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Presidential Documents

Title 3—

The President

Proclamation 7595 of September 19, 2002

National POW/MIA Recognition Day, 2002

By the President of the United States of America

A Proclamation

Throughout American history, many men and women have bravely served in our military and sacrificed much to preserve our country and protect the democratic ideals that make our Nation a beacon of hope. Some of those who answered the call to service were captured in conflict and imprisoned by our enemies; and many remain missing in action.

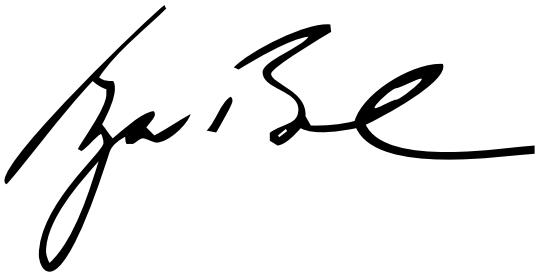
Each year on National POW/MIA Recognition Day, we honor those Americans who were prisoners of war and recognize them for the courage and determination they showed in the face of unspeakable hardships. We also honor those who remain unaccounted for, especially remembering the sacrifices of their families who must courageously face each day without knowing the fate of their loved ones.

Nearly 60 years after the end of World War II, the fate of more than 78,000 Americans who fought in that conflict remains unknown. More than 8,100 from the Korean War are missing, more than 120 from the Cold War, more than 1,900 from the Vietnam War, and three from the Gulf War. These Americans, who dedicated their lives to preserving and protecting our freedoms, will never be forgotten.

On September 20, 2002, the flag of the National League of Families of American Prisoners and Missing in Southeast Asia will be flown over the White House, the Capitol, the Departments of State, Defense, and Veterans Affairs, the Selective Service System Headquarters, the National Vietnam Veterans Memorial, the Korean War Veterans Memorial, U.S. military installations, national cemeteries, and other locations across our country. With this observance, we reaffirm our commitment to those who have suffered the horrors of enemy captivity, to those who have yet to return from battle, and to their families. We remain dedicated to resolving discrepancy cases, achieving the fullest possible accounting of our prisoners of war and missing in action, and bringing them home with the honor and dignity that they deserve.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 20, 2002, as National POW/MIA Recognition Day. I call upon all the people of the United States to join me in honoring former American prisoners of war who suffered the hardships of enemy captivity, and in renewing our commitment to those still missing. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 02–24464
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Billing code 3195–01–P

Presidential Documents

Proclamation 7596 of September 20, 2002

Minority Enterprise Development Week, 2002

By the President of the United States of America

A Proclamation

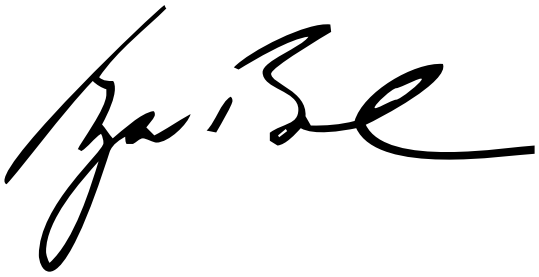
Entrepreneurs help make America strong and are essential to our economic success. Their talent, skill, and hard work have helped sustain our Nation since its founding; and their disciplined work ethic and capacity for innovation reflect the true character of our country. During Minority Enterprise Development Week, we celebrate our more than 3 million minority- owned businesses, and we recognize the important contributions they make to the United States of America.

To promote prosperity in our Nation, Government must help create an environment where innovative, hardworking, and determined individuals have the opportunity to fully participate and succeed in our economy. Last year's tax relief initiative, including the repeal of the ''Death Tax,'' was an important part of developing an enhanced business climate in America. And this year, I signed two pieces of legislation into law that will promote growth. The Trade Act of 2002 gives me new Trade Promotion Authority that will help boost our economy, create new jobs, and provide America with the opportunity to participate in new and emerging international markets. And the Sarbanes-Oxley Act of 2002 will improve business practices by creating tough corporate responsibility laws that will help expose and punish acts of corruption and protect small investors. These vital initiatives will benefit minority business enterprises and help these important job creators compete fully and fairly in the global economy.

My Administration, through the efforts of the Department of Commerce's Minority Business Development Agency (MBDA) and the Small Business Administration (SBA), is committed to promoting the growth of minority businesses. In FY 2001, the MBDA assisted minority businesses in gaining access to $1.6 billion in contracts. In addition, last year the SBA offered assistance to more than 1 million small business owners, and continues to play a major role in our Nation's disaster relief efforts by making low-interest recovery loans available to Americans. The important efforts of the MBDA and SBA help businesses build entrepreneurial opportunity for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 22 through September 28, 2002, as Minority Enterprise Development Week. I call upon all Americans to celebrate this week with appropriate observances, ceremonies, and activities, and to recognize the countless contributions of our Nation's minority enterprises.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 02–24465
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Presidential Documents

Proclamation 7597 of September 20, 2002

Family Day, 2002

By the President of the United States of America

A Proclamation

America's character begins in the home, where children learn proper standards of conduct, principled values, and the importance of service. Families provide children the encouragement, support, and love they need to become confident, compassionate, and successful members of society. We must work together to promote and preserve the health and security of our families by upholding the timeless values that have sustained our society through history.

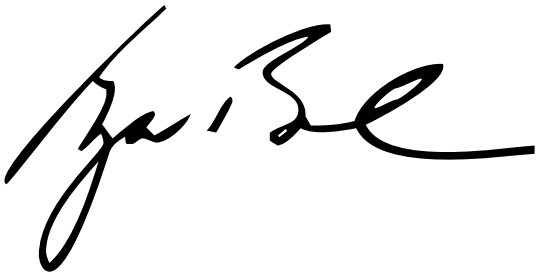
Recent events have reminded Americans of the blessings of family and friends, and of the importance of faith. As a Nation, we have a renewed dedication to our freedom, our country, and our principles. In homes, schools, places of worship, the workplace, and civic and social organizations, we must continue to encourage responsibility, compassion, and good citizenship.

Americans must also act to fight crime and drugs, and provide a safe and healthy environment for our children. We can begin by working to strengthen the bonds and improving communication between parents and children. Research done by the National Center on Addiction and Substance Abuse at Columbia University has consistently shown that the more often children eat dinner with their parents, the less likely children are to smoke, drink, or use illegal drugs. Naturally, parents should be the most prominent and active figures in their children's lives. By spending more family time together, parents can better engage with their children and encourage them to make the right choices.

The nurturing and development of our families require investment, focus, and commitment. Strong families make strong and drug-free communities. By taking time to develop positive and open relationships with their children, parents help fight the war on drugs and encourage positive choices. Across our land, citizens, schools, and civic institutions can assist families by helping to meet the needs of all those who live in our communities. As we work together to strengthen our families, we will build a Nation of hope and opportunity for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 23, 2002, as Family Day. I call upon the people of the United States to observe this day by spending quality time with family members and engaging in other nurturing activities to strengthen the relationships between parents and children and help fight against substance abuse.

IN WITNESS WHEREOF, I have hereunto set my hand this Twentieth day of September, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



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Presidential Documents

Notice of September 23, 2002

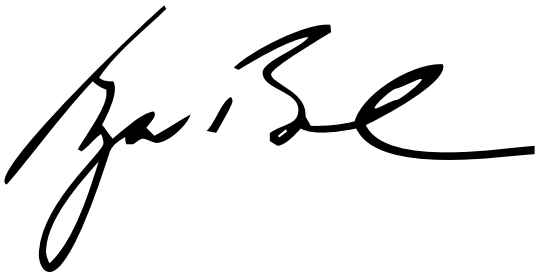
Continuation of the National Emergency With Respect to UNITA

In accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared by the President on September 26, 1993, by Executive Order 12865, to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of the National Union for the Total Independence of Angola (UNITA). The order prohibits the sale or supply by United States persons or from the United States, or using U.S. registered vessels or aircraft, of arms, related materiel of all types, petroleum, and petroleum products to the territory of Angola, other than through designated points of entry. The order also prohibits the sale or supply of such commodities to UNITA.

The President took additional measures with respect to the national emergency declared in Executive Order 12865 by issuing Executive Orders 13069 and 13098 on December 12, 1997, and August 18, 1998, respectively. Those orders close all UNITA offices in the United States, block all property and interests in property of UNITA and designated UNITA officials and adult members of their immediate families, prohibit the importation of certain diamonds exported from Angola, and impose additional sanctions with respect to the provision of mining and transportation equipment and services.

Because of our continuing international obligations and because of the prejudicial effect that discontinuation of the sanctions would have on prospects for peace in Angola, the national emergency declared on September 26, 1993, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond September 26, 2002. Therefore, I am continuing the national emergency with respect to UNITA.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
September 23, 2002.

[FR Doc. 02–24467
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Rules and Regulations

Federal Register

Vol. 67, No. 186

Wednesday, September 25, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 214

[INS No. 2217–02]

RIN 1115–AG71

Requiring Certification of all Service Approved Schools for Enrollment in the Student and Exchange Visitor Information System (SEVIS)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with requests for comments.

SUMMARY: This rule will amend the Immigration and Naturalization Service (Service) regulations governing review and certification of Service approved schools and will continue the implementation of the process by which schools may be approved to obtain access to the Student and Exchange Visitor Information System (SEVIS). On October 30, 2001, the President issued Homeland Security Directive No. 2 (Directive 2) requiring the Service to conduct periodic reviews of all institutions certified to receive nonimmigrant students. The Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173 (Border Security Act), enacted May 14, 2002, also requires a periodic review of school approval. While the Service has an existing process for certifying and decertifying schools, the Service is requiring that all schools must apply for certification, in accordance with these new mandates, prior to being allowed to enroll in SEVIS.

DATES: Effective date. This interim rule is effective September 25, 2002.

Comment date. Comments must be submitted on or before November 25, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2217–02 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically, you must include INS No. 2217–02 in the subject heading so that your comments can be routed to the appropriate program office. Comments may be inspected at the above address by calling (202) 514–3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Maura Deadrick, Immigration and Naturalization Service, 425 I Street NW, Washington DC 20536, telephone number (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (Act) establishes the F nonimmigrant visa classification for foreign students who wish to come to the United States temporarily to attend an academic or language training institution. Section 101(a)(15)(M)(i) of the Act establishes the M nonimmigrant visa classification for foreign students who wish to come to the United States temporarily to attend a vocational education institution. An F or M nonimmigrant student may enroll in a particular school only if the Attorney General has approved the school for the attendance of F and M nonimmigrants. The Service exercises the Attorney General's authority to approve, or withdraw the approval of, schools that desire to admit F and M nonimmigrant students. The current regulations are codified in 8 CFR 214.3 and 214.4.

On October 30, 2001, the President issued Homeland Security Directive No. 2 (Directive 2) requiring the Service to conduct periodic reviews of all institutions approved to accept nonimmigrant students.

More recently, section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act), Public Law 107–173, enacted May 14, 2002, requires the Service to review all schools approved by the Service for attendance by F or M nonimmigrant students within 2 years of the passage of the Border Security Act. The Border Security Act also requires the Service to conduct periodic reviews of the approval of schools every 2 years thereafter.

The Service's proposed SEVIS implementation rule, 67 FR 34862 (May 16, 2002), establishes the regulatory framework for SEVIS and provides that the use of SEVIS will become mandatory for all schools on a mandatory compliance date of January 30, 2003. Once the final SEVIS implementation rule is adopted, and the mandatory compliance date is reached, all Service-approved schools will be required to use SEVIS for the admission of new students and for the issuance of new forms for existing students. Once a school is approved and enrolled in SEVIS, it must issue Forms I–20 for all newly enrolled students from SEVIS. Furthermore, if a current student needs a new Form I–20 the school must enter the student into SEVIS at that time in order to issue a SEVIS Form I–20. The school may enter all of its current students prior to January 30, 2003 if it so desires, but is not required to do so. Following the mandatory compliance date, all new incoming foreign students must be entered into SEVIS. Schools must enter all current or continuing students, into SEVIS by the end of the next academic cycle. For example, in a semester academic calendar if a current student is returning for a 2003 summer session, as that would most likely be the next academic cycle, that student must be entered into SEVIS in order to verify current enrollment. Another example might be if the student is within a quarter academic calendar, the 2003 spring quarter would be when that student must be entered into SEVIS.

To facilitate the review of all Service-approved schools and to ensure the enrollment of all eligible schools in SEVIS in a timely manner, the Service has implemented a two-phased process for school review and SEVIS enrollment.

Phase I was a preliminary enrollment period for certain currently accredited schools. 67 FR 44344 (July 1, 2002). Eligible schools who applied during the preliminary enrollment period were granted preliminary access to SEVIS prior to paying the full certification fee or submitting to a full certification review. Preliminary enrollment began

on July 1, 2002, and closed with the publication of this rule, as provided in 8 CFR 214.12(b). Those schools that have electronically submitted a Form I–17 in SEVIS, under preliminary enrollment as provided in 8 CFR 214.12 prior to September 25, 2002, will be adjudicated in accordance with the preliminary enrollment requirements. Schools that have begun to fill out Form I–17 in SEVIS and saved the form as a draft, but who have not electronically submitted the form in SEVIS prior to September 25, 2002, will be required to pay the certification fee prior to certification in SEVIS in accordance with this rule.

This interim rule implements Phase II of the transition to SEVIS and provides that all schools not already approved to use SEVIS—including a school that would have been eligible for preliminary enrollment under 8 CFR 214.12 but did not apply for preliminary enrollment—must undergo a certification review, and pay the associated fee, prior to enrollment in SEVIS.

This rule implements Directive 2 and the Border Security Act by requiring each school that is currently approved for attendance by F and M nonimmigrants to undergo a review by the Service for approval in SEVIS no later than the SEVIS mandatory compliance date. This opportunity to review currently-approved schools will help ensure the integrity of the SEVIS program.

Petition for Initial Approval for Use of SEVIS

The school should begin the review process by accessing the SEVIS Web site at *www.ins.usdoj.gov/sevis.* By entering the basic contact information required, the school official that will be filing the petition for access to SEVIS will be issued a temporary user ID and password for SEVIS. Using this ID and password, the school official will access SEVIS on-line and complete and electronically submit the Form I–17 and the required fee.

In order to be reviewed by the Service and be granted access to SEVIS prior to the mandatory compliance date, schools are strongly encouraged to submit an electronic Form I–17 to the Service using SEVIS no less than 75 days prior to the compliance deadline. The Service cannot guarantee timely final action on any Form I–17 petition not filed at least 75 days prior to the SEVIS mandatory compliance deadline. In general, Forms I–17 will be adjudicated in a timely manner within 6 months of filing in accordance with the Service's backlog reduction plan. A school that has a Form I–17 pending adjudication in SEVIS after the mandatory compliance date will be unable to issue Forms I–20 until approved and granted SEVIS access.

A school's approval will be automatically withdrawn as of the day following the SEVIS mandatory compliance date if the school has not submitted an electronic Form I–17 to initiate the certification review process by then. If a school's approval is withdrawn, the school may not issue any Forms I–20 for new F or M nonimmigrant students. Currently enrolled students must transfer to a different Service-approved school no later than the next semester, quarter, trimester or other academic term.

Review of Petitions for Initial Certification and Enrollment in SEVIS

The current regulations, in 8 CFR 214.3, provide for a paper-based application process, in which the school seeking Service approval must submit a paper Form I–17 together with specific forms of documentation. The evidentiary requirements are currently contained in 8 CFR 214.3(b) and (c) and the instructions on Form I–17. With the advent of electronic filing of the Form I–17, the school will not be required to present the accompanying documentation until the time of the on-site visit, as discussed below.

The purpose of certification review under this rule is two-fold: both to establish the bona fides of the school with regard to its educational or vocational programs, and also to review the adequacy of the school's past and current efforts to comply with the existing requirements governing foreign students. The Service recognizes that many schools are already accredited by educational organizations recognized by the Department of Education, or are approved by state education agencies. Accordingly, the Service will coordinate with the Department of Education and other appropriate education agencies regarding the documentation needed to establish the bona fides of such schools. However, neither the Department of Education nor other education agencies currently maintain information regarding the compliance of each school with the existing requirements of the Service's regulations governing foreign students. Accordingly, the Service will still need to conduct a certification review for such schools to determine the adequacy of the school's compliance with the foreign student requirements. The Service will review and adjudicate the electronic Form I–17, as supplemented by the results of the completed on-site visit. During the on-site visit any signatures or supporting documentation will be collected and will be provided to the Service with the on-site report. Schools will receive notice of full certification approval, denial, or request for evidence via a SEVIS-generated electronic mail.

If a Service Officer requires clarification, updated documentation or further evidence to properly adjudicate the Form I–17, a request for evidence will be issued. Schools will receive notice of a request for evidence via a SEVIS-generated electronic mail, which will identify specific information or clarification the Service requires.

Approved schools will be enrolled in SEVIS and the Designated School Officials (DSO) listed on the electronic Form I–17 will be issued permanent user ID and passwords. If denied, the petitioner will receive e-mail notification through SEVIS and written notification from the Service.

If a school is denied certification, the school will receive written notice of the reasons for the denial and of the process for seeking review of such denial. The Service intends to issue a notice of proposed rulemaking in the near future to revise the withdrawal and appeal processes for schools in the foreign student program.

On-Site Reviews

This rule provides for an on-site visit as part of the certification. At the time of the on-site review, the school will be able to present supporting documentation evidencing its eligibility for Service approval.

The Service will determine by risk analysis the order in which schools will undergo an on-site review. All vocational (M) schools, flight schools, and language schools will be required to complete an on-site review before the Service will allow them to enroll in SEVIS. However, upon the discretion of the Service, the Service may allow conditional enrollment in SEVIS for accredited schools or for public secondary schools, prior to an on-site visit. Such schools will still be required to pay the associated on-site review fee when filing their Form I–17. If the Service does conditionally enroll schools in SEVIS, prior to an on-site visit, those schools will be subject to the full-scale review and on-site visit at a later date. The Service may request certain supporting information from schools in making a determination for conditional enrollment. Schools granted conditional enrollment may ultimately be denied certification based upon the results of the on-site review.

In general, all schools need to establish that they are bona fide

institutions of learning with the financial ability to remain a viable institution. The Service will utilize Department of Education information, as appropriate, to assist in the verification of the school's bona fides. The required supporting documentation is specific to the type of school petitioning. The evidentiary requirements are currently contained in 8 CFR 214.3(b) and (c) and in the instructions on the Form I–17. More detailed information and examples of the evidentiary documentation that the Service will accept from each school type will be made available on the Service's website.

Upon review of the findings of the on-site visit and any supporting documentation, a Service officer will determine the school's eligibility for approval. If the school was required to undergo the certification review, including an on-site visit, prior to enrollment in SEVIS, the school will be enrolled in SEVIS if approved. Schools that were approved for preliminary enrollment by the Service under 8 CFR 214.12, or that are conditionally enrolled in SEVIS under the Service's discretionary authority as provided in this rule under 8 CFR 214.3(h)(2) without an on-site visit, must complete the full certification review process prior to May 14, 2004. Until an on-site visit is conducted, a school enrolled in SEVIS under preliminary enrollment or conditional enrollment will be permitted to operate in SEVIS. After an on-site visit is conducted and the review process is completed, if approved, the school will be fully certified and may continue in SEVIS. If, after the on-site visit, the Service denies full certification, the Service will send electronic notification through SEVIS to the school indicating the reasons for the denial and the process for seeking review of such denial.

Subsequent Certification Reviews Every 2 Years

This interim rule only governs the initial process for certification of schools prior to enrollment in SEVIS (or, for schools previously approved for preliminary enrollment in SEVIS pursuant to 8 CFR 214.12, for initial certification prior to May 2004). However, both Directive 2 and the Border Security Act require the Service to conduct periodic reviews of all Service-approved schools. Accordingly, every school that completes the certification process under this rule must be reviewed every 2 years thereafter. This is a departure from the current practice, in which a school's approval continues indefinitely, unless the Service affirmatively withdraws the approval. For this reason, the Service is striking the provision in 8 CFR 214.3(e)(2) relating to indefinite approval and inserting a reference to clarify that schools must be approved every two years.

At this time, this rule simply amends 8 CFR 214.3(h) to note that the Border Security Act requires a review of all approved schools every 2 years. The Service will implement, in a separate rulemaking proceeding, more specific procedures for schools to apply for a subsequent certification review—after having completed the initial certification process under this rule.

Fee for the Initial Filing of Form I–17

As the Service will be requiring on-site reviews prior to the initial approval of Form I–17, a new fee is necessary to support the review. The new fee includes the current internal Service cost, $230, for the review of the Form I–17, as well as the cost of the on-site review, $350, for a total of $580.

The primary difference between the Internet system and the paper system is how the school submits Form I–17. Instead of the current, paper-based process of the school having to request the form, fill out the form, and mail to the Service, the school will now electronically complete and submit the form to the Service. As stated above, the $580 fee includes both the base cost of processing of the Form I–17 and the on-site visit. In addition, the cost of the on-site review must be paid for each additional campus listed on the Form I–17B, with the exception of secondary public school systems. The per-campus cost is due to the fact that each campus will be subject to an on-site review. For instance, if School X, when submitting the Form I–17, lists two additional campuses, the total fee paid by School X is $1280 ($580 + $350 + $350). Instructions for electronic payment of the fee will be included on the Internet for schools when applying for review and enrollment in SEVIS.

Calculation of the New Fee

Federal guidelines require the Service to establish and collect application fees to recover the full cost of providing immigration and naturalization services, rather than supporting these services with tax revenue. This rule requires all schools not already approved to use SEVIS to pay the certification fee prior to certification in SEVIS. If a school pays this fee and is granted enrollment in SEVIS prior to the on-site review, the school will not be required to pay the fee again at the time of that on-site review. All schools must pay the same certification fee.

The fee for initial certification is $580. A certification fee also will be charged for each subsequent 2-year re-certification. While the fee will be re-visited every 2 years to assure that the Service is charging no more and no less than the full costs of the school review, the Service anticipates a fee for re-certification that is comparable to the initial certification fee.

This fee is based on the internal Service cost, $230, plus the average cost of a required site visit to the school to perform a compliance verification, $350. The $230 internal Service cost was established previously and is not changed by this interim rule. *See* 66 FR 65811 (December 21, 2001).

The additional $350 cost for an on-site visit and compliance verification was calculated, and procurement strategy formulated, as follows: The Service will hire contractors to make the site visits and produce standard reports for the Service to consider before approving any school's use of SEVIS. The Service intends to award multiple contracts to ensure that there is enough capacity to handle a large number of school applicants.

In early June 2002, the Service issued a request for proposals to six vendors who have ''schedule contracts'' with the General Services Administration (GSA) and are available to perform services of this type for federal departments and agencies. The GSA requires agencies to request proposals from at least three vendors before entering an agreement with a vendor for services, but in this case the Service elected to solicit proposals from six vendors. The statement of work for the vendors describes the type of site visits required. Site visits will include collection of supporting documentation submitted by the school, a tour of the campus, an interview with school officials, and a review of selected school records relating to the school's compliance with applicable standards under 8 CFR 214.3. The statement of work also includes a template to be used on site by the vendor to collect the above mentioned information and prepare a report. In order to expedite the certification process, vendors will be required to deliver these reports to the Service within 10 working days from the time that the site visit is requested. The information in this report will assist the Service in verifying both the bona fides of the school and, in the case of currently approved schools, the continued compliance with recordkeeping and reporting requirements. Each vendor is required

to have a nationwide network of qualified and trustworthy employees available to perform these site visits. On this basis, five vendors submitted proposals to the Service to perform these services, with a fixed price per on-site review.

The Service derived the on-site review portion of the fee by taking the three lowest-priced proposals and taking the average of their fixed prices proposed for the first 2 years of the contract. The Service did not take the lowest bid with one contractor, because using only one contractor would not provide sufficient assurance that a large number of reviews could be completed within a short period of time and with the level of quality that is required. The Service also did not give preferential weight to any one bid when calculating this average cost because the Service cannot anticipate the geographic or numerical capacity, quality, or timeliness of any one vendor. The Service believes that this method will take advantage of the economies offered by competitive pricing, without sacrificing quality or capacity to conduct a large number of on-site reviews during a short period of time. In addition, the calculation excluded the highest bid proposed because the Service believes that three vendors should be sufficient. The calculation excluded years 3 through 5 of the vendor proposals because Federal guidelines require the Service to reconsider all fees on a 2 year cycle. Therefore, the Service will review the certification/re-certification fee in 2 years to ensure that it is charging no more and no less than the full costs of providing this service.

