPA is approving it without prior proposal. This action will become