Certification Fee for Public Schools

While the current regulations at 8 CFR 103.7(b)(1) exempt all publicly owned or operated institutions from the payment of the Form I–17 fee, because the Service will be conducting an on-site review of all approved schools every 2 years, as well as for any schools applying for initial approval, a fee payment is now necessary to fund this comprehensive plan for review. Although public schools were historically exempt from the Form I–17 adjudication fee, there is no adequate basis to continue such an exemption. The Service incurs processing and internal review costs for adjudicating any Form I–17, regardless of whether a school is a public or private institution.

A public secondary school or school system owned or operated as a public educational institution or system by the United States or a state or political subdivision thereof is required to pay only the $580 fee for the entire school system, and not an additional fee for each school within that system. However, public, postsecondary schools with more than one campus must pay a fee for each school or campus.

Initial Form I–17 Petitions for School Approval That Were Filed by Schools Prior to September 25, 2002, But Have Not Yet Been Adjudicated

A school that filed an initial petition for school approval, Form I–17, with the Service, but not via SEVIS under preliminary enrollment, prior to September 25, 2002, and whose petition is still pending approval before the Service on that date, has two options.

The Service will contact the school to determine whether the school would like to re-file the Form I–17 electronically through SEVIS. If the school does intend to re-file electronically, the school would be required to undergo a full-scale review, including an on-site visit prior to being granted enrollment in SEVIS. The school would not have to pay the internal Service cost portion of the Form I–17 processing fee, $230, as it paid that portion of the fee at the time of filing the original Form I–17. However, as such a school would still have to undergo an on-site review, the school would be required to pay the cost of that review, $350 per campus. This additional fee would be paid as part of the electronic Form I–17 submission process.

If the school informs the Service that it does not wish to re-file in SEVIS, the Service will review and adjudicate the paper Form I–17 petition as submitted. If it wishes to enroll foreign students after the mandatory compliance date, such a school must still apply for certification in SEVIS, pay the full amount of the certification fee, and undergo a full scale review in accordance with this rule if it wishes to enroll foreign students after the mandatory compliance date.

All schools will be required to submit a Form I–17 electronically in SEVIS. One of the primary purposes of SEVIS is to transition to electronic filing and reporting. As an e-Gov system, SEVIS requires additional information that was not required in the older, paper-based, process, such as e-mail addresses. However, once a school has entered their Form I–17 electronically and been approved, the Service believes that utilizing SEVIS will reduce the school's burden, for example, by facilitating certain updates to the Form I–17 directly via SEVIS. Accordingly, schools must enter their own data into SEVIS.

Good Cause Exception

This rule is effective on publication in the **Federal Register**. The Service finds that good cause exists both for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553, and for making this rule immediately effective, rather than having it enter into force 30 days after publication. The USA PATRIOT Act, Public Law 107–56, mandates that SEVIS be fully implemented prior to January 1, 2003. Further, the Border Security Act requires the Service to review all schools within 2 years of its enactment. In order to meet the mandate for complete functionality of SEVIS while ensuring the integrity of data in SEVIS, a timely review of all schools is necessary prior to allowing a school to access SEVIS. Additionally, the provision for review of all approved schools is an important part of helping to safeguard against the abuse of the traditional American openness to foreign students by foreign terrorists. Because of the vital national security concerns that underpin Directive No. 2, the USA PATRIOT Act, and the Border Security Act, it would be contrary to the public interest to observe the requirements of 5 U.S.C. 533(b) and (d).

Regulatory Flexibility Act

The Commissioner, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that although this rule will have an economic impact on schools, the impact should not be significant since the $580 is not a substantial amount when considered in relation to the revenue generated by schools during the fiscal year. This money can easily be recouped through student fees or slight budget adjustments. Additionally, the information a school must submit is information that should be readily available to the school. Thus, any economic impact will not be ''significant.''

The fee is calculated based on the cost of conducting on-site visits, compliance verification, and staffing requirements.

Unfunded Mandates Reform Act of 1995

Section 502 of the Enhanced Security and Visa Entry Reform Act of 2002, Public Law 107–173, dated March 14, 2002, requires the Service to conduct a review of the institutions certified to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Act on a recurring 2-year basis. Although the Service will be charging a fee (to recover the cost of certification), and the fee will have an impact on State public

secondary schools and State universities, the Service has drafted the regulation to reduce the impact. For example, in the State of Virginia, the Fairfax County Public School system has 24 public high schools yet the Service would only require that the county pay a fee of $580 instead of $13,920 ($580 x 24 schools). Although the formula would be different for State universities that would require that they pay the $580 fee for each campus, the State universities would more than recoup the cost in the tuition they charge students. The Service estimates that the total cost every two years for the certification of all schools (including State universities and public secondary schools) covered under this rule will be $8.7 million (15,000 schools including universities with multiple campuses x $580 = $8.7 million) plus $162,000 (time spent by the school to undergo a site visit review based on the number of respondents (15,000) x 65 minutes (1.08) per response x $10 (average hourly rate) = $162,000) equaling $8.9 million that is far below the $100 million threshold.

Accordingly, the Service finds that this rule will not result in the expenditure by state, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 13132

As discussed above, the fee charged by the Service to recover the cost of certification will have an impact on State public secondary schools and State universities. However, the Service has drafted the regulation to reduce the impact. In the case of public secondary schools, the Service will charge one fee per school system, not a fee for each school within that system. Additionally, although State universities will be charged a fee for each campus, such institutions can recoup the cost in the tuition they charge students. Accordingly, the Service finds that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act of 1995

The information collection requirement to electronically enroll in SEVIS has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act. The OMB control number for this collection is 1115–0252.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.7(b)(1) is amended by revising the entry for ''Form I–I7'', to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form I–17. For filing a petition for school approval or recertification—$580 plus $350 per additional campus listed on Form I–17B.

* * * * *

PART 214—NONIMMIGRANT CLASSES

3. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

4. Section 214.3 is amended by:

a Revising the section heading;

b. Adding a new paragraph (a)(1)(i);

c. Adding and reserving a new paragraph (a)(1)(ii);

d. Revising paragraphs (d), (e)(2), and (h).

The additions and revisions read as follows:

§ 214.3 Approval of schools for enrollment of F and M nonimmigrants.

(a) * * *

(1) * * *

(i) *Filing a petition after the SEVIS mandatory compliance date.* Any school or school system seeking approval for attendance by nonimmigrant students after the SEVIS mandatory compliance date must electronically file a petition for initial approval using the Student and Exchange Visitor Information (SEVIS). To electronically file a petition, the petitioning school must access SEVIS on the Internet and provide the following information: the school's name; the first, middle, and last name of the contact person for the school; and the email address of the contact person. Once this basic information has been submitted, the school will be issued a temporary ID and password in order to access the SEVIS site to complete and submit an electronic Form I–17.

(ii) [Reserved.]

* * * * *

(d) *Interview of petitioner.* An authorized representative of the petitioner may be required to appear in person before an immigration officer prior to the adjudication of the petition to be interviewed under oath concerning the eligibility of the school for approval.

(e) * * *

(2) *General.* Upon approval of a petition, the district director shall notify the petitioner. An approved school is required to report immediately to the district director having jurisdiction over the school any material modification to its name, address, or curriculum for a determination of continued eligibility for approval. The approval is valid only for the type of program and student specified in the approval notice. The approval may be withdrawn in accordance with the provisions of 8 CFR 214.4, and is subject to review every 2 years.

* * * * *

(h) *SEVIS certification and school review.*—

(1) *Review of schools for initial enrollment in SEVIS.* Each school that is currently approved for attendance by nonimmigrants under section 101(a)(15)(F)(i) or 101(a)(15)(m)(i) of the Act, is required to apply for review by the Service for continuation of approval and access to SEVIS no later than the SEVIS mandatory compliance date.

(i) *SEVIS certification process.* In order to ensure that the Service has sufficient time to review and adjudicate all submitted Forms I–17 prior to the SEVIS mandatory compliance date, schools must electronically complete a Form I–17 in SEVIS and submit a certification fee of $580 at least 75 days prior to the SEVIS mandatory compliance date. A school may still submit a Form I–17 any time prior to the SEVIS mandatory compliance date. However schools that file petitions less than 75 days prior to the SEVIS mandatory compliance date may experience a period during which they may not issue Forms I–20 as the Service completes the review process. Schools may begin the review process by accessing the SEVIS website and entering the basic contact information required in order to receive a temporary user ID and password for SEVIS. Using this ID and password, the school official will again access the SEVIS website and complete and submit the electronic Form I–17.

(ii) *Preliminary enrollment in SEVIS.* Schools that were approved for preliminary enrollment by the Service under 8 CFR 214.12 must complete the certification review process, including submission of the required fee, prior to May 14, 2004.

(2) *Service adjudication.* The Service will review the electronic Form I–17 information submitted in SEVIS and will require an on-site visit of the school. If the Service approves the certification request, SEVIS will be updated to reflect the approval and will automatically generate permanent passwords and IDs for all Designated School Officials listed. Upon the discretion of the Service, certain schools may be conditionally enrolled in SEVIS prior to the on-site visit, as provided in § 214.12(e). If the Service does allow a school to enroll in SEVIS prior to an on-site review, the school will be subject to a full-scale review and on-site visit at a later date. If the Service denies SEVIS certification, the Service will send electronic notification through SEVIS to the school and mail written notification that includes the reasons for denial and the process for seeking review of such denial.

(3) *Two-year review of school approval.* The Service will review the approval of a school every 2 years and will charge a recertification fee to review a school's compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. If the Service determines that a recertification should be denied, the school will be notified of the reasons for denial and the process for seeking review of such denial.

(4) *Periodic review of approved schools.* In addition, the Service may, at any time, review the approval of a school to verify compliance with the reporting requirements of paragraph (g)(2) of this section and continued eligibility for approval pursuant to paragraph (e) of this section. The Service shall also, upon receipt of notification, evaluate any changes made to the name, address, or curriculum of an approved school to determine if the changes have affected the school's eligibility for approval. The Service may require the school under review to furnish a currently executed Form I–17 without fee, along with supporting documents, as a petition for continuation of school approval when there is a question about whether the school still meets the eligibility requirements. If upon completion of the review, the Service determines that the school is not eligible for continued access to SEVIS, the Service will institute withdrawal proceedings in accordance with 8 CFR 214.4(b).

* * * * *

5. Section 214.4 is amended by adding a new paragraph (a)(3), to read as follows:

§ 214.4 Withdrawal of school approval.

(a) * * *

(3) *Automatic withdrawal as of SEVIS mandatory compliance date.* The present approval of any school that has not filed for enrollment in SEVIS by the mandatory compliance date for attendance of nonimmigrant students under section 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act is automatically withdrawn as of the day following the mandatory compliance date for SEVIS. Given the time necessary to conduct a review of each school, the Service will review and adjudicate Form I–17 petitions for approval in SEVIS prior to the SEVIS mandatory compliance date only for Form I–17 petitions filed at least 75 days prior to this mandatory date. If a Form I–17 petition is filed less than 75 days prior to the mandatory compliance date and is not adjudicated prior to the mandatory compliance date, the school will not be authorized to access SEVIS and will be unable to issue any SEVIS Forms I–20 until the adjudication is complete.

Dated: September 19, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–24337 Filed 9–24–02; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–28–AD; Amendment 39–12885; AD 2002–19–05]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 212 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Bell Helicopter Textron, Inc. (BHTI) Model 212 helicopters that currently requires, at specified intervals, inspecting for a cracked tail boom and replacing any cracked tail boom. That AD also requires modifying the tail fin and tail boom within 100 hours time-in-service (TIS). This amendment requires modifying and visually inspecting

certain vertical fin left-hand spar caps for cracking, loose fasteners, corrosion, or disbonding. If corrosion or loose fasteners are found, this AD requires repairing the vertical fin left-hand spar cap (spar cap) and if a crack or disbonding is found, replacing any cracked or disbonded part with an airworthy part. This AD also requires replacing certain spar caps within 24 months. This AD is prompted by an accident and four failures of the spar cap involving helicopters of similar type design. The actions specified by this AD are intended to prevent failure of a vertical fin spar, loss of a tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective October 30, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 30, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Harrison, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5128, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 74–08–03, Amendment 39–1806 (39 FR 12245, April 4, 1974) for Bell Model 212 helicopters was published in the **Federal Register** on June 28, 2002 (67 FR 43572). That action proposed to require, at specified intervals, modifying and visually inspecting certain spar caps and also modifying and inspecting using a tap hammer and by dye-penetrant, respectively, each affected spar cap for a crack, loose fastener, corrosion, or disbond. That action also proposed to require, before further flight, repairing any loose fastener or corrosion and replacing any disbonded or cracked part with an airworthy part and within 24 months, replacing affected spar caps with the cold expansion spar cap.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that this AD will affect 240 helicopters of U.S. registry, that it will take approximately 4 work hours to modify and 180 work hours to inspect each spar cap and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,369. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,978,160.

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–1806 (39 FR 12245, April 4, 1974) and by adding a new airworthiness directive (AD), Amendment 39–12885, to read as follows:

2002–19–05 Bell Helicopter Textron, Inc.: Amendment 39–12885. Docket No. 2002–SW–28–AD. Supersedes AD 74–08–03, Amendment 39–1806, Docket No. 73–SW–80.

Applicability: Model 212 helicopters, with a vertical fin spar cap, part number (P/N) 212–030–125–001, with retrofit kit, P/N 212–704–087, installed; vertical fin left-hand spar cap (spar cap), P/N 212–030–125–001, without the retrofit kit installed; or spar cap, P/N 212–030–447–001 or P/N 212–030–447–101, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated.

To prevent failure of a vertical fin spar, loss of a tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS), unless accomplished previously, modify and visually inspect each spar cap, P/N 212–030–125–001, not modified by retrofit kit, P/N 212–704–087 or spar cap, P/N 212–030–447–001, for a crack, loose fasteners, or corrosion in accordance with Part I (A1), paragraphs 1., 2., 3., 4., 6., and 7., of Bell Helicopter Textron Alert Service Bulletin No. 212–00–110, Revision A, dated February 15, 2001 (ASB). Thereafter, at intervals not to exceed 8 hours TIS, visually inspect each affected spar cap in accordance with Part I (A2), paragraphs 1., 2., 3., 5., and 6., of the ASB.

(1) Before further flight, repair any loose fastener or corrosion.

(2) Before further flight, replace any cracked or disbonded spar cap with an airworthy spar cap.

(b) For each spar cap, P/N 212–030–125–001, modified by retrofit kit, P/N 212–704–087, or spar cap, P/N 212–030–447–101:

(1) Within 25 hours TIS, unless accomplished previously, modify and inspect each spar cap for a crack, loose fastener, corrosion, or disbonding in accordance with Part II (A1), paragraphs 1., 2., 3., 4., 5., 7., 8., 9., and 10., of the ASB, except you are not required to contact BHTI. Thereafter, at intervals not to exceed 8 hours TIS, visually inspect each affected spar cap in accordance with Part II (A2), paragraphs 1., 2., 3., 5., and 6., of the ASB.

(2) Within 50 hours TIS, unless accomplished previously, and thereafter at intervals not to exceed 300 hours TIS, inspect each spar cap for disbonding using a hammer in accordance with Part II (B), paragraphs 1. through 13., of the ASB.

(3) Within 50 hours TIS, unless accomplished previously, modify the vertical

fin, and dye-penetrant inspect each spar cap in accordance with Part II (C1), paragraphs 1. through 8. and 10. through 12., of the ASB. Thereafter, at intervals not to exceed 300 hours TIS, dye-penetrant inspect each spar cap in accordance with Part II (C2), paragraphs 1. through 9. and 11. through 14., of the ASB.

Note 2: The dye-penetrant inspection is addressed in paragraph 6–2 of the Standard Practices Manual, BHT–ALL–SPM, dated October 11, 1996.

(4) Before further flight, repair any loose fasteners or corrosion.

(5) Before further flight, replace any cracked or disbonded spar cap with an airworthy spar cap.

(c) Within 24 months, replace each affected spar cap with a cold expansion spar cap, P/N 212–030–447–117S, in accordance with the Accomplishment Instructions, paragraphs 1. through 35. and 37., and Attachments A, B, and C of Bell Helicopter Textron Technical Bulletin No. 212–00–184, Revision A, dated April 23, 2001.

Note 3: This AD does not apply to tailbooms with spar cap, P/N 212–030–447–117 or ''117S, already installed, that used the cold-expanded fastener installation process.

(d) Replacing each spar cap in accordance with the requirements of this AD is terminating action for the requirements of this AD.

(e) 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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(f) Special flight permits may be issued in accordance 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The modification and visual inspections shall be done in accordance with Part I (A1), paragraphs 1., 2., 3., 4., 6., and 7.; Part I (A2), paragraphs 1., 2., 3., 5., and 6., Part II (A1), paragraphs 1., 2., 3., 4., 5., 7., 8., 9., and 10., Part II (A2), paragraphs 1., 2., 3., 5., and 6.; and Part II (B), paragraphs 1. through 13. The modification and dye-penetrant inspections shall be done in accordance with Part II (C1), paragraphs 1. through 8. and 10. through 12. and Part II (C2), paragraphs 1. through 9., and 11. through 14., of Bell Helicopter Textron Alert Service Bulletin No. 212–00–110, Revision A, dated February 15, 2001. The replacement of the spar cap shall be done in accordance with the Accomplishment Instructions, paragraphs 1. through 35. and .37 and Attachments A, B, and C of Bell Helicopter Textron Technical Bulletin No. 212–00–184, Revision A, dated April 23, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on October 30, 2002.

Issued in Fort Worth, Texas, on September 13, 2002.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–24180 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–13–AD; Amendment 39–12888; AD 2002–19–08]

RIN 2120–AA64

Airworthiness Directives; Vulcanair S.p.A. P 68 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Vulcanair S.p.A. (Vulcanair) P 68 series airplanes. This AD requires you to inspect the flight and engine control systems to ensure that there is correct connecting bolt and linkage installation, no interference, and correct installation of certain components. This AD also requires you to make any necessary adjustments and modify and install the split link and full travel limit assembly. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by this AD are intended to prevent failure of the primary flight control system caused by certain configurations. Such failure could lead to loss of airplane flight control.

DATES: This AD becomes effective on November 8, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 8, 2002.

ADDRESSES: You may get the service information referenced in this AD from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy, telephone: +39.081.5918111; facsimile: +39.081.5918172. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–13–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Ente Nazionale per l'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified FAA that an unsafe condition may exist on certain Vulcanair Models P 68, P 68B, P 68C, P 68C–TC, P 68 ''OBSERVER'', AP68TP300 ''SPARTACUS'', P68TC ''OBSERVER'', AP68TP 600 ''VIATOR'', and P68 ''OBSERVER 2'' airplanes. The ENAC reports several instances of incorrectly installed bolts, missing nuts, and the presence of interference between the forward control lever assembly and the airframe.

What Is the Potential Impact if FAA Took No Action?

If not detected and corrected, these conditions could result in failure of the primary flight controls. Such failure could lead to loss of airplane flight control.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Vulcanair P 68 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 15, 2002 (67 FR 46427). The NPRM proposed to require you to:

—Inspect for interference between the control column interconnection chain and the engine control pedestal assembly when the flight controls are in the maximum nose-down position;

—Inspect to ensure that the split link is correctly installed in the chain and that the lock-wire is present and undamaged;

—Make any necessary adjustments;

—Modify and install the split link and full travel limit assembly;

—Inspect all control cable and control rod connecting bolts and linkages for proper installation;
—Inspect for interference between the flight control components and the airframe installations;
—Make any necessary adjustments; and
—Inspect for the correct installation of the part number AN24–18A bolt that connects the forward control cable rod to the control column and reinstalling if necessary.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 58 airplanes in the U.S. registry. The actions specified in Vulcanair P68 Series Service Bulletin No. 110 affect 15 U.S.-registered airplanes. The actions specified in Vulcanair P68 Series Service Bulletin No. 111, Rev. 1, affect 58 U.S.-registered airplanes.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspections and modifications of Vulcanair P68 Series Service Bulletin No. 110:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7 workhours × $60 per hour = $420	$150	$570	$8,550

We estimate the following costs to accomplish the inspections of Vulcanair P68 Series Service Bulletin No. 111, Rev. 1:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 workhours × $60 per hour = $240	None	$240	$13,920

The FAA has no method of determining the number of necessary adjustments each owner/operator will incur if connecting bolts, linkage, etc. were found incorrectly installed. We estimate the cost to be minor.

Compliance Time of This AD

What Will Be the Compliance Time of This AD?

The compliance time of this AD is ''within the next 30 days after the effective date of the AD.''

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-in-Service (TIS)?

The compliance of this AD is presented in calendar time instead of hours TIS because these missing or incorrectly installed parts is due to a lack of quality control at the factory. The problem has the same chance of existing on an airplane with 50 hours TIS as it would for an airplane with 1,000 hours TIS. Therefore, we believe that 30 days will:

—Ensure that the unsafe condition does not go undetected for a long period of time on the affected airplanes; and
—Not inadvertently ground any of the affected airplanes.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–19–08 Vulcanair S.P.A.: Amendment 39–12888; Docket No. 2002–CE–13–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

(1) *Group 1 Airplanes:* Model P 68 ''OBSERVER 2'', serial numbers 401 through 411.

(2) *Group 2 Airplanes:* Model P 68 ''OBSERVER 2'', serial numbers 412 and 413.

(3) *Group 3 Airplanes:* Model P 68C, serial number 402.

(4) *Group 4 Airplanes:*

Model	Serial Nos.
P 68 ''OBSERVER''	All serial numbers through 411.
P 68 ''OBSERVER 2''	All serial numbers through 400.
P68TC ''OBSERVER''	All serial numbers through 411.

Group 5 Airplanes:

Model	Serial Numbers
AP68TP300 ''SPARTACUS''	All serial numbers through 413.
P 68	All serial numbers through 413.
P 68 ''OBSERVER'' P 68 B	412 and 413. All serial numbers through 413.
P 68C	All serial numbers through 401 and 403 through 413.
P 68C–TC	All serial numbers through 413.
P68TC ''OBSERVER''	412 and 413.
P68TP 600 ''VIATOR''	All serial numbers through 413.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraphs (a) (1) through (a)(5) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of the primary flight control system caused by certain configurations. Such failure could lead to loss of airplane flight control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Airplane groups affected	Procedures
(1) Inspect the connecting bolts in the stabilator, rudder, aileron, and flap controls to verify the correct installation and inspect the forward control lever for interference with the airframe. (i) If interference or any incorrect installations are found during the inspections, obtain a repair scheme from the manufacturer through the FAA at the address specified in paragraph (f) of this AD. (ii) Incorporate this repair scheme	Within the next 30 days after November 8, 2002 (the effective date of this AD). Perform necessary repairs prior to further flight after the inspection in which the interference or any incorrect installation is found.	Group 1, Group 2, and Group 3.	Inspect in accordance with paragraph 2. WORK PROCEDURE, 2.1 PART A, of Vulcanair P68 Series Service Bulletin No. 111 Rev. 1, dated February 20, 2002. Repair in accordance with the repair scheme obtained from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD
(2) Accomplish the following inspections: (i) Inspect to ensure that there is no interference between the control column interconnection chain and engine control pedestal assembly when the flight controls are in the maximum nose down position. Correct any interference as specified in the service information or obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD, as applicable.	Inspect within the next 30 days after November 8, 2002 (the effective date of this AD). Make any necessary corrections or repairs prior to further flight after the inspection where the problem is found.	Group 1 and Group 4.	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002. Repair in accordance with the repair scheme obtained from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria (Naples) Italy. Obtain this repair scheme through the FAA at the address specified in paragraph (f) of this AD.

Actions	Compliance	Airplane groups affected	Procedures
(ii) Inspect to ensure that the split link (part number NOR7.059–1) is correctly installed in the chain and that the lock-wire is present, undamaged, and installed correctly. Make any necessary corrections.			
(3) Install and modify the following: (i) Split Link, part number NOR7.059–1. (ii) Full Travel Limit Assembly, part number 5.3077–1/–2.	Within the next 30 days after November 8, 2002 (the effective date of this AD).	Group 1 and Group 4.	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002.
(4) Inspect bolt part number AN24–18A to verify the correct installation and inspect for the existence of a part number MS21083N4 nut. Correctly install an incorrectly installed bolt and, if missing, install the nut.	Within the next 30 days after November 8, 2002 (the effective date of this AD). Install prior to further flight after the inspection where problems are found.	Group 1, Group 2, Group 3, Group 4, and Group 5.	In accordance with the WORK PROCEDURE section of Vulcanair P68 Series Service Bulletin No. 111 Rev. 1, dated February 20, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

Note 2: The FAA recommends that owners/operators report results of all inspections required in paragraphs (d)(1), (d)(2)(i), (d)(2)(ii), and (d)(4) of this AD to the manufacturer as stated in the service bulletins.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Vulcanair P68 Series Service Bulletin No. 110, dated March 19, 2002, and Vulcanair P68 Series Service Bulletin No. 111 Rev. 1, dated February 20, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Vulcanair S.p.A., Via G. Pascoli 7, 80026 Casoria, Naples, Italy. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Italian AD Number 2002–212, dated March 28, 2002; and Italian AD Number 2002–155, dated February 22, 2002.

(i) *When does this amendment become effective?* This amendment becomes effective on November 8, 2002.

Issued in Kansas City, Missouri, on September 17, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24179 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–196–AD; Amendment 39–12887; AD 2002–19–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Bombardier Model CL–600–2B19 series airplanes. This action requires revising the Canadair Regional Jet Airplane Flight Manual to provide the flightcrew with operating limitations and procedures to enable them to maintain controllability of the airplane in the event that aileron control stiffness is encountered during flight. This action is necessary to prevent aileron control stiffness during flight, which could result in the reduction or possible loss of controllability of the airplane.

DATES: Effective October 10, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 2002.

Comments for inclusion in the Rules Docket must be received on or before October 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–196–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via the Internet must contain ''Docket No. 2002–NM–196–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-

ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Bruce Valentine, Flight Test Engineer, ANE–172, FAA, Systems and Flight Test Branch, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7528; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has received a significant number of reports of aileron control stiffness on certain Bombardier Model CL–600–2B19 series airplanes following climb-to-altitude after takeoff during heavy rain or from a runway contaminated by water, snow, or slush. Reports indicate that in all of these incidents, aileron control stiffness disappeared upon descent to lower altitude, and the airplanes landed safely. Reports also indicate that all of these airplanes had accumulated more than 5,000 total flight hours.

TCCA advises that the aileron control cables are routed aft of the control columns and into the respective left and right wheel wells of the main landing gear (MLG). At this point, the cables are routed around the left and right aileron quadrants before being routed to the wings. Both the left and right aileron quadrants and other hardware for the aileron control system, which are located in the aft area of the wheel well, are susceptible to contamination by water, snow, or slush entering the area between the splash shield and each wheel well bin. As an airplane with contamination in the wheel well encounters colder temperatures, it is possible that the aileron control hardware could freeze and consequently jam.

Related AD

On October 4, 2000, the FAA issued AD 2000–20–03 R1, amendment 39–11928 (65 FR 61083, October 16, 2000), which is applicable to certain Bombardier Model CL–600–2B19 series airplanes. That AD requires installing shields for the aileron quadrants in the wheel bay of the MLG to prevent accumulation of water, ice, or slush on the aileron quadrants and control cable pulleys. The requirements of that AD are not affected by this AD.

Discussion

TCCA recently notified the FAA that an unsafe condition may exist on all Bombardier Model CL–600–2B19 series airplanes. TCCA advises that since May 2002, six incidents of aileron control stiffness were reported on airplanes on which the requirements of 2000–20–03 R1 had been accomplished. The exact cause of the contamination has not yet been determined. Aileron control stiffness during flight, if not corrected, could result in the reduction or possible loss of controllability of the airplane.

Explanation of Relevant Service Information

Bombardier has issued Canadair Regional Jet Temporary Revision (TR) RJ/109–2, dated August 9, 2002, of the Canadair Regional Jet Airplane Flight Manual (AFM). The TR describes procedures for advising the flightcrew of operating limitations and procedures to address aileron control stiffness, as follows:

- The Limitations Section specifies that, when an airplane departs from a wet or contaminated runway, the following procedure must be followed: at 10,000 feet mean sea level, or when the static air temperature is less than or equal to 0 Celsius degree (32 Fahrenheit degrees), whichever occurs later, the ailerons must be operated manually every 5,000 feet until the top of the climb;
- The Emergency Procedures Section specifies that, if frozen ailerons are suspected after departing from a wet or contaminated runway, sufficient force must be applied on the affected side to free the jam. If the jam persists, procedures specify descending to warmer temperatures. If unable to clear the jam, procedures specify landing at the nearest suitable airport, and selecting the longest runway available that has minimum turbulence and crosswind;
- The Normal Procedures Section specifies an addition to the ''CLIMB CHECK'' instructions that are similar to the Limitations Section. However, the Normal Procedures Section includes a note that specifies a roll rate, airplane speed, and expected response when conducting the aileron control check every 5,000 feet until the top of the climb; and
- The Abnormal Procedures Section includes a note specifying that, if frozen ailerons are suspected, the flightcrew must accomplish the ''Aileron System Jammed'' Emergency Procedures.

TCCA classified this TR as mandatory and issued Canadian airworthiness directive CF–2002–35R1, dated August 16, 2002, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent aileron control stiffness during flight, which could result in the reduction or possible loss of controllability of the airplane. This AD requires revising the Limitations, Emergency Procedures, Normal Procedures, and Abnormal Procedures Sections, as applicable, of the Canadair Regional Jet AFM to provide the flightcrew with operating limitations and procedures to enable them to maintain controllability of the airplane in the event that aileron control stiffness is encountered during flight. This AD requires accomplishment of the actions specified in TR RJ/109–2, except as discussed below.

Clarifications/Differences Between This AD and the Service Information

Operators should note that the compliance time in the Canadian airworthiness directive specifies amending the Canadair Regional Jet AFM 14 days after the effective date of this AD to address aileron system jams. However, taking into consideration the specifications included in the ''Corrective Actions'' paragraphs of the Canadian airworthiness directive, we have further clarified the compliance time in this AD, as follows:

- Paragraph (a) of this AD requires inserting the procedures for aileron system jams into certain sections of the AFM ''14 days after the effective date of this AD''; and

• Paragraph (b) of this AD requires inserting the procedures for the aileron control check into certain sections of the AFM ''upon the accumulation of 5,000 total flight hours, or within 14 days after the effective date of this AD, whichever occurs later.''

Operators also should note that paragraph (b) of this AD, which references the Limitations and Normal Procedures Sections of the TR, requires inserting the procedures for the aileron control check into certain sections of the AFM when an airplane has accumulated 5,000 total flight hours, or within 14 days after the effective date of this AD, whichever occurs later. However, individual pilots may operate other airplanes that have not yet accumulated 5,000 total flight hours, and that are not subject to the limitations and procedures specified in the TR. Therefore, to avoid any confusion or misunderstanding, it is important that airlines have communication mechanisms in place to ensure that pilots are aware, for each flight, whether the Limitations and Normal Procedures apply. To clarify this, we have added Note 1 in this AD accordingly.

In addition, operators should note that both the previously referenced Canadian airworthiness directive and the TR specify revising the AFM by inserting the TR into the AFM. Likewise, this AD requires that same action. However, we have determined that clarification of the detailed specifications of the Canadian airworthiness directive and the TR is necessary. Although paragraph 1.a), ''Corrective Actions,'' of the Canadian airworthiness directive specifies an amendment to the Emergency Procedures for aileron system jams for all airplanes, the TR specifies such an amendment to both the Emergency Procedures and Abnormal Procedures Sections for those airplanes. In addition, although paragraph 1.b), ''Corrective Actions,'' of the Canadian airworthiness directive specifies an amendment to the Limitations Section for an aileron control check for airplanes that have accumulated 5,000 or more total flight hours, the TR specifies such an amendment to both the Limitations and Normal Procedures Sections for those airplanes.

After contacting TCCA to receive clarification about these details, we were informed that the intent of the Canadian airworthiness directive and the TR are the same. Likewise, we have determined that the intent of this AD and the service information are essentially the same.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

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 shall 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.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the AD is being requested.

• Include justification (*e.g.*, reasons or data) for each request.

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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–196–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

2002–19–07 Bombardier, Inc. (Formerly Canadair): Amendment 39–12887. Docket 2002–NM–196–AD.

Applicability: All Model CL–600–2B19 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent aileron control stiffness during flight, which could result in the reduction or

possible loss of controllability of the airplane, accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 14 days after the effective date of this AD, insert the procedures for aileron system jams specified in Canadair Regional Jet Temporary Revision (TR) RJ/109–2, dated August 9, 2002, into the Emergency Procedures and Abnormal Procedures Sections, as applicable, of the FAA-approved Canadair Regional Jet AFM.

(b) Upon the accumulation of 5,000 total flight hours, or within 14 days after the effective date of this AD, whichever occurs later, insert the procedures for the aileron control check specified in Canadair Regional Jet TR RJ/109–2, dated August 9, 2002, into the Limitations and Normal Procedures Sections, as applicable, of the Canadair Regional Jet AFM.

Note 1: The Limitations and Normal Procedures specified by paragraph (b) of this AD are required to be implemented only when an airplane has accumulated 5,000 total flight hours. However, individual pilots may operate other airplanes that have not yet accumulated 5,000 total flight hours, and that are not subject to those limitations and procedures. Therefore, to avoid any confusion or misunderstanding, it is important that airlines have communication mechanisms in place to ensure that pilots are aware, for each flight, whether the Limitations and Normal Procedures apply.

(c) When the information in Canadair Regional Jet TR RJ/109–2, dated August 9, 2002, of the Canadair Regional Jet AFM, has been incorporated into the FAA-approved general revisions of the AFM, the TR may be removed from the AFM.

Alternative Methods of Compliance

(d) 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, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with Canadair Regional Jet TR RJ/109–2, dated August 9, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadair airworthiness directive CF–2002–35R1, dated August 16, 2002.

Effective Date

(g) This amendment becomes effective on October 10, 2002.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24178 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–18–AD; Amendment 39–12889; AD 2002–19–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier-Rotax GmbH 912 F and 912 S Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Bombardier-Rotax GmbH 912 F series and 912 S series reciprocating engines with fuel pump assembly part number (P/N) 996.596 installed. This action requires initial and repetitive visual inspections and tests of the fuel pump assembly for fuel leakage. This amendment is prompted by two reports of fuel pump assembly fuel leaks. The actions specified in this AD are intended to prevent in-flight fuel leaks of the fuel pump assembly, which could result in an engine fire.

DATES: Effective October 10, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 10, 2002.

Comments for inclusion in the Rules Docket must be received on or before November 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–18–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Bombardier-Rotax GmbH, Welser Strasse 32, A–4623 Gunskirchen, Austria; telephone 7246–601–232; fax 7246–601–370. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803–5299; telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: Austro Control, which is the airworthiness authority for Austria, notified the FAA that an unsafe condition may exist on Bombardier-Rotax GmbH 912 F and 912 S series reciprocating engines with fuel pump assembly P/N 996.596 installed. Austro Control advises that they have received two reports of in-service fuel leaks at the fuel pump assembly pressure hose nipple. To date, there have been no in-flight engine fires due to fuel pump assembly fuel leaks. However, Austro Control has determined that Bombardier-Rotax GmbH 912 F and 912 S engines having fuel pump assembly P/N 996.596 installed could possibly experience fuel pump assembly fuel leaks which could result in an in-flight engine fire.

Manufacturer's Service Information

Bombardier-Rotax GmbH has issued mandatory service bulletin (MSB) No. SB–912–031, dated October 2001, that specifies procedures for initial and repetitive visual inspections and tests for fuel leakage of fuel pump assembly P/N 996.596, installed on Rotax GmbH type 912 F series reciprocating engines, SN's 4,412.808 to 4,412.815, and type 912 S series reciprocating engines SN's 4,922.504 to 4,922.743. The Austro Control classified this service bulletin as mandatory and issued AD No. 109, in order to assure the airworthiness of

these Bombardier-Rotax GmbH engines in Austria.

Bilateral Airworthiness Agreement

This engine model is manufactured in Austria and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Austro Control has kept the FAA informed of the situation described above. The FAA has examined the findings of the Austro Control, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Bombardier-Rotax GmbH 912 F and 912 S series reciprocating engines of the same type design, this AD is being issued to prevent in-flight fuel leaks of the fuel pump assembly, which could result in an engine fire. This AD requires initial and repetitive visual inspections and tests for fuel leakage of the fuel pump assembly P/N 996.596. The actions must be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–18–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

2002–19–09 Bombardier-Rotax GmbH: Amendment 39–12889. Docket No. 2002–NE–18–AD.

Applicability: This airworthiness directive (AD) is applicable to all Bombardier-Rotax GmbH 912 F series and 912 S series reciprocating engines with fuel pump assembly part number (P/N) 996.596 installed. These engines are installed on, but not limited to Diamond Aircraft Industries, DA20–A1, Aeromot-Industria Mecanico Metalurgica Itda., Model AMT–200S, and Iniziative Industriali Italiane S.p.A. Sky Arrow 650 TCN and Sky Arrow 650 TC aircraft.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent in-flight fuel leaks of the fuel pump assembly, which could result in an engine fire, do the following:

Initial Visual Inspection and Leakage Test

(a) Perform an initial visual inspection and a test for fuel leakage of the fuel pump assembly part number (P/N) 996.596, within 10 hours time-in-service (TIS) from the effective date of this AD, as follows:

(1) Visually inspect the fuel pump assembly feeding hose and pressure hose for cracks, in accordance with 3.1.1 of the accomplishment instructions of Rotax GmbH mandatory service bulletin (MSB) No. SB–912–031, dated October 2001. Replace the fuel pump assembly before further flight if any cracks are found.

(2) Conduct a leakage test of the fuel pump assembly, in accordance with 3.1.2 of the accomplishment instructions of Rotax GmbH MSB No. SB–912–031, dated October 2001. Replace the fuel pump assembly before further flight if any leaks are found.

(3) Perform an operational test run of the engine if any maintenance was performed

that removed or replaced any components of the fuel pump system. Information regarding instructions on the engine test run can be found in the accomplishment instructions of Rotax GmbH MSB No. SB–912–031, dated October 2001.

Repetitive Inspections and Leakage Tests

(b) Visually inspect and test the fuel pump assembly at each 100-hour, annual, or progressive inspection, or within 110 hours time-in-service since last inspection, whichever occurs first, in accordance with paragraph (a)(1) through (a)(3) of this AD.

Optional Terminating Action

(c) Installation of a fuel pump assembly other than fuel pump assembly P/N 996.596 constitutes terminating action to the repetitive inspections specified in paragraph (b) of this AD.

Alternative Methods of Compliance

(d) 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, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(f) The inspections and tests must be done in accordance with Rotax GmbH mandatory service bulletin No. SB–912–031, dated October 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier-Rotax GmbH, Welser Strasse 32, A–4623 Gunskirchen, Austria; telephone 7246–601–232; fax 7246–601–370. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Austro Control airworthiness directive No. 109, dated November 15, 2001.

Effective Date

(g) This amendment becomes effective on October 10, 2002.

Issued in Burlington, Massachusetts, on September 16, 2002.

Francis A. Favara,

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

[FR Doc. 02–24280 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1902, 1952, 1953, 1954, and 1955

[Docket No. T–035]

RIN 1218–AB 91

Changes to State Plans: Revision of Process for Submission, Review and Approval of State Plan Changes

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is revising its regulation concerning changes to approved State plans. The revised rule streamlines the process for submission, review and approval of plan supplements documenting such changes, including changes to occupational safety and health standards, and standardizes timeframes.

DATES: This final rule will become effective November 25, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Bryant, Director, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Federal-State Operations, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–2244.

SUPPLEMENTARY INFORMATION:

I. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States which wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issues with respect to which a Federal standard has been promulgated may do so only by submitting and obtaining Federal approval of a State plan. State plans may be ''complete'' plans covering both the private sector and State and local government employees (*see* 29 CFR part 1902) or State plans limited in scope to State and local government employees only (*see* 29 CFR part 1956). A State plan consists of the laws, standards and other regulations, and procedures as well as administrative and budgetary information under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may, and in many cases are required to, make changes to their plans as a result of State and Federal legislative, regulatory or administrative actions. State plans and their subsequent modifications are required to be ''at least as effective as'' the Federal program. (*See* section 18(c) of the Act, and 29 CFR 1902.2 and 1956.2.) If a State makes a change to its plan, either on its own initiative or in response to a change in the Federal program or as a result of program monitoring, the State is required to notify OSHA of the change. 29 CFR part 1953 provides the regulatory framework for the submission, review and approval of these changes.

On November 6, 2001, OSHA published notice in the **Federal Register** and requested public comment (66 FR 56043) on its proposed revisions to 29 CFR part 1953, Changes to State Plans, which were designed to update the rule to reflect current practice and experience since its original issuance and to streamline the process for submission, review and approval of state plan changes. The proposed rule was developed with input from all parties involved in the submission and review of State plan changes and in conjunction with a Federal/State Task Force after interviews with staff in 24 of the 26 States that operate OSHA-approved State plans . The proposed regulatory revisions were presented to the affected States, and their input was incorporated.

The public comment period closed on January 7, 2002. OSHA received one comment on the proposed rule, from Mr. Peter De Luca, Administrator of the Oregon Occupational Safety and Health Division. Mr. De Luca expressed his support of the sections of the proposed regulation regarding delegation of approval authority to Regional Administrators, seeking public comment only on significant differences, and allowing electronic submission of all required documents. However, one area according to Mr. De Luca that ''has not received adequate attention * * * is a definition of ''at least as effective as.''" He stated that without ''adequate guidance'' the term ''at least as effective as'' has often been interpreted to mean ''identical to,'' and often some State plan innovations are ''viewed as less effective until proven otherwise.'' According to Mr. DeLuca,

States are ''burdened with submitting * * * justification documents to defend their programs. Finally, Mr. DeLuca states that the ''lack of clarity around 'at least as effective as' only stifles and discourages creativity [in State plan States] that could result in greater safety and health for workers.''

OSHA greatly appreciates receiving these views and has carefully considered them in preparing the final rule. OSHA agrees that the principle that State plan requirements are not required to be identical is an important statutory feature of the State plans program. The language and structure of the part 1953 regulation acknowledge the important principle that State plan requirements need not be identical, in providing different procedures for ''identical'' and ''different'' State plan changes and in eliminating the requirement for a written plan supplement for ''identical'' changes. Moreover, throughout its history OSHA has repeatedly acknowledged the latitude of States to develop alternative ''at least as effective'' requirements.

OSHA believes it would not be practicable or advisable to issue guidance defining the term ''at least as effective.'' The comparative test comes up a very broad variety of contexts involving a wide variety of State regulations, procedures, and statutory requirements. It would be difficult if not impossible to develop a ''one size fits all'' definition that works well in all contexts.

OSHA must and should continue to rely on the States to demonstrate that particular State-developed alternative standards or procedures are ''at least as effective.'' The determination may not always be an easy one. Each different plan change should be evaluated individually on its own merits within the context of that State's program. For example, in making a program change the State may rely, in some instances, on other provisions in the State Plan that are not in the Federal program. Certainly, in enacting a program change, it is the State rather than OSHA that is most likely to have the requisite information to determine if the State's program change is ''as effective as'' the Federal component.

OSHA believes that its Part 1953 regulation will not unduly impair the State's ability to be ''creative'' and ''innovative'' in seeking ways to enhance the health and safety of the workers it covers. OSHA does not view State plan changes as ''less effective until proven otherwise,'' and we believe that there is nothing in the revised Part 1953 suggesting this. On the contrary, a State makes the initial determination as to whether a particular requirement is ''at least as effective'' at the time it adopts and begins to enforce the new requirement, and if OSHA disagrees, it must institute an adjudicatory rejection proceeding in which the burden of proof rests with OSHA, not the State.

In light of these comments and the absence of any requests for significant modification, OSHA is proceeding with the promulgation of a final rule which is identical to the proposed rule with only several technical modifications which are described below.

II. Summary and Explanation of Final Rule

A. Submission of Plan Changes

29 CFR part 1953, as originally promulgated, required that whenever a State changed any component of a State's plan that the State was required to provide a copy of the implementing documents, *e.g.,* standards, regulations, operating policies and procedures, administrative and budgetary information, and submit a written description of the change, including the identification of and rationale for any differences from the Federal program (referred to as a plan supplement). This was required whether the change was identical to the Federal regulation, policy or procedure or if it differed. OSHA then reviewed the change; if it met the approval criteria, OSHA was expected to publish a notice announcing the approval of the change; if it did not meet the criteria OSHA initiated procedures to reject the change.

The existing regulation required the submission of a formal written plan supplement even if the State's change to its program is identical to the Federal program component. OSHA is amending this regulation to provide that States must submit written supplements only when the State change is different from the Federal program. State adoption of a standard, regulation, policy or procedure that is identical to the parallel Federal component, an ''identical change,'' would *per se* be at least as effective as the Federal program and, if a standard, could not ''pose an undue burden on interstate commerce'' or otherwise not meet the criteria for approval. (A State submission is considered ''identical'' if the State adopts the same program provisions and documentation as the Federal program with the only differences being those modifications necessary to reflect a State's unique structure (*e.g.,* organizational responsibility within a State and corresponding titles or internal State numbering system).) Therefore, State submission and OSHA review of these changes has been a procedural formality as there is no issue as to approvability. Under the provisions of the revised final rule, States will now be required to submit only documentation attesting to their adoption of the identical Federal change, (such as the cover page of an implementing State directive or a notice of State promulgation) for inclusion in the State Plan documentation and to maintain all other implementing documentation of the actual program change (standard, regulation, policy or procedure) available for review within the State. No formal approval process will be undertaken for such ''identical changes.'' However, if a State makes a change to its program which differs from (*i.e.*, is not identical to) the Federal program, the State must notify OSHA of the change, within an established time frame, provide a copy of all the implementing documents, including documentation as to adoption, and submit a written description of the change, which includes the identification of and rationale for each of the differences from the Federal program. OSHA will then review and either approve or reject the plan change.

B. Pre-approval State Enforceability; Federal Review and Approval of Plan Change Supplements

The revised final regulation expressly sets forth OSHA's longstanding interpretation of the Act to the effect that States which have submitted and obtained Federal approval of a State plan under section 18(b) may adopt modifications to their State plan (such as new standards, regulations, amendments to State OSHA legislation, or revised enforcement procedures) and may implement these modifications upon adoption, without prior approval of each particular modification by Federal OSHA. Initial Federal approval of a State plan under section 18(b) lifts the barrier of Federal preemption and allows the State to ''adopt and enforce standards'' under State law. Accordingly, OSHA has always viewed its enabling statute as not requiring pre-enforcement/pre-implementation Federal approval of new standards, regulations or other requirements issued by States with Federally-approved plans. Instead, OSHA reviews these State standards and regulations after they are enacted and subsequently submitted to OSHA for review, and, if there is reason to believe a particular plan modification fails in some way to meet the requirements of the Act, OSHA regulations, both the existing rule and this final revised rule, provide that OSHA will initiate an adjudicative

rejection proceeding, in a similar manner to that prescribed by section 18(d) of the Act for Federal rejection of a State plan. 29 CFR 1953.23(d)(2) of the existing regulation now recodified as § 1953.6(e). Upon completion of such a rejection proceeding and any judicial review resulting therefrom, the State plan modification would be excluded from the plan and thus subject to preemption, but until the prescribed process for rejection is completed, the State's health or safety regulation or other State plan modification would remain enforceable. OSHA's longstanding interpretation that section 18 of its enabling statute does not require pre-enforcement/pre-implementation Federal approval for each new safety or health requirement adopted by a State with an approved State plan is consistent with the wording of that statutory provision (which envisions that States with approved plans will ''adopt and enforce'' their own standards) as well as the Congressional objective set forth in section 2(b)(11) of the Act of ''encouraging the States to assume the fullest responsibility for the administration and enforcement of their own occupational safety and health laws.'' This interpretation has routinely been incorporated in OSHA **Federal Register** notices approving or requesting comment on various State plan modifications (*see,* e.g, 62 FR 31159 (June 6, 1997) (approval of California hazard communication standard); 50 FR 46460 (November 8, 1985) (New Mexico hearing conservation standard)), and has been judicially upheld in *Florida Citrus Packers* v. *California*, 549 F. Supp. 213 (N.D. Cal. 1982). No public comments were received with regard to the inclusion of this interpretation in the proposed regulation. It is therefore included in the final rule, as proposed.

The existing regulation provided that the OSHA Regional Administrators, by authority delegated from the Assistant Secretary, would review and approve State change supplements involving occupational safety and health standards. The Assistant Secretary retained sole authority for review and approval of change supplements not involving standards. The amended regulation simply states that OSHA will review and approve State plan supplements. OSHA will issue appropriate written, publicly available, procedures assigning organizational responsibility for Federal review and approval of State plan supplements. This change provides the Assistant Secretary with the flexibility to modify the strictly internal review procedures without the need for formal rulemaking. It is OSHA's current intent to assign approval authority for all, except the most unusual, plan changes, including standards, to Regional Administrators.

The existing regulation provided for an opportunity for public comment whenever a plan change differs significantly from the Federal program and the publication of a **Federal Register** notice approving all State plan changes, even those which are identical to a corresponding Federal program component. This revised final rule provides that generally, OSHA will seek public comment only if a State plan change differs significantly from the comparable Federal program component *and* if OSHA needs additional information on its compliance with the criteria in section 18(c) of the Act, including whether it is at least as effective as the Federal program and, in the case of a standard applicable to products used or distributed in interstate commerce, whether it is required by compelling local conditions or unduly burdens interstate commerce. After public comments are reviewed, a **Federal Register** notice will be published either approving the State plan modification or announcing OSHA's intention to initiate proceedings to reject it.

The existing regulation discussed four types of plan changes (developmental, in response to Federal program changes, as a result of program evaluation, or at the State's initiative), with the submission and review process for each type addressed separately. Because all plan supplements will be subject to the same review and approval process, OSHA reorganized the regulation to first address the submission of each of the four types of plan supplements, followed by one section on the review and approval of all types of supplements.

The existing regulation required States to submit six copies of all plan supplements. This revised final rule requires States to submit only one copy and provides for the electronic notification and submission of all required documentation.

One minor change has been made to the proposed regulations, to standardize and clarify the time limits for adoption and submission of State plan change supplements or other documentation. Under both the existing rule and the November 6, 2001 proposed revision, State changes in response to new or revised Federal standards were required to be adopted within 6 months of adoption of the Federal standard. However, plan changes in response to changes in the Federal program other than standards were generally required to be both adopted and submitted within six months of notification of the Federal change. (States have been required by OSHA Instruction but not by regulation to submit all new standards within 30 days of adoption.) State-initiated changes not involving standards were required to be submitted within 30 days or 6 months, depending on the nature of the change, under the existing rule, and within 60 days or 6 months under the proposal. Evaluation changes and developmental changes had set time frames for adoption but not for submission in both the existing rule and the proposed revision.

The final regulation has been modified from the proposal to provide uniformity in the time frames for adoption and submission. The regulation continues to provide that State standards in response to Federal standards must be promulgated within six months of Federal adoption. Similarly, changes in response to other Federal program changes requiring adoption will now generally be required to be adopted (rather than submitted) within six months of the Federal change, still allowing some flexibility based on the nature of the change. All changes, regardless of type, must now be submitted within 60 days of adoption (with the exception of emergency temporary standards which, because of their short duration, require submission within 10 days). Section 1953.3(b) contains a general statement of this principle, and it is specifically stated in the sections on submission of the various types of plan changes.

Conforming technical amendments are also being made to sections in Parts 1952, 1954 and 1955 which include references to particular sections in Part 1953, to reflect the revisions.

C. Paperwork Reduction Act

On September 4, 2001, OSHA published notice in the **Federal Register** (66 FR 46291) providing a 60 day opportunity for public comment on the information collection requirements associated with Federal regulations governing OSHA-approved State plans (29 CFR parts 1902, 1952, 1953, 1954, 1955, and 1956). This was part of a pre-clearance process under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(a)), prior to review by the Office of Management and Budget (OMB). No public comments were received, and this Information Collection Request was approved by OMB on February 12, 2002 (Approval Number 1218–0247). The November 6, 2001 Notice of Proposed Rulemaking for this revision of 29 CFR part 1953

included OSHA's proposal to reduce the burden hours associated with the paperwork requirements of this part. The agency received one comment which supported the revision. This final regulation implements a significant reduction of the paperwork required of the States by reducing the number of Federal Program Changes to which they will be required to respond as well as the complexity of those responses. (In addition, an automated system to track plan changes is being implemented which will also reduce the number of direct inquiries to the States for information.) OMB approval of this reduction in burden hours is pending.

D. Regulatory Review

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that the proposed revisions will not have a significant economic impact on a substantial number of small entities. These proposed regulations apply only to certain State agencies and would not place small units of government under any new or different requirements, nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan.

Unfunded Mandates Reform Act

The procedures in 29 CFR part 1953 for submission and approval of plan changes apply only to States which have voluntarily submitted a State plan for OSHA approval under the OSH Act, and accordingly these procedures do not meet the definition of a ''Federal intergovernmental mandate'' under section 421(5) of UMRA (2 U.S.C. 658(5)).

Federalism

Executive Order 13132, ''Federalism,'' (64 FR 43255; Aug. 4, 1999) establishes fundamental Federalism criteria to be applied in formulating and implementing Federal policies, and requires agencies to consult with affected state and local officials in the development of regulatory policies. OSHA has included in the Supplementary Information section of today's notice a general explanation of the relationship between Federal OSHA and the States with approved State plans under the Occupational Safety and Health Act. The proposed rule on which today's final rule is based was developed in coordination with representatives from the State plan States, and opportunities for additional State input have been afforded both during the public comment period and through consultation with the Occupational Safety and Health State Plan Association (OSHSPA), the organization of State agencies which administer Federally-approved plans.

Executive Order

This final rule has been deemed not significant under Executive Order 12866.

List of Subjects in 29 CFR Parts 1902, 1952, 1953, 1954, and 1955

Administrative practice and procedure, Intergovernmental relations, Law enforcement, Occupational safety and health, Reporting and recordkeeping requirements.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), and Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

Signed at Washington, DC, this 19th day of September, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

Accordingly, 29 CFR Ch. XVII is amended as follows:

1. 29 CFR Part 1953 is revised to read as follows:

PART 1953—CHANGES TO STATE PLANS

Sec.

1953.1 Purpose and scope.
1953.2 Definitions.
1953.3 General policies and procedures.
1953.4 Submission of plan supplements.
1953.5. Special provisions for standards changes.
1953.6 Review and approval of plan supplements.

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

§ 1953.1 Purpose and scope.

(a) This part implements the provisions of section 18 of the Occupational Safety and Health Act of 1970 (''OSH Act'' or the ''Act'') which provides for State plans for the development and enforcement of State occupational safety and health standards. These plans must meet the criteria in section 18(c) of the Act, and part 1902 of this chapter (for plans covering both private sector and State and local government employers) or part 1956 of this chapter (for plans covering only State and local government employers), either at the time of submission or—where the plan is developmental—within the three year period immediately following commencement of the plan's operation. Approval of a State plan is based on a finding that the State has, or will have, a program, pursuant to appropriate State law, for the adoption and enforcement of State standards that is ''at least as effective'' as the Federal program.

(b) When submitting plans, the States provide assurances that they will continue to meet the requirements in section 18(c) of the Act and part 1902 or part 1956 of this chapter for a program that is ''at least as effective'' as the Federal. Such assurances are a fundamental basis for approval of plans. (*See* § 1902.3 and § 1956.2 of this chapter.) From time to time after initial plan approval, States will need to make changes to their plans. This part establishes procedures for submission and review of State plan supplements documenting those changes that are necessary to fulfill the State's assurances, the requirements of the Act, and part 1902 or part 1956 of this chapter.

(c) Changes to a plan may be initiated in several ways. In the case of a developmental plan, changes are required to document establishment of those necessary structural program components that were not in place at the time of plan approval. These commitments are included in a developmental schedule approved as part of the initial plan. These ''developmental changes'' must be completed within the three year period immediately following the commencement of operations under the plan. Another circumstance requiring subsequent changes to a State plan would be the need to keep pace with changes to the Federal program, or ''Federal Program Changes.'' A third situation would be when changes are required as a result of the continuing evaluation of the State program. Such changes are called ''evaluation changes.'' Finally, changes to a State program's safety and health requirements or procedures initiated by the State without a Federal parallel could have an impact on the effectiveness of the State program. Such changes are called ''State-initiated changes.'' While requirements for submission of a plan supplement to OSHA differ depending on the type of change, all supplements are processed in accordance with the procedures in § 1953.6.

§ 1953.2 Definitions.

(a) *OSHA* means the Assistant Secretary of Labor for Occupational Safety and Health, or any representative authorized to perform any of the functions discussed in this part, as set out in implementing Instructions.

(b) *State* means an authorized representative of the agency designated to administer a State plan under § 1902.3(b) of this chapter.

(c) *Plan change* means any modification made by a State to its approved occupational safety and health State plan which has an impact on the plan's effectiveness.

(d) *Plan supplement* means all documents necessary to accomplish, implement, describe and evaluate the effectiveness of a change to a State plan which differs from the parallel Federal legislation, regulation, policy or procedure. (This would include a copy of the complete legislation, regulation, policy or procedure adopted; an identification of each of the differences; and an explanation of how each provision is at least as effective as the comparable Federal provision.)

(e) *Identical plan change* means one in which the State adopts the same program provisions and documentation as the Federal program with the only differences being those modifications necessary to reflect a State's unique structure (*e.g.*, organizational responsibility within a State and corresponding titles or internal State numbering system). *Different plan change* means one in which the State adopts program provisions and documentation that are not identical as defined in this paragraph.

(g) *Developmental change* is a change made to a State plan which documents the completion of a program component which was not fully developed at the time of initial plan approval.

(h) *Federal program change* is a change made to a State plan when OSHA determines that an alteration in the Federal program could render a State program less effective than OSHA's if it is not similarly modified.

(i) *Evaluation change* is a change made to a State plan when evaluations of a State program show that some substantive aspect of a State plan has an adverse impact on the implementation of the State's program and needs revision.

(j) *State-initiated change* is a change made to a State plan which is undertaken at a State's option and is not necessitated by Federal requirements.

§ 1953.3 General policies and procedures.

(a) *Effectiveness of State plan changes under State law.* Federal OSHA approval of a State plan under section 18(b) of the OSH Act in effect removes the barrier of Federal preemption, and permits the State to adopt and enforce State standards and other requirements regarding occupational safety or health issues regulated by OSHA. A State with an approved plan may modify or supplement the requirements contained in its plan, and may implement such requirements under State law, without prior approval of the plan change by Federal OSHA. Changes to approved State plans are subject to subsequent OSHA review. If OSHA finds reason to reject a State plan change, and this determination is upheld after an adjudicatory proceeding, the plan change would then be excluded from the State's Federally-approved plan.

(b) *Required State plan notifications and supplements.* Whenever a State makes a change to its legislation, regulations, standards, or major changes to policies or procedures, which affect the operation of the State plan, the State shall provide written notification to OSHA. When the change differs from a corresponding Federal program component, the State shall submit a formal, written plan supplement. When the State adopts a provision which is identical to a corresponding Federal provision, written notification, but no formal plan supplement, is required. However, the State is expected to maintain the necessary underlying State document (*e.g.*, legislation or standard) and to make it available for review upon request. All plan change supplements or required documentation must be submitted within 60 days of adoption of the change. Submission of all notifications and supplements may be in electronic format.

(c) *Plan supplement availability.* Copies of all principal documents comprising the State plan, whether approved or pending approval, shall be available for inspection and copying at the Federal and State locations specified in the subpart of Part 1952 of this chapter relating to each State plan. The underlying documentation for identical plan changes shall be maintained by the State and shall similarly be available for inspection and copying at the State locations. Annually, States shall submit updated copies of the principal documents comprising the plan, or appropriate page changes, to the extent that these documents have been revised. To the extent possible, plan documents will be maintained and submitted by the State in electronic format and also made available in such manner.

(d) *Advisory opinions.* Upon State request, OSHA may issue an advisory opinion on the approvability of a proposed change which differs from the Federal program prior to promulgation or adoption by the State and submission as a formal supplement.

(e) *Alternative procedures.* Upon reasonable notice to interested persons, the Assistant Secretary may prescribe additional or alternative procedures in order to expedite the review process or for any other good cause which may be consistent with the applicable laws.

§ 1953.4 Submission of plan supplements.

(a) *Developmental changes.*

(1) Sections 1902.2(b) and 1956.2(b) of this chapter require that each State with a developmental plan must set forth in its plan, as developmental steps, those changes which must be made to its initially-approved plan for its program to be at least as effective as the Federal program and a timetable for making these changes. The State must notify OSHA of a developmental change when it completes a developmental step or fails to meet any developmental step.

(2) If the completion of a developmental step is the adoption of a program component which is identical to the Federal program component, the State need only submit documentation, such as the cover page of an implementing directive or a notice of promulgation, that it has adopted the program component, within 60 days of adoption of the change, but must make the underlying documentation available for Federal and public review upon request.

(3) If the completion of a developmental step involves the adoption of policies or procedures which differ from the Federal program, the State must submit one copy of the required plan supplement within 60 days of adoption of the change.

(4) When a developmental step is missed, the State must submit a supplement which documents the impact on the program of the failure to complete the developmental step, an explanation of why the step was not completed on time and a revised timetable with a new completion date (generally not to exceed 90 days) and any other actions necessary to ensure completion. Where the State has an operational status agreement with OSHA under § 1954.3 of this Chapter, the State must provide an assurance that the missed step will not affect the effectiveness of State enforcement in any issues for which the State program has been deemed to be operational.

(5) If the State fails to submit the required documentation or supplement, as provided in § 1953.4(a)(2), (3) or (4), when the developmental step is scheduled for completion, OSHA shall

notify the State that documentation or a supplement is required and set a timetable for submission of any required documentation or supplement, generally not to exceed 60 days.

(b) *Federal Program changes.*

(1) When a significant change in the Federal program would have an adverse impact on the ''at least as effective'' status of the State program if a parallel State program modification were not made, State adoption of a change in response to the Federal program change shall be required. A Federal program change that would not result in any diminution of the effectiveness of a State plan compared to Federal OSHA generally would not require adoption by the State.

(2) Examples of significant changes to the Federal program that would normally require a State response would include a change in the Act, promulgation or revision of OSHA standards or regulations, or changes in policy or procedure of national importance. A Federal program change that only establishes procedures necessary to implement a new or established policy, standard or regulation does not require a State response, although the State would be expected to establish policies and procedures which are ''at least as effective,'' which must be available for review on request.

(3) When there is a change in the Federal program which requires State action, OSHA shall advise the States. This notification shall also contain a date by which States must adopt a corresponding change or submit a statement why a program change is not necessary. This date will generally be six months from the date of notification, except where the Assistant Secretary determines that the nature or scope of the change requires a different time frame, for example, a change requiring legislative action where a State has a biennial legislature or a policy of major national implications requiring a shorter implementing time frame. State notification of intent may be required prior to adoption.

(4) If the State change is different from the Federal program change, the State shall submit one copy of the required supplement within 60 days of State adoption. The supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan.

(5) If the State adopts a change identical to the Federal program change, the State is not required to submit a supplement. However, the State shall provide documentation that it has adopted the change, such as the cover page of an implementing directive or a notice of promulgation, within 60 days of State adoption.

(6) The State may demonstrate why a program change is not necessary because the State program is already the same as or at least as effective as the Federal program change. Such submissions will require review and approval as set forth in § 1953.6.

(7) Where there is a change in the Federal program which does not require State action but is of sufficient national interest to warrant indication of State intent, the State may be required to provide such notification within a specified time frame.

(c) *Evaluation changes.*

(1) Special and periodic evaluations of a State program by OSHA in cooperation with the State may show that some portion of a State plan has an adverse impact on the effectiveness of the State program and accordingly requires modification to the State's underlying legislation, regulations, policy or procedures as an evaluation change. For example, OSHA could find that additional legislative or regulatory authority may be necessary to effectively pursue the State's right of entry into workplaces, or to assure various employer rights.

(2) OSHA shall advise the State of any evaluation findings that require a change to the State plan and the reasons supporting this decision. This notification shall also contain a date by which the State must accomplish this change and submit either the change supplement or a timetable for its accomplishment and interim steps to assure continued program effectiveness, documentation of adoption of a program component identical to the Federal program component, or, as explained in paragraph (c)(5) of this section, a statement demonstrating why a program change is not necessary.

(3) If the State adopts a program component which differs from a corresponding Federal program component, the State shall submit one copy of a required supplement within 60 days of adoption of the change. The supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan.

(4) If the State adopts a program component identical to a Federal program component, submission of a supplement is not required. However, the State shall provide documentation that it has adopted the change, such as the cover page of an implementing directive or a notice of promulgation, within 60 days of adoption of the change and shall retain all other documentation within the State available for review upon request.

(5) The State may demonstrate why a program change is not necessary because the State program is meeting the requirements for an ''at least as effective'' program. Such submission will require review and approval as set forth in § 1953.6.

(d) *State-initiated changes.*

(1) A State-initiated change is any change to the State plan which is undertaken at a State's option and is not necessitated by Federal requirements. State-initiated changes may include legislative, regulatory, administrative, policy or procedural changes which impact on the effectiveness of the State program.

(2) A State-initiated change supplement is required whenever the State takes an action not otherwise covered by this part that would impact on the effectiveness of the State program. The State shall notify OSHA as soon as it becomes aware of any change which could affect the State's ability to meet the approval criteria in parts 1902 and 1956 of this chapter, *e.g.*, changes to the State's legislation, and submit a supplement within 60 days. Other State initiated supplements must be submitted within 60 days after the change occurred. The State supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan. If the State fails to notify OSHA of the change or fails to submit the required supplement within the specified time period, OSHA shall notify the State that a supplement is required and set a time period for submission of the supplement, generally not to exceed 30 days.

§ 1953.5. Special provisions for standards changes.

(a) *Permanent standards.*

(1) Where a Federal program change is a new permanent standard, or a more stringent amendment to an existing permanent standard, the State shall promulgate a State standard adopting such new Federal standard, or more stringent amendment to an existing Federal standard, or an at least as effective equivalent thereof, within six months of the date of promulgation of the new Federal standard or more stringent amendment. The State may demonstrate that a standard change is not necessary because the State standard is already the same as or at least as

effective as the Federal standard change. In order to avoid delays in worker protection, the effective date of the State standard and any of its delayed provisions must be the date of State promulgation or the Federal effective date whichever is later. The Assistant Secretary may permit a longer time period if the State makes a timely demonstration that good cause exists for extending the time limitation. State permanent standards adopted in response to a new or revised Federal standard shall be submitted as a State plan supplement within 60 days of State promulgation in accordance with § 1953.4(b), Federal Program changes.

(2) Because a State may include standards and standards provisions in addition to Federal standards within an issue covered by an approved plan, it would generally be unnecessary for a State to revoke a standard when the comparable Federal standard is revoked or made less stringent. If the State does not adopt the Federal action, it need only provide notification of its intent to retain the existing State standard to OSHA within 6 months of the Federal promulgation date. If the State adopts a change to its standard parallel to the Federal action, it shall submit the appropriate documentation as provided in §§ 1953.4(b)(3) or (4)—Federal program changes. However, in the case of standards applicable to products used or distributed in interstate commerce where section 18(c)(2) of the Act imposes certain restrictions on State plan authority, the modification, revision, or revocation of the Federal standard may necessitate the modification, revision, or revocation of the comparable State standard unless the State standard is required by compelling local conditions and does not unduly burden interstate commerce.

(3) Where a State on its own initiative adopts a permanent State standard for which there is no Federal parallel, the State shall submit it within 60 days of State promulgation in accordance with § 1953.4(d)—State-initiated changes,

(b) *Emergency temporary standards.*

(1) Immediately upon publication of an emergency temporary standard in the **Federal Register**, OSHA shall advise the States of the standard and that a Federal program change supplement shall be required. This notification must also provide that the State has 30 days after the date of promulgation of the Federal standard to adopt a State emergency temporary standard if the State plan covers that issue. The State may demonstrate that promulgation of an emergency temporary standard is not necessary because the State standard is already the same as or at least as effective as the Federal standard change. The State standard must remain in effect for the duration of the Federal emergency temporary standard which may not exceed six (6) months.

(2) Within 15 days after receipt of the notice of a Federal emergency temporary standard, the State shall advise OSHA of the action it will take. State standards shall be submitted in accordance with the applicable procedures in § 1953.4(b)—Federal Program Changes, except that the required documentation or plan supplement must be submitted within 5 days of State promulgation.

(3) If for any reason, a State on its own initiative adopts a State emergency temporary standard, it shall be submitted as a plan supplement in accordance with § 1953.4(c), but within 10 days of promulgation.

§ 1953.6 Review and approval of plan supplements.

(a) OSHA shall review a supplement to determine whether it is at least as effective as the Federal program and meets the criteria in the Act and implementing regulations and the assurances in the State plan. If the review reveals any defect in the supplement, or if more information is needed, OSHA shall offer assistance to the State and shall provide the State an opportunity to clarify or correct the change.

(b) If upon review, OSHA determines that the differences from a corresponding Federal component are purely editorial and do not change the substance of the policy or requirements on employers, it shall deem the change identical. This includes ''plain language'' rewrites of new Federal standards or previously approved State standards which do not change the meaning or requirements of the standard. OSHA will inform the State of this determination. No further review or **Federal Register** publication is required.

(c) Federal OSHA may seek public comment during its review of plan supplements. Generally, OSHA will seek public comment if a State program component differs significantly from the comparable Federal program component and OSHA needs additional information on its compliance with the criteria in section 18(c) of the Act, including whether it is at least as effective as the Federal program and in the case of a standard applicable to products used or distributed in interstate commerce, whether it is required by compelling local conditions or unduly burdens interstate commerce under section 18(c)(2) of the Act.

(d) If the plan change meets the approval criteria, OSHA shall approve it and shall thereafter publish a **Federal Register** notice announcing the approval. OSHA reserves the right to reconsider its decision should subsequent information be brought to its attention.

(e) If a State fails to submit a required supplement or if examination discloses cause for rejecting a submitted supplement, OSHA shall provide the State a reasonable time, generally not to exceed 30 days, to submit a revised supplement or to show cause why a proceeding should not be commenced either for rejection of the supplement or for failure to adopt the change in accordance with the procedures in § 1902.17 or Part 1955 of this chapter.

PART 1902—[AMENDED]

2. The authority citation for part 1902 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

3. In § 1902.31, in the definition of ''developmental step,'' the last sentence is revised to read as follows:

§ 1902.31 Definitions.

* * * * *

Developmental step * * * (*See* 29 CFR 1953.4(a).)

4. Section 1902.33 is revised to read as follows:

§ 1902.33 Developmental period.

Upon the commencement of plan operations after the initial approval of a State's plan by the Assistant Secretary, a State has three years in which to complete all of the developmental steps specified in the plan as approved. Section 1953.4 of this chapter sets forth the procedures for the submission and consideration of developmental changes by OSHA. Generally, whenever a State completes a developmental step, it must submit the resulting plan change as a supplement to its plan to OSHA for approval. OSHA's approval of such changes is then published in the **Federal Register** and the pertinent subparts of part 1952 of this chapter are amended to reflect the completion of a developmental step.

PART 1952—[AMENDED]

5. The authority citation for part 1952 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

Subpart F—Washington

6. Section 1952.125(a) is amended by revising paragraph (a) to read as follows:

§ 1952.125 Changes to approved plans.

(a) In accordance with part 1953 of this chapter, the following Washington plan changes were approved by the Assistant Secretary on August 4, 1980.

* * * * *

Subpart K—California

7. Section 1952.175 is amended by revising paragraphs (a), (c), (d), (e), (f), (g), and (h) to read as follows:

§ 1952.175 Changes to approved plans.

(a) In accordance with part 1953 of this chapter, the California carcinogen program implemented on January 1, 1977, was approved by the Assistant Secretary on March 6, 1978.

* * * * *

(c) In accordance with part 1953 of this chapter, California amended its employer recordkeeping and reporting requirements effective November 4, 1978, so as to provide employee access to the employer's log and summary of occupational injuries and illnesses.

(d) In accordance with part 1953 of this chapter, California's liaison with the Occupational Health Centers, implemented on April 25, 1979, was approved by the Assistant Secretary on July 25, 1980.

(e) In accordance with part 1953 of this chapter, the California Hazard Alert System, implemented in July 1979, was approved by the Assistant Secretary on July 25, 1980.

(f) In accordance with part 1953 of this chapter, the revised stratification of the Safety Engineer Series, adopted by California on July 1, 1979, was approved by the Assistant Secretary on January 12, 1981.

(g) In accordance with part 1953 of this chapter, California's Small Employer Voluntary Compliance Program, implemented on March 1, 1981, was approved by the Assistant Secretary on August 2, 1983.

(h) In accordance with part 1953 of this chapter, the California Cooperative Self-Inspection Program was approved by the Assistant Secretary on August 1, 1986.

* * * * *

Subpart O—Maryland

8. Section 1952.212(a) is amended by revising paragraph (a) to read as follows:

§ 1952.212 Completion of developmental steps and certification.

(a) In accordance with part 1953 of this chapter, the Maryland occupational safety and health standards were approved by OSHA on October 3, 1974.

* * * * *

Subpart DD—New Mexico

9. Section 1952.367 is amended by revising paragraph (b) to read as follows:

§ 1952.367 Changes to approved plans.

* * * * *

(b) In accordance with part 1953 of this chapter, New Mexico's State plan amendment, dated January 3, 1997, excluding coverage of all private sector employment on Federal military facilities and bases (*see* § 1952.365), and, to the extent permitted by applicable law, over tribal or private sector employment within any Indian reservation and lands under the control of a tribal government, from its State plan was approved by the Acting Assistant Secretary on September 24, 1997.

Subpart EE—Virginia

10. Section 1952.372 is amended by revising paragraph (p) to read as follows:

§ 1952.372 Completion of developmental steps and certification.

* * * * *

(p) In accordance with part 1953 of this chapter, Virginia submitted legislative amendments to Title 40.1 of the Labor Laws of Virginia as enacted by the Virginia General Assembly of February 6, 1979. These legislative amendments, which dealt primarily with the Commissioner's delegation authority, procedures concerning Virginia's system of judicial review of contested cases, and penalty provisions, were approved by the Assistant Secretary on August 15, 1984.

* * * * *

PART 1954—[AMENDED]

11. The authority citation for part 1954 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

12. Section 1954.3 is amended by revising paragraphs (b)(2), (d)(1)(ii) and (d)(1)(iii) to read as follows:

§ 1954.3 Exercise of Federal discretionary authority.

* * * * *

(b) * * *

(2) Approved State standards. The State must have standards promulgated under State law which are identical to Federal standards; or have been found to be at least as effective as the comparable Federal standards; or have been reviewed by OSHA and found to provide overall protection equal to comparable Federal standards. Review of the effectiveness of State standards and their enforcement will be a continuing function of the evaluation process. Where State standards in an issue have not been promulgated by the State or have been promulgated and found not to provide overall protection equal to comparable Federal standards, the State will not be considered operational as to those issues.

* * * * *

(d)(1) * * *

(ii) Subject to pertinent findings of effectiveness under this part, and approval under Part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer has posted the approved State poster in accordance with the applicable provisions of an approved State plan and § 1952.10.

(iii) Subject to pertinent findings of effectiveness under this part, and approval under part 1953 of this chapter, Federal enforcement proceedings will not be initiated where an employer is in compliance with the recordkeeping and reporting requirements of an approved State plan as provided in § 1952.4.

* * * * *

PART 1955—[AMENDED]

13. The authority citation for part 1955 is revised to read as follows:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

14. Section 1955.2 is amended by revising paragraph (a)(4) to read as follows:

§ 1955.2 Definitions.

(a) * * *

(4) *Developmental step* includes, but is not limited to, those items listed in the published developmental schedule, or any revisions thereto, for each plan contained in 29 CFR part 1952. A developmental step also includes those items in the plan as approved under section 18(c) of the Act, as well as those items in the approval decision which are subject to evaluations (*see e.g.*, approval of Michigan plan), which were deemed necessary to make the State program at least as effective as the Federal program within the 3 year developmental period. (*See* part 1953 of this chapter.

* * * * *

15. Section 1955.3 is amended by revising the introductory text of

paragraphs (a)(1) and (a)(2) to read as follows:

§ 1955.3 General policy.

(a) * * *

(1) Whenever the Assistant Secretary determines that under § 1902.2(b) of this chapter a State has not substantially completed the developmental steps of its plan at the end of three years from the date of commencement of operations, a withdrawal proceeding shall be instituted. Examples of a lack of substantial completion of developmental steps include but are not limited to the following:

* * * * *

(2) Whenever the Assistant Secretary determines that there is no longer a reasonable expectation that a State plan will meet the criteria of § 1902.3 of this chapter involving the completion of developmental steps within the three year period immediately following commencement of operations, a withdrawal proceeding shall be instituted. Examples of a lack of reasonable expectation include but are not limited to the following:

* * * * *

[FR Doc. 02–24284 Filed 9–24–02; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0216; FRL–7200–5]

Tolylfluanid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an import tolerance for residues of tolylfluanid in or on imported apple, grape, hop, and tomato. Bayer Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective September 25, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0216, must be received on or before November 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0216 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9354; e-mail address: *waller.mary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet home page at *http://www.epa.gov/*. To access this document, on the home page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0216. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 11, 1997 (62 FR 42980) (FRL–5736–1), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 7E4825) by Bayer Corporation, 8400 Hawthorn Rd., Kansas City, MO 64120. This notice included a summary of the petition prepared by Bayer Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.584 be amended by establishing an import tolerance for residues of the fungicide tolylfluanid, (1,1-dichloro-N-[(dimethylamino)-sulfonyl]-1-fluoro-N-(4-methylphenyl) methanesulfenamide), in or on apple at 5.0 parts per million (ppm), grape at 5.0 ppm, hop at 30 ppm, and tomato at 1.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including

all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of tolylfluanid in or on apple at 5.0 ppm, grape at 11 ppm, hop at 30 ppm, and tomato at 2.0 ppm.

EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by tolylfluanid are discussed in Table 1 of this unit as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents (rat)	NOAEL = 20.1 milligram/kilogram/day (mg/kg/day) male (M) LOAEL = 108 mg/kg/day, based on changes in clinical blood chemistry associated with the liver and thyroid (M) NOAEL = 131 mg/kg/day female (F) LOAEL = 736.1 mg/kg/day, based on changes in clinical blood chemistry associated with the liver and thyroid and decreased body weights (F) Acceptable/guideline
870.3150	90-Day oral toxicity in nonrodents (dog)	NOAEL = 23.1/25 mg/kg/day (F/M) LOAEL = 67.2/69.4 (F/M) mg/kg/day, based on decreased body weight gains and changes in liver structure and function in both sexes Unacceptable/guideline
870.3700	Prenatal developmental in rodents (rat)	Maternal NOAEL = not determined LOAEL = 100 mg/kg/day, based on decreased body weight gains and food consumption. Developmental NOAEL = 1,000 mg/kg/day highest dose tested (HDT) LOAEL > 1,000 mg/kg/day Acceptable/guideline
870.3700	Prenatal developmental in rodents (rat)	Maternal NOAEL = 100 mg/kg/day LOAEL = 300 mg/kg/day, based on dose-related decreased body weight gains during the dosing interval. Developmental NOAEL > 1,000 mg/kg/day (HDT) LOAEL = not identified Acceptable/guideline
870.3700	Prenatal developmental in nonrodents (rabbit)	Maternal NOAEL = 25 mg/kg/day LOAEL = 70 mg/kg/day, based on evidence of hepatotoxicity (increased glutamate dehydrogenase (GLDH) and triglyceride levels and gross and microscopic liver pathology) and decreased food consumption and equivocal decreases in body weight gain. Developmental NOAEL = 25 mg/kg/day LOAEL= 70 mg/kg/day, based on increased malformations (arthrogryposis of front extremities and small orbital cavity/folded retina) and variations (floating rib and accelerated ossification). Acceptable/guideline

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.3800	2-Generation reproduction and fertility effects (rat)	Parental/systemic NOAEL = 7.9–10.5 mg/kg/day LOAEL = 57.5–78.0 mg/kg/day, based on decreased body weights, body weight gains, and liver weights in the P females Reproductive NOAEL = 7.9–10.5 mg/kg/day LOAEL = 57.5–78.0 mg/kg/day, based on reduced litter size Offspring NOAEL = 7.9–10.5 mg/kg/day LOAEL = 57.5–78.0 mg/kg/day, based on decreased pup weights, increased pup deaths and related pup viability indices Acceptable/guideline
870.3800	2-Generation reproduction and fertility effects (rat)	Parental/systemic NOAEL not established LOAEL = 15.9–21.5 mg/kg/day, based on hardened crania of P generation animals Reproductive NOAEL not established LOAEL = 15.9–21.5 mg/kg/day, based on increased clinical signs of toxicity Offspring NOAEL > 15.9–21.5 mg/kg/day (HDT) LOAEL not established Unacceptable/guideline
870.3800	2-Generation reproduction and fertility effects (rat)	Parental/Systemic NOAEL = 20.1–26.3 mg/kg/day LOAEL = 83.4–109.5 mg/kg/day, based on decreased body weights and body weight gains Reproductive NOAEL = 83.4 - 109.5 mg/kg/day LOAEL = 335.6–492.4 mg/kg/day, based on decreased mean litter size Offspring NOAEL = 20.1–26.3 mg/kg/day LOAEL = 83.4–109.5 mg/kg/day, based on decreased pup weights Acceptable/guideline
870.3800	2-Generation reproduction and fertility effects (rat)	Parental/Systemic NOAEL = 75 mg/kg/day LOAEL = 375 mg/kg/day, based on decreased body weights and body weight gains for both generations Reproductive NOAEL > 375 mg/kg/day (HDT) LOAEL not established Offspring NOAEL = 75 mg/kg/day LOAEL = 375 mg/kg/day, based on decreased survival and reduced body weights during lactation Acceptable/guideline
870.4300	Combined chronic toxicity/carcinogenicity rodents (rat)	NOAEL = 18.1/21.1 mg/kg/day (M/F) LOAEL = 90.1/105.2 mg/kg/day (M/F), based on skeletal changes Evidence of thyroid follicular cell adenomas and/or carcinomas in high-dose males and females Acceptable/guideline
870.4300	Combined chronic toxicity/carcinogenicity rodents (rat)	NOAEL = 20/20 mg/kg/day (M/F) LOAEL = 80/110 mg/kg/day (M/F), based on bone hyperostosis in males and females Evidence of thyroid follicular cell adenomas and/or carcinomas in high-dose males and females Acceptable/guideline
870.4200	Carcinogenicity rodents (mouse)	NOAEL = 76.3/123.9 mg/kg/day (M/F) LOAEL = 375.8/610.8 mg/kg/day (M/F), based on skeletal, liver, and kidney changes No evidence of carcinogenicity Acceptable/guideline
870.4100	Chronic toxicity (dog)	NOAEL = 12.5 mg/kg/day LOAEL = 62.5 mg/kg/day (M), based on decreased body weight gains Acceptable/guideline
870.5100 Technical	Bacterial gene mutation assay	Tolylfluanid was cytotoxic to all strains at ≥ 8 μg/plate ± S9 and precipitated from solutions in all strains at 5,000 μg/plate ± S9. There were no reproducible, dose-related differences in the number of revertant colonies in any strain or dose over the background. Positive controls induced appropriate response. Acceptable/guideline

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5100 Metabolite—WAK 5815	Bacterial gene mutation assay	There was no evidence of toxicity or significant increase in mutant colonies over background in any of strains tested in either the initial or repeat mutagenicity assays. Positive controls induced appropriate response. Acceptable/guideline
870.5100 Metabolite—WAK 6550	Bacterial gene mutation assay	There were no reproducible, dose-related differences in the number of revertant colonies in any strain or dose over the background. Positive controls induced appropriate response. Acceptable/guideline
870.5100 Metabolite—WAK 6676	Bacterial gene mutation assay	There was no evidence of toxicity or significant increase in the mutant colonies over background in any strain tested. Positive controls induced the appropriate responses in the corresponding strains and in the solvent controls were consistent with the expected ranges of revertant colonies for the strains used. Acceptable/guideline
870.5100 Metabolite—WAK 6698	Bacterial gene mutation assay	Metabolite was cytotoxic at doses ≥158 µg/plate in the initial assay and 1,581 µg/plate in the repeat assay. There was no evidence of a significant increase in mutant colonies over background in any strains tested in the initial or repeat mutagenicity assays. Positive controls induced appropriate response. Acceptable/guideline
870.5100 Technical	Bacterial gene mutation assay	Tolylfluanid was tested to cytotoxic concentrations. Tolylfluanid showed no evidence of inducing methionine revertants in *Saccharomyces cerevisiae* strains ± S9. However, one of the tests (S211∞) was inadequate or inconsistent. Further, in the S9 activated assays, the positive controls did not elicit an adequate response, negating the test with S9 for both strains. Unacceptable/guideline
870.5300 Metabolite— WAK 6698	*In vitro* mammalian cell gene mutation assay	The compound was tested up to cytotoxic concentrations in two independent assays (± S9). In the initial test concentrations ranged from 50 to 1,000 µg/mL ± S9. In the repeat assay concentrations ranged from 100 to 800 µg/mL -S9 and 200 to 700 µg/mL + S9. Tolylfluanid metabolite was negative for inducing forward mutations at the TK locus in mouse L5178Y ± S9. Positive control methyl methanosulfonate and 3-methylcholanthrene induced appropriate responses. Acceptable/guideline
870.5300 Technical	*In vitro* mammalian cell gene mutation assay	These dose levels were selected based on a preliminary cytotoxicity study conducted at 0.5 to 250 µg/mL ± S9. Tolylfluanid has been judged to be non-mutagenic ± S9. Positive controls induced appropriate response ± S9. Acceptable/guideline
870.5300 Technical	*In vitro* mammalian cell gene mutation assay	Cultures were tested to cytotoxic concentrations. Tolylfluanid has been judged to be non-mutagenic ± S9. Positive controls induced appropriate response ± S9. Acceptable/guideline
870.5300 Technical	*In vitro* mammalian cell gene mutation assay	The compound was tested up to cytotoxic concentrations (± S9). Tolylfluanid was positive for inducing forward mutations at the TK locus in mouse L5178Y ± S9. Positive control ethylmethane sulfonate and 3-methylcholanthrene induced appropriate responses. Colony sizing was not performed. Acceptable/guideline
Non-Guideline Technical	Mouse spot test	F1 pups from female C57B1/6J mice exposed by oral gavage to tolylfluanid (98.4%) at concentration of 0; 1,750; 3,500; and 7,000 mg/kg did not show difference in incidence in relative spots between the treated and controls. Systemic toxicity was observed in dams at all doses. Mortality was observed at all doses; however treatment did not affect reproductive parameters nor there was difference in litter size. Positive controls showed a clear increase in spots in the progeny. Acceptable/non-guideline

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.5375 Technical	*In vitro* mammalian cell gene mutation assay	The test was conducted up to cytotoxic levels ± S9. Tolylfluanid was weakly clastogenic in Chinese hamster V79 cells in the presence of S9 activation. Positive control mitomycin and cyclophosphamide induced appropriate responses. Acceptable/guideline
870.5375 Technical	*In vitro* mammalian cell gene mutation assay	Cytotoxicity was observed at concentrations 1 to 10 µg/milliliter (mL) -S9 and 5 to 10 µg/mL +S9. Over the ranges tested clastogenic effects included increased incidences of metaphases with aberrations including gaps, metaphases excluding gaps, metaphases with exchanges, and metaphases with polyploidy were observed. Tolyfluanid is clastogenic both in the presence and in the absence of S9 activation. Positive control mitomycin and endoxan induced appropriate responses. Acceptable/guideline
870.5380 Technical	*In vitro* mammalian spermatogonia chromosomal aberration test	No mortality or clinical signs were observed at either dose. No statistically significant increases in the frequency of chromosomal aberrations in spermatogonia were observed. Unacceptable/guideline
870.5380 Technical	*In vitro* mammalian spermatogonia chromosomal aberration test	Clinical signs of toxicity and cytotoxicity to target cells were seen at 5,000 mg/kg/day. Tolylfluanid did not induce chromosomal aberrations in spermatogonia at any dose. Positive controls did not produce strong positive results. Therefore, sensitivity of assay is questionable and the findings of the study are equivocal. Unacceptable/guideline
870.5385 Technical	Mammalian bone marrow chromosomal aberration test	3/10 animals died but exhibited no clinical signs. No cytotoxicity was observed at the dose tested. Positive controls induced appropriate response. Inadequate sampling time and no indication of test material present at target site; therefore, data not valid for regulatory purposes. Unacceptable/guideline
870.5385 Technical	Mammalian bone marrow chromosomal aberration test	3/10 of 10 animals died but no clinical signs of toxicity were observed at the dose tested. Test results were erratic. Positive controls induced appropriate response. Inadequate study since test samples were not analyzed and doses were not high enough to produce toxicity. Unacceptable/guideline
870.5395 Technical	Mammalian erythrocyte micronucleus assay	No clinical signs of toxicity was observed and was not toxic to the target tissue. Treatment with tolylfluanid did not induce micronucleated polychromatic erythrocytes. Inadequate methods and methodology. Unacceptable/guideline
870.5450 Technical	Dominant lethal assay (mice)	Did not induce variations in any dominant lethal parameters nor any reduced fertility. Inadequate study. No positive control data Unacceptable but upgradable with receipt of positive control data
870.5915 Technical	*In vivo* sister chromatid exchange assay	Mortality at 500 mg/kg and above. Tolylfluanid did not induce sister chromatid exchange at any dose level. Positive control cyclophosphamide responded appropriately. Acceptable/guideline
870.5500 Technical	Other genotoxic effects unscheduled DNA synthesis (UDS) in mammalian cells	Tolylfluanid did not induce UDS up to 15.0 µg/mL. The 17.5 and 20 µg/mL doses were highly toxic. The positive control 2-acetylaminofluorene responded appropriately. Acceptable/guideline
870.6200	Acute neurotoxicity screening battery (rat)	NOAEL = 50 mg/kg in females LOAEL = 150 mg/kg/day based on functional observation battery (FOB) effects and decreased motor and locomotor activity in females NOAEL = 2,000 mg/kg/day (M)—limit dose LOAEL = not established (M) Acceptable/guideline

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.6200	Subchronic neurotoxicity screening battery (rat)	NOAEL = 25 mg/kg (F) LOAEL = 134 mg/kg based on decreased mean body weights in females. No treatment-related neurotoxicological effects were observed at any treatment level. Acceptable/guideline
870.7485	Metabolism and pharmacokinetics (rat)	In a metabolism study in rats, tolylfluanid was administered in single doses of 2 or 100 mg/kg of body weight, was readily absorbed and rapidly hydrolyzed within 48 hours. Absorption and excretion were independent of dose, sex, and pretreatment. About 86–100% of the dose was recovered in 48 hours, with 56–80% of the dose being excreted in urine, 12–36% in the feces, and ≤ 0.48% found in the carcass. Urinary metabolite common to both sexes were dimethylaminosulfonylamino-benzoic acid (RNH 0166; 46–78%), and 4-methylamino-benzoic acid (RNH 0416; 3–6%). Fecal compounds identified were unchanged tolylfluanid (1–19%), dimethylaminosulfotoluidid (DMST; 5–8%), RNH 0166 (3–12%), and RNH 0416 (< 1%). The data indicate that tolylfluanid hydrolyzed to DMST, which is then transformed to the major metabolite RNH 0166, which can be further demethylated to the minor metabolite, RNH 0416 (MRID No. 44285805). Acceptable/guideline
870.7485	Metabolism and pharmacokinetics (rat)	Series of metabolism studies showed that metabolic profile dependent upon label position. With [dichlorofluoromethyl-^{14}C]-tolylfluanid labeling major urinary metabolite was thiazolidine-2-thione-4carbonic acid resulting from cleavage of the side chain and accounted for 73–74% and 50–63%, respectively by IV and oral routes. Benzene ring label resulted in metabolite 4-(dimethylamino-sulfonylamino) benzoic acid which accounted for 90% of urinary metabolic activity and 70% of fecal radioactivity. The study with single oral dose of 2 or 20 mg/kg/day also supported the results of the main study (MRID No. 44285805).
Non-guideline	Non-guideline (rat) thyroid function	Thyroid-stimulating hormone levels significantly increased (168–425%) in high-dose males and females. Slightly increased T3 levels in males rats above 119.3 mg/kg/day Acceptable/nonguideline
Metabolite	Non-guideline (mice)*In vitro* investigation of TTCA goitrogenic properties	Tolylfluanid's metabolite TTCA was shown to reversibly inhibit thyroid peroxidase (TPO)-mediated reactions involved with the initial stages of thyroid hormone synthesis. This was shown by the dose-dependent decrease in formation of reactive iodine; the interference of the nonenzymatic and TPO-mediated iodination of L-tyrosine, and by TPO-mediated metabolism of TTCA. In the latter reaction, TTCA did not interfere with tyrosine iodination when the concentration in the reaction mixture fell below a certain concentration. Therefore, TTCA, unlike tolylfluanid, behaves as a goitrogenic compound with a potency approximately equal to propylthiouracil (PTU), a known thionamide inhibitor of initial thyroid hormone synthesis. Acceptable/nonguideline
Non-guideline	Non-guideline (rat) ^{32}P—post-labelling assay	In a ^{32}P—post-labelling assay for detection of adduct formation in lung, thyroid, and liver DNA in rats revealed that there was no evidence of DNA adduct formation in the liver, lung, or thyroid of rats exposed to tolylfluanid. Positive control 2-acetylaminofluorene (2-AAF) (liver, lung, and thyroid DNA adducts), benzidine (lung DNA adducts), 2-Thiourea (lung and thyroid DNA adducts), and dibenz[a,h]anthracene (DBA) (DNA adducts in the lungs) produced appropriate results. Acceptable/nonguideline

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the

variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC. In this case because it is an import tolerance only, there is only dietary risk.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose-response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for tolylfluanid used for human risk assessment is shown in Table 2 of this unit:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TOLYLFLUANID FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	NOAEL = 25 UF[1] = 300 Acute RfD = aPAD = 0.083 mg/kg/day	1x	Prenatal developmental toxicity/rabbit LOAEL = 70 mg/kg/day based on increased malformations (arthrogryposis of front extremities and small orbital cavity/folded retina) and variations (floating ribs and accelerated ossification).
Acute dietary general population including infants and children	NOAEL = 50 UF[1] = 300 Acute RfD = aPAD = 0.17 mg/kg/day	1x	Acute oral neurotoxicity/rat LOAEL = 150 mg/kg/day based on FOB effects (pilorection, decreased activity, gait abnormalities, decreased body temperature, and/or decreased rearing).
Chronic dietary all populations	NOAEL= 7.9 UF[1] = 300 Chronic RfD = cPAD = 0.026 mg/kg/day	1x	2-Generation reproduction/rat LOAEL = 57.5 mg/kg/day based on decreased body weights, body weight gains, and liver weights.
Cancer	Classification: ''Likely to be carcinogenic to humans'' by the oral route, based on thyroid tumors in high-dose male and female rats. The FQPA SF Committee further recommended a linear low-dose extrapolation approach for the quantification of human cancer risk based on the thyroid tumors in rats. Q_1* = 1.59×10^{-3} based upon male rat thyroid adenomas and/or carcinomas combined.		

[1] UF (uncertainty factor), FQPA Safety Factor (SF), no-observed-adverse-effect-level (NOAEL), lowest-observed-adverse-effect-level (LOAEL), acute Population Adjusted Dose (aPAD), chronic Population Adjusted Dose (cPAD), reference dose (RfD).

* The reference to the FQPA SF refers to any additional SF retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* This activity reflects the establishment of the first U.S. import tolerance for tolylfluanid on apple, grape, hop, and tomato without a U.S. registration. Since there are no other food or feed uses in the United States, the only exposure to occur is dietary.

Risk assessments were conducted by EPA to assess dietary exposures from tolylfluanid in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM™7.76) analysis evaluated the individual food consumption as reported by respondents in the United States Department of Agriculture (USDA) 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute Tier 2 (partially refined analysis) exposure assessments: An aPAD of 0.083 mg/kg/day was used for females between 13 and 50 years of age based on developmental toxicity in rabbits. An aPAD of 0.17 was used for the general U.S. population (including infants and children) based on acute neurotoxicity in rats. Anticipated residues were calculated based upon submitted field trial and livestock metabolism data for all proposed uses of tolylfluanid.

The resulting acute dietary exposure estimates do not exceed EPA's level of concern (<100% aPAD) at the 95th exposure percentile for females 13–50 years old (42% aPAD), the general U.S. population (31% of the aPAD) and all other population subgroups. The most

highly exposed population subgroup is infants (<1 year old, at 100% of the aPAD).

TABLE 3.—ACUTE DIETARY EXPOSURE TO TOLYLFLUANID

Population Subgroup	Acute Dietary[1]	
	Dietary Exposure (mg/kg/day)	% aPAD
U.S. Population (total)	0.051973	31
All Infants (< 1 year old)	0.169772	100
Children 1–6 years old	0.159553	94
Children 7–12 years old	0.063237	37
Females 13–50 years old	0.034529	20
Males 13–19 years old	0.023476	14
Males 20+ years old	0.030744	18
Seniors 55+ years old	0.033375	20

[1]Acute dietary endpoint of 0.083 mg/kg/day applies to females 13–50 years old only; acute dietary endpoint of 0.17 mg/kg/day applies to the general U.S. population (including infants and children).

The assessment of acute dietary exposure used the following conservative assumptions likely to generate upper-end estimates of the quantity of tolylfluanid and tolylfluanid residues ingested:

• No import consumption data were used in the assessment (i.e., the assessment assumes that all acute dietary exposure from the proposed commodities is from imported commodities).

• 100% crop treated (CT) was assumed for these imported commodities: All imported grape, apple, hop, and tomato were assumed to have been treated with tolylfluanid and to have tolylfluanid residues at the level of the tolerance.

Inclusion of additional data, such as %CT/import consumption data and/or monitoring data (including metabolites of concern), could be made in order to refine the acute dietary exposure assessment.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments:

A cPAD of 0.026 mg/kg/day was used based on the 2-generation rat reproduction study. All dietary exposure from the proposed commodities is from imported commodities. Import share data generated within the Agency were used in the assessment to estimate what proportion of the grape, apple, hop, and tomato consumed in the United States are imported. Modified DEEM™ processing factors based on the results of processing studies were used for raisins and apple and grape juice/juice concentrates. Default DEEM™ processing factors were used for all other processed commodities. Anticipated residues calculations were used based upon submitted field trial and livestock metabolism data.

TABLE 4.—CHRONIC EXPOSURE TO TOLYLFLUANID

Population Subgroup	Chronic Dietary[1]	
	Dietary Exposure (mg/kg/day)	% aPAD
U.S. Population (total)	0.000780	3
All Infants (< 1 year old)	0.003397	13
Children 1–6 years old	0.003638	14
Children 7–12 years old	0.001029	4
Females 13–50 years old	0.000399	2
Males 13–19 years old	0.000342	1
Males 20+ years old	0.000340	1
Seniors 55+ years old	0.000333	1

[1]Chronic dietary endpoint of 0.026 mg/kg/day applies to general U.S. population and all population subgroups.

The assessment of chronic dietary exposure for the general U.S. population and all population subgroups (including infants and children) used the following conservative assumptions to generate upper-end estimates of the quantity of tolylfluanid and tolylfluanid residues ingested:

• 100% CT was assumed for these imported commodities: All imported grape, apple, hop, and tomato were assumed to have been treated with tolylfluanid and to have tolylfluanid residues at the level of the tolerance.

• The calculated ARs (parent and additional metabolites of concern not in tolerance expression) are based on field trial data, submitted by the registrant to support tolerances. Field trial residue data are generally considered by the Agency as an upper-end or a worst case scenario of possible residues and are more suited to the requirements of tolerance setting, because it requires highest rates of application and shortest PHI, than to the requirements of dietary exposure assessment (when a more realistic estimate is desired).

The chronic dietary exposure estimates do not exceed EPA's level of concern (<100% cPAD) for the general U.S. population (3% cPAD) and all population subgroups. The most highly exposed population subgroup is children 1–6 years old at 14% of the cPAD.

iii. *Cancer*. A partially refined, cancer dietary exposure assessment was conducted for the general U.S. population using the same assumptions as were used in the chronic risk assessment (listed in the preceding section). Import share data generated within the Agency were used in the assessment to estimate what proportion of the grape, apple, hop, and tomato consumed in the United States are imported. Modified DEEM™ processing factors based on the results of processing studies were used for raisins and apple and grape juice/juice concentrates. Default DEEM™ processing factors were used for all other processed commodities The cancer risk estimate is 1.2×10^{-6} for the general U.S. population.

For cancer dietary risk estimates, the Agency is generally concerned with cancer risks that exceed the range of 1×10^{-6}. The following conservative assumptions were used in the cancer dietary exposure assessment:

• The percent import consumption information used for apple, grape and tomato commodities assume that 100% of these imported commodities are treated with tolylfluanid.

• The calculated ARs are based on field trial data, submitted by the registrant to support tolerances. Field trial residue data are generally considered by the Agency as providing an upper-end scenario of possible residues and are more suited to the requirements of tolerance setting, because it requires highest rates of application and shortest PHI, than to the requirements of dietary exposure

assessment (when a more realistic estimate is desired).

With additional refinements to the dietary exposure assessment (i.e., country-specific percent import consumption data and/or monitoring data (including metabolites of concern) the Agency expects the estimated cancer risk to be significantly lower.

iv. *Anticipated residue and %CT*.

Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. Adequate reliable information was not available on the fraction of imported grape, apple, hop, and tomato which were treated with tolylfluanid, therefore the Agency assumed that all these commodities were treated (100% CT). In addition, the Agency must provide for periodic evaluation of any estimates used. As required by section 408(b)(2)(E) of the FFDCA, EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of %CT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on %CT. The Agency used %CT information as follows:

Since the tolerances being established are for imported commodities only and a petition for domestic use of tolyfluanid is not currently pending with EPA, the Agency analyzed the amount of imported apple, grape, hop, and tomato, relative to domestic production, and derived a ''percent crop imported'' figure for each commodity. The Agency based this analysis on import and domestic production data available from the USDA for the years 1995 through 1999. The proportion of imports relative to domestic production for each of the commodities are as follows: Fresh apple—5.6%; apple juice—56.4%; canned apple—0.1%; fresh grape—0.2%, grape juice—43.4%; fresh tomato—16.4%; and processed tomato—4.1%. The Agency's analysis assumed 100% for hop. Tolylfluanid is currently only registered for use in a small number of European countries, however, the estimates stated in this unit reflect total imports of these commodities into the United States, not just imports from Europe. Therefore, the values used in the Agency's risk assessment assume that all imported commodities contain residues of tolyfluanid. These assumptions fulfill Condition 1 by overestimating the portion of imported apple, grape, hop, and tomato with tolylfluanid residues. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency.

2. *Dietary exposure from drinking water*. Residues in drinking water are not expected to result as a consequence of establishing an import tolerance for tolylfluanid residues in or on apple, grape, hop, and tomato. Tolylfluanid is not registered for use in the United States. Therefore, exposure through drinking water is unlikely.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tolylfluanid is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether tolylfluanid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tolylfluanid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that tolylfluanid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There is no quantitative or qualitative evidence of increased susceptibility following *in utero* exposure in the prenatal developmental study in rats. Although there is qualitative evidence of increased susceptibility in the prenatal developmental study in rabbits and in the 2-generation reproduction study in rats, the Agency did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of tolylfluanid.

3. *Conclusion*. There is a complete toxicity data base for tolylfluanid and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The RfDs established are protective of pre-/post-natal toxicity following acute and chronic exposures. The Agency therefore concluded that no Special FQPA FS is necessary to protect the safety of infants and children in assessing tolylfluanid exposure and

risks. However, a FQPA factor in the form of data base UF (UF_{DB}) of 3x was applied to the acute RfDs and chronic RfDs to account for the comparative thyroid assay (adult versus young animals) data requirement. 3X is adequate in this case since the observed thyroid hormone changes that necessitated the additional study occurred at a dose level more than three-fold higher than the dose levels (based on developmental and reproductive toxicity) used as the basis for endpoints for risk assessment. Thus, use of an additional 3X FQPA SF will provide at least a 10X margin of safety regarding the effects for which there is some uncertainty and for which additional data is required.

TABLE 5.—ADDITIONAL FQPA SAFETY FACTOR

	LOAEL to NOAEL (UF_L)	Subchronic to Chronic (UF_S)	Incomplete Data base (UF_{DB})	Special FQPA Safety Factor (Hazard and Exposure)
Magnitude of factor	1X	1X	3X	1X
Rationale for the factor	No LOAEL to NOAEL extrapolations performed	No subchronic to chronic extrapolations performed	Lack of comparative thyroid assay (adult versus young animals)	No residual uncertainties regarding pre- or post-natal toxicity or completeness of the toxicity or exposure data bases
Endpoints to which the factor is applied	Not applicable (NA)	NA	All dietary exposure scenarios	NA

E. Aggregate Risks and Determination of Safety

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to tolylfluanid will occupy 31% of the aPAD for the U.S. population, 20% of the aPAD for females 13 years and older, 100% of the aPAD for infants < 1year old, and 94% of the aPAD for children between 7 and 12 years old. In addition, there is no potential for acute dietary exposure to tolylfluanid in drinking water. Although this risk assessment projects that infants under 1 year of age will receive the maximum safe exposure, for the reasons detailed in this unit, this assessment is likely to substantially overstate risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to tolylfluanid from food will utilize 3% of the cPAD for the U.S. population, 13% of the cPAD for infants < 1 year old, and 14% of the cPAD for children between 1 and 6 years old. There are no residential uses for tolylfluanid that result in chronic residential exposure to tolylfluanid.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Tolylfluanid is not registered for use on any sites that would result in residential exposure. Therefore, a short-term aggregate risk was not performed.

4. *Intermediate-term risk*. Tolylfluanid is not registered for use on any sites that would result in residential exposure. Therefore, an intermediate-term aggregate risk was not performed.

5. *Aggregate cancer risk for U.S. population*. The cancer risk estimate for the general U.S. population from tolylfluanid is 1.2×10^{-6}. In general, the Agency's level of concern for cancer exposure is for risks in the range of 1×10^{-6} and this risk estimate is comfortably with this range. Moreover, several conservative assumptions were included in the assessment (enumerated in Unit III.C.1., Dietary exposure from food and feed uses). With additional refinements to the dietary exposure assessment (i.e., country-specific percent import consumption data and/or monitoring data (including metabolites of concern), the Agency expects the cancer risk to be substantially lower.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to tolylfluanid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

For tolylfluanid in/on apple, grape, hop, and tomato, the submitted independent laboratory validation (ILV) using a gas chromatograph (GC)/thermal ionization detector (TID) procedure designated as Method 00441 and entitled *Determination of Tolylfluanid in/on Various Raw Agricultural and Processed Commodities* has been received and the method has been forwarded to the Agency's laboratory for validation. The petitioner will be required to make any modifications or revisions to the proposed method resulting from EPA's validation.

The petitioners submitted the multiresidue data concerning the recovery of tolylfluanid residues using the Food and Drug Administration (FDA) MRM protocols (PAM Vol. I) and following modified cleanup procedures. These results indicate that tolylfluanid is likely to be recovered through FDA MRM Protocols D and E. The results have been forwarded to the FDA for inclusion in the Pesticide Analytical Method Volume I.

Prior to publication and upon request, the method will be available from the Analytical Chemistry Branch (ACB), BEAD (75053), Environmental Science Center, 701 Mapes Rd., Ft. George C. Meade, MD 20755–5350. Contact Francis D. Griffith, Jr., telephone number: (410) 305–2905; e-mail address: *griffith.francis@epa.gov*. The analytical standards are also available from the EPA National Standard Repository at the same location.

Based on the proposed uses, a residue enforcement method for livestock commodities is not necessary at this time.

B. International Residue Limits

There are no Canadian or Mexican MRLs established for tolylfluanid residues in/on crop commodities. The Codex Alimentarius Commission has established MRLs for tolylfluanid residues in/on various commodities, including currant at 5 ppm, gherkin at 2 ppm, lettuce head at 1 ppm, pome

fruits at 5 ppm, strawberry at 3 ppm, and tomato at 2 ppm. The Codex MRLs are expressed in terms of tolylfluanid per se. Although the submitted residue data support the proposed tolerance of 1.0 ppm on tomato, the Agency is establishing this tolerance at 2.0 ppm in order to harmonize with the current Codex MRL.

V. Conclusion

Therefore, the tolerance is established for residues of tolylfluanid, (1,1-dichloro-N-[(dimethylamino)-sulfonyl]-1-fluoro-N-(4-methylphenyl)methanesulfenamide), in or on apple at 5 ppm, grape at 11 ppm, hop at 30 ppm, and tomato at 2 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0216 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 25, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0216, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any

special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 13, 2002.

James Jones,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.584 is added to subpart C to read as follows:

§ 180.584 Tolylfluanid, tolerances for residues.

(a) *General*. Tolerances are established for residues of tolylfluanid, 1,1-dichloro-N-[(dimethylamino)-sulfonyl]-1-fluoro-N-(4-methylphenyl)methanesulfenamide in or on the following commodities.

Commodity	Parts per million
Apple[1]	5.0
Grape[1]	11
Hop[1]	30
Tomato[1]	2.0

[1] No U.S. registration as of August 31, 2002.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 02–24094 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0234; FRL–7198–3]

Fluroxypyr 1-methylheptyl ester; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of fluroxypyr [1-methylheptyl ester 1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on sorghum, grain at 0.035 parts per million (ppm); sorghum, forage at 2.0 ppm; and sorghum, grain, stover at 4.0 ppm. This action is in connection with a crisis exemption declared by the state of Kansas under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sorghum. This regulation establishes maximum permissible levels for residues of fluroxypyr 1-methylheptyl ester and its metabolite, all expressed as fluroxypyr in these food commodities. The tolerances will expire and are revoked on December 31, 2005.

DATES: This regulation is effective September 25, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0234, must be received on or before November 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0234 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9364; e-mail address: *sec–18–Mailbox@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet home page at *http://www.epa.gov/*. To access this document, on the home page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0234. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the herbicide fluroxypyr 1-methylheptyl ester, [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid], in or on sorghum, grain at 0.035 ppm; sorghum, forage at 2.0 ppm; and sorghum, grain, stover at 4.0 ppm. These tolerances will expire and are revoked on December 31, 2005. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical

residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Fluroxypyr on Sorghum and FFDCA Tolerances

Due primarily to unusual drought conditions, registered alternative herbicides have proven ineffective. Drought conditions have resulted in poor activation of preemegence herbicides. Available post emergence herbicides are proving ineffective due to the drought hardened condition of the kochia infestations. Kansas has declared a crisis exemption under FIFRA section 18 for the use of fluroxypyr on sorghum for control of kochia.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fluroxypyr in or on sorghum, grain and its associated commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 2005, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sorghum, grain and its associated commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether fluroxypyr meets EPA's registration requirements for use on sorghum or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of fluroxypyr by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Kansas to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fluroxypyr, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fluroxypyr and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of fluroxypyr 1-methylheptyl ester, [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite furoxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid], in or on sorghum, grain at 0.035 ppm; sorghum, forage at 2.0 ppm; and sorghum, grain, stover at 4.0 ppm. The most recent estimated aggregate risks resulting from the use of fluroxypyr 1-methylheptyl ester are discussed in the **Federal Register** for September 17, 2001 (66 FR 47964) (FRL–6798–5) Final Rule, establishing tolerances for residues of the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 ppm, grass, hay at 160 ppm, and modifying the permanent tolerances for milk from 0.1 ppm to 0.30 ppm and for kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm because in that prior action, risks were estimated assuming tolerance level residues in all commodities for established tolerances, as well as those for which action was being proposed, such as in this sorghum exemption use. Refer to the September 17, 2001 **Federal Register** (66 FR 47964) document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. A summary of the toxicological dose and endpoints for fluroxypyr for use in human risk assessment is discussed in Unit IV.A. of the **Federal Register** of September 17, 2001 (66 FR 47964).

EPA assessed risk scenarios for fluroxypyr under acute, chronic, and short- and intermediate-term exposures. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the acute exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established fluroxypyr tolerances contained those residues. Anticipated residues, and percent crop treated (PCT) values of less than 100%, were not used.

Using these exposure assessments, EPA concluded that fluroxypyr exposure from food consumption will occupy 1.5% of the acute population adjusted dose (aPAD) for females 13–50 years old, the only population subgroup of concern. A dose and endpoint were not selected for the U.S. population, including infants and children because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). Therefore, a risk assessment is not required for this population subgroup.

In addition, despite the potential for acute dietary exposure to fluroxypyr in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model estimated environmental concentrations (EECs) of fluroxypyr in surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 1.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO FLUROXYPYR

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13 to 50 years)	0.33	1.5	7.6	0.017	9,700

The following assumptions were made for the chronic exposure assessments: Tolerance level residues were assumed and it was also assumed that 100% of the crops and other commodities with proposed or established fluroxypyr tolerances contained those residues. Anticipated residues, and PCT values of less than 100%, were not used.

Using these exposure assumptions EPA concluded that exposure to fluroxypyr from food will utilize 0.6% of the chronic population adjusted dose (cPAD) for the U.S. population, 0.4% of the cPAD for females 13 to 50 years and 2.1% of the cPAD for children 1 to 6 years, the subpopulation at greatest exposure. Based on the use pattern, chronic residential exposure to residues of fluroxypyr is not expected. In addition, there is potential for chronic dietary exposure to fluroxypyr in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUROXYPYR

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.50	0.6	1.6	0.017	17,000
Females (13 to 50 years)	0.50	0.4	1.6	0.017	15,000
Children (1 to 6 years)	0.50	2.1	1.6	0.017	4,900
Seniors 55+	0.50	0.4	1.6	0.017	17,000

Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

The Agency has classified fluroxypyr as ''not likely'' to be a human carcinogen, therefore this risk assessment is not required.

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluroxypyr residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5229; e-mail address: *furlow.calvin@epa.gov*.

B. International Residue Limits

No Codex, Canadian, or Mexican maximum residue levels (MRLs) have been established for residues of fluroxypyr in or on these commodities. Therefore, no tolerance discrepancies exist between countries for this chemical.

VI. Conclusion

Therefore, the tolerance is established for combined residues of fluroxypyr 1-methylheptyl ester, [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite furoxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy) acetic acid], in or on sorghum, grain at 0.035 ppm; sorghum, forage at 2.0 ppm; and sorghum, grain, stover at 4.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may

file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0210 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 25, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your written request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket ID number OPP–2002–0210, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in

this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 13, 2002.

Richard P. Keigwin, Jr.,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.535 is amended by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *		
Sorghum, grain, forage	2.0	12/31/05
Sorghum, grain, grain	0.035	12/31/05
Sorghum, grain, stover	4.0	12/31/05

* * * * *

[FR Doc. 02–24093 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0016; FRL–7199–1

Sucrose Octanoate Esters; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of certain sucrose octanoate esters on all food commodities when applied/used in accordance with good agricultural practices. AVA Chemical Ventures, L.L.C. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sucrose octanoate esters.

DATES: This regulation is effective September 25, 2002. Objections and requests for hearings, identified by docket identification (ID) number OPP–2002–0016, must be received on or before November 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP–2002–0016 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460–0001; telephone number: (703) 308–8263; e-mail address: *greenway.denise@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet home page at *http://www.epa.gov/*. To access this document, on the home page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0016. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 9, 1999 (64 FR 49010) (FRL–6095–9), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a(d)(3), as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 8E4926) by AVA Chemical Ventures, L.L.C., 65 Aviation Avenue (now at 80 Rochester Avenue, Suite 214), Portsmouth, NH 03801. This notice included a summary of the petition prepared by the petitioner AVA Chemical Ventures, L.L.C. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of sucrose fatty acid esters. EPA has determined that the designation ''sucrose fatty acid esters'' is too broad, in that it could include other compounds not intended by the registrant, and for which the Agency has not reviewed relevant data. The data and information submitted by the registrant in support of the petition cover an exemption from the requirement of a tolerance for sucrose octanoate esters, which have been identified as the specific type of sucrose fatty acid esters that act as the active ingredient (a.i.) in the petitioner's pending products. EPA's general policy is to establish a tolerance or exemption from the requirement of a tolerance for the actual a.i. contained in the registrant's products. Because the a.i. for which the registrant actually is petitioning is technically defined as sucrose octanoate esters [(α-D-glucopyranosyl-β-D-fructofuranosyl-octanoate), mono-, di-, and triesters of sucrose octanoate], all discussions in this rule and in the resulting tolerance exemption expression refer only to ''sucrose octanoate esters [(α-D-glucopyranosyl-β-D-fructofuranosyl-octanoate), mono-, di-, and triesters of sucrose octanoate].'' Hereinafter, EPA uses the terms ''sucrose octanoate esters'' and ''SOEs'' to mean sucrose octanoate esters [(α-D-glucopyranosyl-β-D-fructofuranosyl-octanoate), mono-, di-, and triesters of sucrose octanoate].

III. Statutory Authority

This exemption from the requirement of a tolerance is being issued under the authority of section 408(c) of FFDCA (21 U.S.C. 346a(c)). Under FFDCA section 408, EPA regulates pesticide chemical residues by establishing tolerances limiting the amounts of residues that may be present in or on food, or by establishing exemptions from the requirement of a tolerance for such residues. Food includes articles used for food or drink by humans or other animals. A food containing pesticide residues may not be moved in interstate commerce without an appropriate tolerance or an exemption from the requirement of a tolerance.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' FFDCA section 408(b)(2)(D) specifies other, general factors EPA must consider in establishing an exemption, including the consideration of the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' FFDCA section 408(c)(3) prohibits an exemption unless

there is either a practical method for detecting and measuring levels of pesticide chemical residue in or on food or EPA determines that there is no need for such a method and states the reason for such determination.

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Sucrose octanoate esters are made from a caprylic fatty acid ester derived from an edible oil or fat, and sucrose. Sucrose is the primary product of photosynthesis (Reference 1) and therefore, common in food crops eaten regularly by humans and animals. Sucrose, also known as table sugar, has an exceedingly long history of human dietary exposure (Reference 1). The octanoate esters are made from octanoic acid (caprylic acid), a common fatty acid in plants, which is produced in small quantities in the human body and is marketed as a human dietary supplement (Reference 1). Sucrose octanoate esters derived from edible vegetable oils, edible tallow or hydrogenated edible tallow have been FDA-approved since 1983 (21 CFR 172.859) when used (as an additive for direct addition to food) as emulsifiers in certain processed foods and as post-harvest protective coatings for certain fruits. FDA expanded in 1995 the range of foods in which SOEs are permitted, to include use in emulsifiers, stabilizers, and texturizers in chewing gum, confections, and frostings; texturizers in surimi-based fabricated seafood products; and emulsifiers in coffee and tea beverages with added dairy ingredients and/or dairy product analogs (60 FR 44755). The applicant collected and summarized the toxicological data associated with the cited FDA food-use approvals and submitted this information in support of their tolerance exemption request (Reference 2). The Agency reviewed both the summaries and the underlying data.

Toxicity information/data submitted in support of this tolerance exemption are referenced below. New studies were contracted by the petitioner only for primary eye irritation and primary dermal irritation. Data waivers were requested and granted for all other toxicity data requirements. Publically available information/data were submitted, in lieu of studies, as part of the scientific justification necessary to support the data waiver requests (References 2, 3, and 4). In addition, the Agency has found additional relevant data from additional public sources including the National Toxicology Program which have been of value to the Agency's review of this petition (Reference 1). The submitted information/data, in combination, were found equivalent to what would normally be provided by guideline studies, and therefore would likely have been adequate to meet each toxicology requirement had they been submitted as such pursuant to 40 CFR 152.90(b)(4). More detailed analyses of these data and information can be found in specific Agency reviews of the studies and technical literature (References 1, 5, and 6).

1. *Primary eye irritation (OPPTS 870.2400, 152–13) MRIDs 446101–05 and 446101–06:* Following ocular instillation of 0.1 mL of undiluted manufacturing-use product into the eyes of rabbits, moderate to severe eye irritation and mild corneal opacity was observed in the treated eyes of all rabbits at 24 hours post-dosing, and persisted in 1 rabbit to 21 days post-dosing. Mild iritis was exhibited in 3 rabbits at 24 hours post-dosing, and persisted in 1 rabbit to 72 hours. Classification: Acceptable; Toxicity Category I for the manufacturing-use product. In a second primary eye irritation study, following ocular instillation of 0.1 mL of undiluted end-use product into the eyes of rabbits, moderate to severe eye irritation was observed in the treated eyes of all 6 rabbits at 72 hours post-dosing, was mild at 7 days, and cleared by 14 days. Mild corneal opacity was observed in all 6 rabbits at 24 hours, and persisted to 7 days in 1 rabbit, then cleared by 14 days post-dosing. Mild iritis persisted in 4 rabbits to 72 hours, then cleared. Classification: Acceptable; Toxicity Category II for the end-use product.

2. *Primary dermal irritation (OPPTS 870.2500, 152–14) MRIDs 446101–03 and 446101–04:* Following dermal application of 0.5 mL of undiluted manufacturing-use product to the skin of rabbits, 5 rabbits exhibited very slight erythema and one exhibited well-defined erythema at 1 hour post-treatment. Very slight erythema persisted on 4 rabbits to 24 hours, then cleared. No edema was observed on any rabbit. Classification: Acceptable; Toxicity Category IV for the manufacturing-use product. In a second primary dermal irritation study, following dermal application of 0.5 mL of undiluted end-use product to the skin of rabbits, very slight erythema was exhibited by 6 rabbits at 0.5 hour post-treatment and 5 rabbits exhibited very slight to slight edema. All symptoms cleared by 24 hours. Classification: Acceptable; Toxicity Category IV for the end-use product.

Data waivers were requested for the following studies. Although no acute toxicity studies were conducted by the registrant, acceptable information/data was submitted from the open technical literature to support the data waiver requests.

3. *Acute oral toxicity waiver (OPPTS 870.1100, 152–10) MRID 444158–03, and Amendment number 1:* Acute oral and dietary toxicity data, previously evaluated in three publications by the Food and Agriculture Organization (FAO) of the United Nations World Health Organization (WHO), were submitted in support of this data waiver request (References 2, and 3). The data contained in these reports demonstrated that SOEs had extremely low oral toxicity (in laboratory studies), even at concentrations substantially higher than are found in human food. Extremely high concentrations were needed to produce toxic symptoms in laboratory studies (LD_{50} <20,000 milligrams/kilogram (mg/kg)). Long-term and short-term dietary studies (100 days to 2.5 years), evaluated in the aforementioned FAO/WHO reports, demonstrated that dietary consumption at levels of up to 3% in the diets of rats, mice and dogs caused no substantial toxicological effects. An acceptable daily intake (ADI) of SOEs for humans was estimated to be up to 16 mg/kg body weight/day, which is equivalent to 1.28 kg of SOEs per day for a 176 lb person. In studies with rats and humans, it was demonstrated that SOEs were rapidly hydrolyzed and absorbed by the body. In addition, the National Toxicology Program lists the octanoic acid oral LD_{50} for rats as 10,080 mg/kg (Reference 1). The information/data described above supports waivers from the data requirements for acute oral toxicity studies. The Agency concludes that SOEs have extremely low toxicity. Classification: Acceptable; Toxicity Category IV for the manufacturing-use product and end-use product.

4. *Acute dermal toxicity waiver (OPPTS 870.1200, 152–11) MRID 444158–03 and Amendment number 1:* A data waiver was granted for this guideline study based on the strength of the supporting information/data submitted by the registrant. In addition, publically available sources list the octanoic acid dermal LD_{50} for rabbits as > 5,000 mg/kg (Reference 1). Classification: Acceptable; Toxicity Category IV for the manufacturing-use product and end-use product.

5. *Acute inhalation toxicity waiver (OPPTS 870.1300, 152–12) MRID 444158–03 and Amendment number 1:* A data waiver was granted for this guideline study based on the strength of the supporting information/data submitted by the registrant (References 2, 3, and 5). Classification: Acceptable; Toxicity Category IV for the manufacturing-use product and end-use product.

6. *Hypersensitivity study waiver (OPPTS 870.2600, 152–15) MRID 444158–04:* No hypersensitivity incidents (152.16) have been reported for laboratory workers regularly exposed to SOEs for up to 6 years. In addition, the registrant is obliged under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 6(a)(2) to notify the Agency in the event of such incidents. Classification: Acceptable.

7. *Genotoxicity and Mutagenicity waiver (OPPTS 870.5300, 870.5195; 152–17, and 152–19) MRID 444158–03 and Amendment number 1:* No guideline studies were submitted, but it was determined that none are required because acceptable information/data were submitted from the open technical literature to scientifically justify a waiver of the data requirements for genotoxicity and mutagenicity. This information/data demonstrate that SOEs are not genotoxic and/or mutagenic, nor is the a.i. structurally and/or chemically similar to known mutagens or known classes of mutagens (References. 2, 3, and 5). In addition, a study reported by the National Toxicology Program shows octanoic acid to be negative for genotoxicity/mutagenicity (Reference 1). Classification: Acceptable.

8. *Immune response and other Subdivision M toxicity data waivers (OPPTS 880.3800 through 870.4200, 152–18 through 152–29) MRID 444158–03 and Amendment number 1:* Due to the low toxicity of SOEs (as demonstrated in the cited open technical literature (References 2, 3, 4, 5, and 6), the Agency granted waivers from all other Subdivision M toxicity data requirements, including the 90–day feeding and teratogenicity studies. In addition, octanoic acid is considered a nonteratogenic compound even at the very high dose rate of 18.75 millimoles/kg (Reference 1).

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food.* An ADI of SOEs for humans was estimated by FAO/WHO to be up to 16 mg/kg body weight/day, which is equivalent to 1.28 kg of SOEs per day for a 176 lb person (References. 2, 3, and 5). There are no reasonably foreseeable circumstances in which the residue levels of SOEs would ever approach this amount. Sucrose octanoate esters break down into their natural constituents (sugar and fatty acids) shortly after application. The foliar application rate for the product would be at a volume to volume rate of 0.32% to 0.40% (Reference 7) for the a.i.. Likewise the a.i. use rate when applied to honey bees would be 0.25%, and would range from 0.5% to 1.0% when treating mushroom growing media. In studies with rats and humans, it was demonstrated that SOEs were rapidly hydrolyzed and absorbed by the body (Reference 5). Because SOEs are the mono-, di- and tri-esters of sucrose with fatty acids and are derived from sucrose (sugar) and edible tallow or edible vegetable oils, there is a great likelihood of exposure in the normal human diet to SOEs and SOEs' components for most, if not all individuals, including infants and children. Sucrose octanoate esters are a sucrose fatty acid ester, and sucrose fatty acid esters are a normal part of the human diet. Thus SOEs may be considered a normal part of the human diet. To date, there have been no reports of any hypersensitivity incidents or reports of any known adverse reactions in humans resulting from exposure to SOEs, which have been FDA-approved food emulsifiers and post-harvest protective fruit coatings since 1983. Even if there is a significant increase in exposure to SOEs due to their use as a pesticide, the acute toxicity information and data available from the National Toxicology Program and submitted by the registrant demonstrating extremely low mammalian toxicity (Toxicity Category IV) indicate that risk associated with acute exposures by the oral, dermal and inhalation routes would be low to non-existent.

2. *Drinking water exposure.* No drinking water exposure is expected, as SOEs are not soluble in water, do not persist in the environment, and are biodegradable within approximately five days at approximately 20–27°C, in both aerobic and anaerobic conditions (Reference 5). Because SOEs have extremely low toxicity, have been approved for food use by FDA, and are present as direct food additives in many foods, should exposure through drinking water occur, no risk is anticipated.

B. Other Non-Occupational Exposure

The potential for non-dietary exposure to SOEs residues for the general population, including infants and children, is unlikely because potential use sites are commercial, agricultural, and large-scale horticultural. Sucrose octanoate esters' constituent sugars and fatty acids are normal parts of the human diet. Sucrose octanoate esters' toxicity has been determined to be extremely low (except via the ocular exposure route). Therefore, while there exists a great likelihood of prior exposure for most, if not all, individuals to both SOEs and SOEs' components, any increased exposure due to the proposed products would be negligible because the product would very likely be degraded to sugars and fatty acids and/or consumed by microorganisms before the general public would come in contact with treated plants or food products from treated plants.

VI. Cumulative Effects

The Agency has considered the cumulative effects of SOEs and other substances in relation to a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. There is no indication of mammalian toxicity from the submitted information/data (except by the ocular route of exposure) for SOEs. Therefore, no adverse cumulative effects are expected.

VII. Determination of Safety for U.S. Population, Infants and Children

1. *U.S. population.* There is a reasonable certainty that no harm will result from aggregate exposure to residues of SOEs to the U.S. population. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion based on the extremely low levels of mammalian toxicity associated with

SOEs (except for risk from ocular exposure, which will be mitigated via precautionary label language). Sucrose octanoate esters have extremely low toxicity (LD_{50} >20,000 mg/kg in laboratory studies of oral exposure), and it is unlikely that any toxic effects will result from exposure to SOEs via the oral, dermal or inhalation pathways when the products are used according to proposed label directions (Reference 5). The amount of SOEs applied to food crops is many orders of magnitude lower than the concentrations of SOEs needed to cause toxicological effects. Because the worst case scenario exposure is far below the level of any dietary toxicity known for SOEs or their components and degradates, EPA has determined that residues will not pose a dietary risk under reasonably foreseeable circumstances and that the setting of a tolerance exemption is appropriate.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre-natal and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, based on all the available information, the Agency concludes that SOEs are practically non-toxic to mammals, including infants and children (except via ocular exposure). Thus, there are no threshold effects of concern, and so the provision requiring an additional margin of safety does not apply. Further, the provisions of consumption patterns, special susceptibility, and cumulative effects do not apply. As a result, EPA has not used a margin of exposure (safety) approach to assess the safety of SOEs.

VIII. Other Considerations

A. Endocrine Disruptors

EPA is required under the FFDCA as amended by FQPA to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally-occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there is no scientific basis for including, as part of the program, the androgen and thyroid hormone systems in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP). When the appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, SOEs may be subjected to additional screening and/or testing to better characterize effects related to endocrine disruption.

Based on available data, no endocrine system-related effects have been identified with consumption of SOEs. It is an FDA-approved direct food additive comprised of sugars and fatty acids, having an ADI of 16 mg/kg body weight/day. To date, there is no evidence to suggest that SOEs affect the immune system, function in a manner similar to any known hormone, or that they act as an endocrine disruptor.

B. Analytical Method(s)

The Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation for the reasons stated above, including SOEs' low mammalian toxicity (except by ocular exposure). For the same reasons, the Agency has concluded that an analytical method is not required for enforcement purposes for SOEs.

C. Codex Maximum Residue Level

There are no Codex Maximum Residue Levels (MRLs) established for residues of SOEs.

IX. Conclusions

Based on the toxicology information/data submitted and publically available, there is a reasonable certainty that no harm will result from aggregate exposure of residues of SOEs to the U.S. population, including infants and children, under reasonably foreseeable circumstances, when the biochemical pesticide is used in accordance with good agricultural practices. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion based on the information/data submitted and publically available data demonstrating no toxicity, except from ocular exposure. Potential risk from ocular exposure will be effectively addressed under FIFRA by mitigating precautionary label language. As a result, EPA establishes an exemption from the tolerance requirements pursuant to FFDCA 408(c) and (d) for residues of SOEs in or on all food commodities.

X. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0016 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 25, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI

must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your written request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IX.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket ID number OPP–2002–0016, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

XI. References

1. *USEPA*. Brief summary of toxicity information to support registration/tolerance exemptions for sucrose octanoate. R. S. Jones to D. Greenway; August 8, 2002.

2. *Barrington, T., and C. L. Hartman*. Sucrose fatty acid esters-Safety data in support of petition proposing a temporary (sic) exemption from the requirement of a tolerance for use in all food commodities (MRID 444158–03); October 2, 1997.

3. *Barrington, T. and W. L. Biehn*. Sucrose fatty acid esters-safety data in support of petition proposing an exemption from the requirement of a tolerance for use in all food commodities, Amendment number 1 to MRID 444158–03; July 13, 1998.

4. *Barrington, A.* Waiver request; July 12, 2002.

5. *USEPA*. Science review in support of registration of sucrose octanoate esters. R.S. Jones to D. Greenway; February 14, 2000.

6. *USEPA*. Sucrose octanoate esters; A request for concurrence on a decision to waive the requirement for 90–day feeding (152–20) and teratogenicity (152–23) studies, based on the Registrant's correspondence of July 12, 2002. D. Greenway to R. S. Jones; August 7, 2002.

7. *Barrington, A.* Sucrose octanoate esters - per-acre application rates; July 12, 2002.

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires

EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 11, 2002.

James Jones,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.1222 is added to subpart D to read as follows:

§ 180.1222 Sucrose octanoate esters; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of sucrose octanoate esters [(α-D-glucopyranosyl-β-D-fructofuranosyl-octanoate), mono-, di-, and triesters of sucrose octanoate] in or on all food commodities when used in accordance with good agricultural practices.

[FR Doc. 02–24224 Filed 9–24–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0235; FRL–7198–4]

Clopyralid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of clopyralid in or on certain raw agricultural commodities. Interregional Research Project Number 4 (IR-4) and Dow Agro Sciences LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 25, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0235, must be received on or before November 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0235 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703 305–6224; and e-mail address: *miller.joanne@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at *http://www.epa.gov/*. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and

Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00. html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–2002–0235. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is ailable for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 14, 2002 (67 FR 52990) (FRL–7191–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170), announcing the filing of pesticide petitions (PP 1E6227, 1E6241, 1E6283, 1E6291, 1E6320, 1E6329, 1E6333, 1E6334, 1E6335, 1E6399, and 1E6340) by the Interregional Research Project Number 4 (IR-4), P.O. Box 231, Rutgers University, New Brunswick, NJ 08903 and PP 4F4379 from Dow Agro Sciences LLC, Indianapolis, IN 46268. This notice included a summary of the petition prepared by Dow Agro Sciences LLC, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.431 be amended by establishing tolerances for residues of the herbicide clopyralid, 3,6-dichloro-2-pyridinecarboxylic acid, in or on the following commodities: Flax seed at 3.0 part per million (ppm); strawberry at 1.0 ppm; hop, dried cones at 5.0 ppm; rapeseed seed, rapeseed forage, canola seed, mustard seed, and crambe seed at 3 ppm, and canola meat at 6.0 ppm; spinach at 5.0 ppm; stone fruit group at 0.5 ppm; garden beet tops at 3.0 ppm and garden beet roots at 4.0 ppm; mustard greens at 5.0 ppm; turnip roots at 1.0 ppm and turnip greens at 4.0 ppm; cranberry at 4 ppm; sweet corn, kernel plus cob with husks removed at 1.0 ppm, sweet corn forage at 7.0 ppm, sweet corn stover at 10.0 ppm, pop corn grain at 1.0 ppm, pop corn stover at 10.0 ppm, liver of cattle, goat, horse, and sheep at 3.0 ppm, meat byproducts, except liver, of cattle, goat, horse and sheep at 36.0 ppm, and milk at 0.2 ppm; and the brassica, head and stem, subgroup at 2.0 ppm. EPA is editorially correcting the tolerance expressions to read canola meal and turnip, tops.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that'' there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of clopyralid on strawberry at 1.0 ppm; hop, dried cones, at 5.0 ppm; rapeseed seed, rapeseed forage, mustard seed, and crambe seed at 3 ppm, canola meal and flax meal at 6.0 ppm; spinach at 5.0 ppm; stone fruit group at 0.5 ppm; prunes at 1.5 ppm, garden beet tops at 3.0 ppm and garden beet roots at 4.0 ppm; mustard greens at 5.0 ppm; turnip roots at 1.0 ppm and turnip tops at 4.0 ppm; cranberry at 4.0 ppm; sweet corn, kernel plus cob with husks removed at 1.0 ppm, sweet corn forage at 7.0 ppm, sweet corn stover at 10.0 ppm, pop corn grain at 1.0 ppm, pop corn stover at 10.0 ppm, liver of cattle, goat, horse, and sheep at 3.0 ppm, meat byproducts, except liver, of cattle, goat, horse and sheep at 36.0 ppm, and milk at 0.2 ppm; and the Brassica, head and stem, subgroup at 2.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clopyralid are discussed in the following Table 1 and Table 2 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY OF CLOPYRALID

Guideline No.	Study Type	Results
870.3100	90–Day oral toxicity in mice	NOAEL = 2,000 mg/kg/day in both sexes. LOAEL = 5,000 mg/kg/day in both sexes based on decreased body weight in both sexes.
870.3200	21/28–Day dermal toxicity in rabbits	NOAEL = 1,000 mg/kg/day for both sexes.
870.3700	Prenatal developmental toxicity in rats	Maternal NOAEL = 75 mg/kg/day LOAEL = 250 mg/kg/day based on mortality, reduced body weight gains and reduced food consumption. Developmental NOAEL = 250 mg/kg/day highest dose tested (HDT).
870.3700	Prenatal developmental toxicity in rabbits	Maternal NOAEL = 110 mg/kg/day. LOAEL = 250 mg /kg/day based on mortality, clinical signs, decreased body weight gains, and lesions of the gastric mucosa. Developmental NOAEL = 110 mg/kg/day. LOAEL = 250 mg/kg/day based on decreased fetal body weight and hydrocephalus.
870.3800	Reproduction and fertility effects in rats	Systemic NOAEL = 500 mg/kg/day for males and females LOAEL = 1,500 mg/kg/day for males and females based on decreased body weights, decreased weight gain, and decreased food consumption in both sexes and slight focal hyperkeratotic changes in gastric squamous mucosa in males. Reproductive/Offspring NOAEL = 500 mg/kg/day LOAEL = 1,500 mg/kg/day for males and females based on reduced pup weights in males and increased relative liver weight in pups of both sexes.
870.4100	Chronic toxicity dogs	NOAEL = 100 mg/kg/day in males and females. LOAEL = 320 mg/kg/day based upon reduction in hematological parameters in both sexes, increased absolute liver weight in males, and vacuolated adrenal cortical cells in females.
870.4200	Carcinogenicity mice	NOAEL = 500 mg/kg/day and ≥2,000 mg/kg/day in females. LOAEL = 2,000 mg/kg/day in males based on decreased body weight, body weight gains, and food efficiency. No evidence of carcinogenicity.
870.4300	Combined Chronic Toxicity/ Carcinogenicity in rats	NOAEL = 15 mg/kg/day. LOAEL = 150 mg/kg/day based on epithelial hyperplasia and thickening of the limiting ridge of the stomach in both sexes. No evidence of carcinogenicity.
870.5300	*In vitro* and *in vivo* host mediated assay in bacteria	No evidence of induced mutant colonies over background in *Salmonella* strains TA 1,530 bacteria and G-46 and *Saccharomyces* strain D-3
870.5385	Bone marrow chromosome aberrations assay	There was no significant increase in the frequency of chromosome aberrations in bone marrow at any dose tested.
870.5550	*In vitro* unscheduled DNA synthesis assay	There was no evidence of unscheduled DNA synthesis in initial or supplementary assays.
870.5450	Dominant lethal assay in rats.	No evidence of treatment related resorptions up to 400 mg/kg/day for 5 days.
870.7485	Metabolism in rats	Rapidly absorbed and excreted mainly in the urine. Parent compound only is detected in the excreta.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to

determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for clopyralid used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOPYRALID FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary (General population, including infants and children)	NOAEL = 75 mg/kg/day UF = 100 Acute RfD = 0.75 mg/kg/day	FQPA SF = 1X aPAD = acute RfD/FQPA SF = 0.75 mg/kg/day	Developmental Toxicity Study - rat Maternal LOAEL = 250 mg ai/ kg/day based on decreased weight gain during gestation days 6–9
Chronic Dietary (All populations)	NOAEL = 15 mg/kg/day UF = 100 Chronic RfD = 0.15 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD/FQPA SF = 0.15 mg/kg/day	2–Year Chronic Toxicity/Carcinogenicity Study - rat LOAEL = 150 mg ai/kg/day based on increased epithelial hyperplasia and thickening of the limiting ridge of the stomach in both sexes
Short-Term Incidental Oral	NOAEL = 75 mg/kg/day	LOC for MOE = 100	Developmental Toxicity Study - rat Maternal LOAEL = 250 mg ai/ kg/day based on decreased weight gain during gestation days 6–9
Intermediate Term Incidental Oral	NOAEL = 15 mg/kg/day	LOC for MOE = 100	2–Year Chronic Toxicity/Carcinogenicity Study - rat LOAEL = 150 mg ai/kg/day based on increased epithelial hyperplasia and thickening of the limiting ridge of the stomach in both sexes
Short–Term (1–7 days) and Intermediate-Term (1 week - several months) Dermal	None	No systemic toxicity was seen at the limit dose (1,000 mg/kg/day) in the 21–day dermal toxicity study in rabbits. This risk assessment is not required.	Not Applicable (N/A)
Short–Term (1–7 days) Inhalation	NOAEL = 75 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100	Developmental Toxicity Study - rat Maternal LOAEL = 250 mg ai/kg/day based on decreased body weight gain
Cancer (Oral, dermal, inhalation)	Not likely	N/A	Acceptable oral rat and mouse carcinogenicity studies; no evidence of carcinogenic or mutagenic potential.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.431) for the residues of clopyralid, in or on a variety of raw agricultural commodities. Established, proposed and increased tolerances for clopyralid are adequate for any expected secondary residues in meat, milk, poultry and/or eggs. Risk assessments were conducted by EPA to assess dietary exposures from clopyralid in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. In conducting this acute dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments. Residue levels are at the recommended tolerances with the exception of sugar beets. The empirical processing factor of 0.1x was used for sugar-beet representing the 10–fold reduction in residues for refined sugar. One hundred percent of all of the crops are treated with clopyralid.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model

(DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments. Residue levels are at the recommended tolerances with the exception of sugar beets. The empirical processing factor of 0.1x was used for sugar-beet representing the 10-fold reduction in residues for refined sugar. One hundred percent of all of the crops are treated with clopyralid.

iii. *Cancer*. Acceptable oral rat and mouse carcinogenicity studies show no evidence of carcinogenic or mutagenic potential. Clopyralid is classified as not likely to be a human carcinogen.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clopyralid in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of clopyralid.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clopyralid they are further discussed in the aggregate risk sections in Unit III.E of this document.

Based on the FIRST and SCI-GROW models the estimated environmental concentrations (EECs) of clopyralid for acute exposures are estimated to be 46 parts per billion (ppb) for surface water and 9.7 ppb for ground water. The EECs for chronic exposures are estimated to be 18 ppb in surface water and 9.7 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Clopyralid is currently registered for use on the following residential non-dietary sites: Turf and ornamentals (including golf courses). The risk assessment was conducted using the following residential exposure assumptions: the 75 mg/kg/day NOAEL was used in the short-term inhalation, hand-to-mouth, and episodic granular ingestion risk assessments of the residential exposure. The intermediate-term assessment for children's hand-to-mouth exposure was based on the 15 mg/kg/day NOAEL chosen for incidental oral exposure. As no dermal endpoint was selected, a dermal risk assessment was not required for residential exposure. For residential oral and inhalation risk assessments, the target margin of exposure (MOE) was 100 which incorporates the removal of the FQPA Safety Factor. MOEs calculated for residential handler's inhalation exposure and children's oral exposures were well above the target of 100; and therefore, do not exceed the Agency's level of concern.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether clopyralid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, clopyralid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clopyralid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. No increased quantitative or qualitative susceptibility was seen following pre- and/or post-natal exposures. In the developmental study with rats, no developmental toxicity was seen at the HDT (250 mg/kg/day) even in the presence of severe maternal toxicity which manifested as deaths, reduced body weight gain and decreased food consumption. In the two generation reproduction study, offspring toxicity, characterized as decreased pup weight and increased liver weights, occurred only at the HDT (1,500 mg/kg/day) which is higher than the Limit Dose (1,000 mg/kg/day). These changes occurred in the presence of severe

parental toxicity (decreased body weight, body weight gain, food consumption and slight focal hyper keratosis of the gastric mucosa). In the developmental rabbit study, hydrocephalus was seen in eight fetuses (3/15 litters) only at the highest dose tested (250 mg/kg/day) in the presence of severe maternal toxicity that manifested as death, decreases in mean body weight and lesions of the gastric mucosa; the developmental NOAEL was 110 mg/kg/day. The available data indicate that a developmental neurotoxicity study would have to be tested at dose levels higher than 250 mg/kg/day because no developmental toxicity was observed in rats at 250 mg/kg/day. In addition, the offspring NOAEL in the two generation reproduction study was 500 mg/kg/day with a LOAEL of 1,500 mg/kg/day. Therefore, it is anticipated that in order to elicit any fetal nervous system abnormalities in a developmental neurotoxicity study, the selected dose levels would have to be higher than 500 mg/kg/day. Since the dose level selections for the developmental neurotoxicity study will be greater than 500 mg/kg/day, the resultant NOAEL will be either comparable to, or higher than the doses currently used in the risk assessment. The NOAEL of 75 mg/kg/day selected for the acute RfD is seven times lower than the offspring NOAEL in the reproduction study. The NOAEL of 15 mg/kg/day selected for the chronic RfD and the residential exposure risk assessments is thirty three times lower than the offspring NOAEL in the reproduction study. Therefore, a developmental neurotoxicity study would not likely change the regulatory doses used for overall risk assessments.

3. *Conclusion*. EPA determined that an additional factor to protect infants and children was not appropriate. Several factors influenced this decision not to require a development neurotoxicity (DNT) study:

i. Although hydrocephalus was observed at the high dose in the developmental rabbit study, it was seen in the presence of severe maternal toxicity;

ii. No alterations to the fetal nervous system were seen in the developmental rat study at the same dose (250 mg/kg/day);

iii. There was no quantitative or qualitative evidence of increased susceptibility in the two generation reproduction study;

iv. There is no concern nor are there residual uncertainties for pre and/or post natal toxicity; and

v. Although there are no acute or subchronic neurotoxicity studies, there is no evidence of neurotoxicity or neuropathology in adult animals in any of the studies. EPA decided that the FQPA safety factor should be reduced to 1 rather than the statutory default factor of 10 because the existing toxicology database, which is complete, revealed no quantitative or qualitative evidence of increased susceptibility following *in utero* exposure to rats and rabbits and/or following prenatal/postnatal exposure to rats; and dietary (food and drinking water) and residential exposure assessments will not underestimate the potential exposures for infants, children, and/or women of childbearing age from the use of clopyralid.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to clopyralid will occupy 4% of the aPAD for the U.S. population, 2% of the aPAD for females 13 years and older, 4% of the aPAD for all infants (< 1 year) and 7% of the aPAD for children 1–6 years. In addition, there is potential for acute dietary exposure to clopyralid in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CLOPYRALID

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
General U.S. Population	0.75	4	46	9.7	25,000
All Infants (< 1 year)	0.75	4	46	9.7	7,200
Children 1–6 years	0.75	7	46	9.7	7,000
Females 13–50	0.75	2	46	9.7	22,000

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clopyralid from food will utilize 7% of the cPAD for the U.S. population, 7% of the cPAD for all infants (< 1 year) and 17% of the cPAD for children 1–6 years. Based on the use pattern, chronic residential exposure to residues of clopyralid is not expected. In addition, there is potential for chronic dietary exposure to clopyralid in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO CLOPYRALID

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.15	7	18	9.7	4,900
All Infants (< 1 year)	0.15	7	18	9.7	1,400
Children 1–6 years	0.15	17	18	9.7	1,200
Females 13–50	0.15	5	18	9.7	4,300

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clopyralid is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for clopyralid.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 7,000 (U.S. population, food and residential), 9,600 (females 13–50, food and residential) and 2,200 (children 1–6 years old, food and residential). These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of clopyralid in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO CLOPYRALID

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short–Term DWLOC (ppb)
U.S. Population	7,000	100	18	9.7	26,000
Children 1–6 years	2,200	100	18	9.7	7,200
Females 13–50 years	9,600	100	18	9.7	22,000

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clopyralid is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for clopyralid.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in an aggregate MOE of 530 (children 1–6 years, food and residential). This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, an intermediate-term DWLOC was calculated and compared to the EECs for chronic exposure of clopyralid in ground and surface water. After calculating the DWLOC and comparing it to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO CLOPYRALID

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water + EEC (ppb)	Intermediate-Term DWLOC (ppb)
Children 1–6 years	530	100	18	9.7	1,200

5. *Aggregate cancer risk for U.S. population*. The Agency concluded that clopyralid was negative for carcinogenicity potential in rats and mice and classified clopyralid as ''not likely'' to be a human carcinogen according to EPA Draft Guidelines for Carcinogen Risk Assessment.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to clopyralid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate residue analytical method is available for enforcement of the proposed tolerances. This method, ACR 75.6, determines clopyralid as the methyl ester by gas chromatography using electron capture detection. This method has been successfully validated by EPA and has been published in FDA's Pesticide Analytical Manual, Vol-II (PAM II).

An adequate residue analytical method is also available for the enforcement of the proposed tolerance on animal commodities. This method, ACR 86.1, determines clopyralid as the methyl ester by gas chromatography using electron capture detection. This method has been successfully validated by EPA and has been published in FDA's Pesticide Analytical Manual, Vol-II (PAM II).

B. International Residue Limits

There are no Codex or Mexican maximum residue limits (MRLs). Canada has set maximum residue limits of 2.0 ppm for barley, oats, and wheat, 7.0 ppm for the milled fractions of barley, oats, and wheat (excluding flour), 1.0 ppm for strawberries and 0.2 ppm for flax.

V. Conclusion

Therefore, tolerances are established for residues of clopyralid on strawberry at 1.0 ppm; hop, dried cones, at 5.0 ppm; rapeseed seed, rapeseed forage, mustard seed, and crambe seed at 3.0 ppm, canola meal and flax meal at 6.0 ppm; spinach at 5.0 ppm; stone fruit group at 0.5 ppm; prunes at 1.5 ppm, garden beet tops at 3.0 ppm and garden beet roots at 4.0 ppm; mustard greens at 5.0 ppm; turnip roots at 1.0 ppm and turnip tops at 4.0 ppm; cranberry at 4.0 ppm; sweet corn, kernel plus cob with husks removed at 1.0 ppm, sweet corn forage at 7.0 ppm, sweet corn stover at 10.0 ppm, pop corn grain at 1.0 ppm, pop corn stover at 10.0 ppm, liver of cattle, goat, horse, and sheep at 3.0 ppm, meat byproducts, except liver, of cattle, goat, horse and sheep at 36.0 ppm, and milk at 0.2 ppm; and the brassica, head and stem, subgroup at 2.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0235 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 25, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0235, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption.

Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 16, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. Section 180.431 is amended as follows:

i. By alphabetically adding commodities to the table in paragraph (a);

ii. By removing tolerances for cattle, kidney; goat, kidney; horse, kidney and sheep, kidney in the table in paragraph (a);

iii. By increasing tolerances for cattle, meat byproducts, except liver; goat, meat byproducts, except liver; horse, meat byproducts, except liver and sheep, meat byproducts, except liver; and milk in the table in paragraph (a); and

iv. By removing the text from paragraph (b); and reserving paragraph (b) with the heading.

The additions and revisions read as follows:

§ 180.431 Clopyralid; tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on the following commodities:

Commodity	Parts per million
* * * * *	
Beet, garden, tops	3.0
Beet, garden, roots	4.0
Brassica, head and stem, subgroup	2.0
Canola, meal	6.0
Canola, seed	3.0
* * * * *	
Cattle, liver	3.0
* * * * *	
Cattle, meat byproducts, except liver	36.0
* * * * *	
Corn, pop, grain	1.0
Corn, pop, stover	10.0
Corn, sweet, forage	7.0
Corn, sweet, kernel plus cob with husks removed	1.0
Corn, sweet, stover	10.0
Crambe, seed	3.0
Cranberry	4.0
* * * * *	
Flax, meal	6.0
Flax, seed	3.0
Fruit, stone, group	0.5
* * * * *	
Goat, liver	3.0
* * * * *	
Goat, meat byproducts, except liver	36.0
* * * * *	
Hop, dried cones	5.0
* * * * *	
Horse, liver	3.0
* * * * *	
Horse, meat byproducts, except liver	36.0
Milk	0.2
* * * * *	
Mustard, greens	5.0
Mustard, seed	3.0
* * * * *	
Plum, prune, dried	1.5
* * * * *	
Rapeseed, seed	3.0
Rapeseed, forage	3.0
* * * * *	
Sheep, liver	3.0
* * * * *	
Sheep, meat byproducts, except liver	36.0
* * * * *	
Spinach	5.0
Strawberry	1.0
* * * * *	
Turnip, roots	1.0
Turnip, tops	4.0
* * * * *	

(b) *Section 18 emergency exemptions*. [Reserved]

* * * * *

[FR Doc. 02–24232 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–7381–6]

Hawaii; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on the State of Hawaii's application for final approval.

SUMMARY: The State of Hawaii has applied for approval of its Underground Storage Tank Program for petroleum and hazardous substances under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Hawaii's application and has reached a final determination that Hawaii's Underground Storage Tank Program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for approval. Thus, the EPA is granting final approval to the State of Hawaii to operate its Underground Storage Tank Program for petroleum and hazardous substances.

EFFECTIVE DATE: Final approval for the State of Hawaii's Underground Storage Tanks Program shall be effective on September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Norwood Scott, Underground Storage Tanks Program Office, U.S. EPA, Region 9, 75 Hawthorne Street (WST–8), San Francisco, California 94105, Telephone: (415) 972–3373.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to approve state Underground Storage Tank Programs to operate in the State in lieu of the Federal Underground Storage Tank (UST) Program. To qualify for final authorization, a state's Program must: (1) Be ''no less stringent'' than the Federal Program for the seven elements set forth at RCRA Section 9004(a)(1) through (7); and (2) provide for adequate enforcement of compliance with the UST standards of RCRA Section 9004(a). Note that RCRA Sections 9005 (on information-gathering) and 9006 (on Federal enforcement) by their terms apply even in states with Programs approved by the EPA under RCRA Section 9004. Thus, the Agency retains its authority under RCRA Sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions. Moreover, authorization of a state Program is a prospective action only and an authorized state Program only operates in lieu of the Federal Program as of the effective date of the authorization. The Agency may undertake enforcement of the Federal requirements for violations of those Federal requirements which occurred prior to the effective date of authorization of the state's Program. In this case, authorization of the Hawaii UST Program will be effective on September 30, 2002.

On May 23, 2001, the State of Hawaii submitted an official application to obtain final program approval to administer the Underground Storage Tank Program for petroleum and hazardous substances. On October 5, 2001, the EPA published a tentative decision announcing its intent to grant Hawaii final approval. Further background on the tentative decision to grant approval appears at 66 FR 50963–50966, October 5, 2001.

Along with the tentative determination, the EPA announced the availability of the application for public comment and the date of a public hearing on the application. The EPA requested advance notice for testimony and reserved the right to cancel the public hearing for lack of public interest. The hearing was held at Kawananakoa Middle School in Honolulu, Hawaii on November 13, 2001.

B. Significant Public Comments and EPA's Responses

Written comments regarding the EPA's approval of Hawaii's Underground Storage Tank Program were received during the comment period from EnviroWatch, Inc. Oral comments regarding the EPA's approval of Hawaii's Underground Storage Tank Program were received during the public hearing from Carroll Cox, President of EnviroWatch, Inc., and Joe Ryan, a resident of Waimanalo.

Additionally, in April 2001, prior to publication of EPA's tentative decision to authorize Hawaii's Underground Storage Tank Program, EPA received a Petition To Withdraw Hawaii Certification and Title VI Complaint of Discriminatory Acts (Petition to

Withdraw) challenging the administration and enforcement of environmental programs by the State of Hawaii and seeking withdrawal of authorization for all environmental programs. We have taken into consideration comments in the Petition relating to the Hawaii Underground Storage Tank Program in taking today's action. Today's action is not a final determination on the merits of the Petition to Withdraw. The significant issues raised by the commenters and EPA's responses are summarized below.

1. *Comment:* EPA received comments relating to the Hawaii Department of Health's (HDOH) implementation of other programs for which Hawaii has been delegated authority by EPA. The comments generally asserted that HDOH has a track record of being unable to properly enforce other federally delegated programs and, thus, that the State would not adequately enforce its underground storage tank program. Specific examples cited included Hawaii's enforcement of the Clean Water Act, including the State's National Pollutant Discharge Elimination System (NPDES) program, Hawaii's investigation into a sewage dumping incident, and the purported failure of the State's Attorney General to give priority to environmental enforcement. The Petition to Withdraw also identified the State's economic condition and the reduction in force of State employees responsible for inspections and enforcement as a reason why the State would not be able to administer and enforce the UST program according to Federal guidelines and rules.

Response: Each environmental program is unique and must be evaluated in light of the particular Federal and state requirements applicable to that program. Among other things, programs differ significantly in the numbers and types of pollutants regulated; the number, size and type of facilities which are regulated; the complexity and scope of regulatory requirements; regulatory mechanisms (for example, use of permits and prohibitions); tools for assessing compliance (*e.g.*, inspections, self-monitoring and self-reporting); and enforcement options. Moreover, different programs vary in funding levels and sources, and staffing levels (both number of staff and required qualifications).

Requirements applicable to EPA's authorization of Hawaii's UST program are found generally at 40 CFR part 281. These requirements include criteria for determining whether a state's program is ''no less stringent than'' the corresponding Federal program. See 40 CFR 281.30 through 281.39. These requirements also include criteria for determining whether a state can adequately enforce its program. See 40 CFR 281.40 through 281.43. EPA has reviewed and evaluated Hawaii's UST authorization application in light of the criteria set forth in 40 CFR part 281. EPA has determined that Hawaii's UST program meets the criteria set forth in 40 CFR part 281 and has determined that authorization of this program is appropriate in light of those criteria.

With respect to HDOH's performance in enforcing its UST program, HDOH began implementation of its field citation program in May 2000. Field citations are issued for easily verifiable and correctable violations of Hawaii's UST rules, and involve lower penalty amounts than are assessed in traditional administrative enforcement actions. Since May 2000, HDOH has conducted 476 state-led field citation inspections and has issued 143 field citations assessing total penalties of $133,450. To date, 122 facilities have paid their assessed penalty for a total of $102,565 in penalties received by HDOH.

Over the past year, HDOH initiated enforcement efforts (*e.g.*, warning letters and proposed orders) against recalcitrant owners and operators at approximately 220 facilities who had failed to conduct response activities to address releases that occurred at their facilities prior to 1997. As a result, many of these facilities are currently conducting appropriate release response activities, including site assessments and cleanup. Work has been completed at approximately 25 percent of these facilities and the cases are now closed.

With respect to the portion of the comment related to HDOH's enforcement resources, in Fiscal Year (FY) 2003 (October 1, 2002–September 30, 2003) Hawaii's UST and LUST program budgets are $420,402.00 and $673,551.00 respectively. HDOH has four full time UST inspector positions and has a goal of conducting a minimum of 400 UST facility inspections during FY2003. With approximately 1,100 operating UST facilities, and 400 UST facilities inspected annually, each of these facilities would be inspected at least once every three years to ensure compliance with State UST regulations. In addition to an aggressive FY2003 inspection schedule, HDOH identified ten administrative enforcement actions against non-compliant facilities in FY2002. Three of these cases have settled while an additional eight are in development or pending.

With respect to the comments related to Hawaii's implementation and enforcement of the Clean Water Act, these are the same comments which were raised in the Petition. In response to the Petition, EPA decided to change its schedule of state program audits to perform an audit of Hawaii's NPDES program earlier than originally scheduled. Pursuant to the audit, EPA reviewed Hawaii's statutory authorities as well as enforcement mechanisms, and the audit raised some concerns, particularly related to enforcement. EPA is working with the State to address those concerns. We are also reviewing the issues raised in the Petition, and will respond directly to the Petitioner on those issues.

2. *Comment:* EPA received comments expressing the concern that the HDOH was unable to ensure that other Hawaii State agencies complied with UST program requirements, including the Federal deadline for upgrading existing tanks (December 22, 1998, pursuant to 40 CFR 280.21), (the corresponding State provision is found at Hawaii Administrative Rules [HAR] 11–281–18, and sets a deadline of January 28, 2000, the effective date of the regulations). These comments focused generally on the failure of HDOH to identify or require closure of an UST by the Hawaii Department of Land and Natural Resources (HDLNR) at a pumphouse near Pearl Harbor's Richardson Field.

Response: The HDOH has the legal authority to bring an enforcement action against another State agency and, in fact, HDOH has taken enforcement action against other State agencies. The EPA is satisfied that appropriate enforcement actions can and will be taken by HDOH against other non-complying State of Hawaii agencies when necessary. HDOH began its UST field citation program in April 2000. Since that time, HDOH has inspected 13 State facilities and has issued field citations to five of those facilities. The field citations assessed penalties ranging from a low of $150 up to a high of $1,750. EPA is confident that HDOH treats all tank owners and operators equally with respect to conducting inspections and taking enforcement action, including State agencies.

EPA has reviewed the situation relating to the UST located at the pumphouse near Pearl Harbor's Richardson Field and is satisfied with HDOH's actions with respect to this UST. Given the dates of service of this UST, which was apparently taken out of service in 1960 prior to the 1962 transfer of the land to HDLNR, HDLNR would not ordinarily have the responsibility for closure of this UST. Under Section

9001(3)(B) of RCRA, 42 U.S.C. 6991(3)(B), for USTs no longer in service after November 8, 1984, the ''owner,'' who would ordinarily be responsible for closure, is the entity who owned the UST immediately before it was taken out of service. See also Hawaii Revised Statutes (HRS) Chapter 342–L1.

3. *Comment:* EPA received comments expressing concern that the State has implemented its UST program in a discriminatory manner and that the State does not have an adequate environmental equity policy.

Response: These comments are similar to the issues raised in the Petition To Withdraw Hawaii Certification and Title VI Complaint of Discriminatory Acts (Petition to Withdraw), which was rejected by EPA's Office of Civil Rights (OCR) in October of 2001. While the comments received on EPA's tentative decision to authorize Hawaii's UST program did not provide specifics with respect to these concerns, the Petition to Withdraw specifically referred to the incident relating to mercury contamination emanating from the pumphouse near Richardson Field with respect to the allegations of discriminatory conduct by the State.

As set forth above in response to Comment 2 with respect to HDOH's actions relating to the UST at the pumphouse near Richardson Field, EPA has reviewed those actions and is satisfied that HDOH has acted appropriately. No other specific examples of HDOH acting in a discriminatory manner that specifically relate to HDOH's implementation of the UST program were identified by the comments or the Petition to Withdraw.

With respect to today's decision to authorize Hawaii's UST Program, EPA must ensure that Hawaii has an adequate UST enforcement program. While EPA does not typically review environmental justice policies in the context of determining whether a state has an adequate UST enforcement program, EPA notes that, on January 2, 2002, the HDOH Environmental Health Administration issued an Environmental Equity Policy. This policy confirms that HDOH will ''through the implementation of federal and state environmental laws, rules, policies, and programs, ensure the fair and equitable treatment of all persons as it evaluates and addresses the risks and consequences associated with environmental pollution.''

4. *Comment:* EPA received comments questioning the State's ability and ''political strength'' to enforce its UST requirements at Federal facilities. Additionally, questions were raised concerning the continued role of EPA with respect to Federal facility enforcement in the State, after authorization of the UST Program.

Response: HDOH conducts inspections of military sites and has issued UST field citations to the military and other Federal facilities for violations of State UST requirements. These Federal facilities have returned to compliance as directed by the citations issued by HDOH. However, disputes have arisen between the facilities and HDOH regarding whether penalties assessed by the State must be paid by Federal facilities and whether the Federal government's sovereign immunity with respect to such penalties has been waived. This dispute regarding the waiver of sovereign immunity with respect to penalties assessed by state agencies is not limited to Hawaii, but is a national issue, affecting all state UST programs. The ability of HDOH to pursue violations and require compliance is not in question.

EPA is continuing to offer assistance to the states, including Hawaii, for Federal facility UST inspections. As to EPA's role after authorization of the program, where appropriate, EPA will continue to exercise its enforcement authority, including the assessment of penalties, since EPA's administrative penalty authority against Federal UST facilities is not in dispute. EPA-lead inspections of Federal UST facilities are conducted jointly with HDOH. In addition, all inspection and enforcement related information gathered in connection with Federal UST facilities is shared between EPA and HDOH.

5. *Comment:* EPA received comments expressing concern regarding the practical ability of citizens to seek a review of Hawaii's administration of the State's UST Program, once it has been delegated. The commenter was concerned that requests for review of the State's programs are referred to the State, rather than being handled by EPA. The commenter suggested that certain safeguards be implemented in order to ensure adequate review of such requests. These suggestions included requiring administrative review of the State Program upon the filing of a citizen's complaint and including possible sanctions against the State if it is not adequately implementing its Program.

Response: The process for withdrawal of approval of authorized state UST programs is set forth at 40 CFR 281.60 and 281.61. 40 CFR 281.61(b) cross-references the procedures set forth for withdrawal of approval of authorized state hazardous waste programs at 271.23(b) and (c). Both 40 CFR 281.61(b) and 271.23(b) allow interested persons to petition EPA to commence proceedings to withdraw approval of these state programs. EPA must respond in writing to any such petitions. 40 CFR 271.23(b)(1). If EPA determines that proceedings to withdraw approval of an authorized UST program are appropriate, either in response to an interested person's petition or on the Agency's own initiative, EPA may order commencement of such proceedings. Petitions to withdraw approval of authorized state programs are not referred to the affected state for a decision. The only sanction specifically provided in the regulations is withdrawal of the program. Neither the statute nor the regulations provide for sanctions in addition to withdrawal of program approval against a state that is not adequately implementing its UST Program.

6. *Comment:* EPA received comments criticizing EPA's criteria for deciding whether or not to hold a public hearing on EPA's tentative determination to authorize Hawaii's UST Program. The commenter asserted that the decision whether to hold a public hearing on that tentative determination should not be based on whether there was ''sufficient'' public interest, since, the commenter argued, that standard was vague and unfair.

Response: The standard for determining whether a public hearing should be held on EPA's tentative decision to authorize a state program is set forth at 40 CFR 281.50(e)(4), which indicates that, if ''insufficient public interest is expressed,'' EPA may cancel the public hearing. In any event, EPA held a public hearing on its tentative decision to authorize Hawaii's UST Program on November 13, 2001. The hearing was held at Kawananakoa Middle School in Honolulu, Hawaii. Thus, regardless of the standard used to determine whether or not a hearing should be held, the public did in fact have an opportunity to attend a public hearing on EPA's tentative decision to authorize Hawaii's UST Program and the concerns raised by these comments are moot.

7. *Comment:* EPA received comments expressing concern over whether or not EPA would continue to oversee Hawaii's implementation of its UST Program after authorization. These comments also requested clarification of the timing of approval of Hawaii's UST program and the standards used to determine whether or not to approve authorization.

Response: The effective date of today's decision to authorize Hawaii's UST Program is September 30, 2002. The criteria used to evaluate Hawaii's UST Program are set forth generally at 40 CFR Part 281. These regulations can be found on the web at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr281_00.html.*

Pursuant to 40 CFR 281.24, at the time of approval of a state's application for authorization of its UST program, a Memorandum of Agreement (MOA) must be signed by the Regional Administrator and the appropriate official of the state lead agency. The MOA contains proposed areas of coordination between the state and EPA as well as a delineation of separate state and Federal roles and responsibilities. These roles and responsibilities include the following areas: Enforcement, compliance monitoring, EPA oversight, and sharing and reporting of information. In the MOA entered into between EPA and the State of Hawaii with respect to implementation of Hawaii's UST Program, EPA has assumed an oversight role with respect to the State's program. This oversight role will include an annual review of the State's Program in order to assist the State in implementing its Program, and to allow EPA to report to the President, the Congress and the public on the achievements of the State's UST Program. The MOA also envisions that EPA and the State will coordinate regarding desirable technical support that EPA may provide to the State, and regarding targeting of joint efforts to prevent and mitigate environmental problems associated with the improper management of USTs.

8. *Comment:* EPA received comments expressing concerns regarding Hawaii's UST Program and whether or not the Program was as stringent as the Federal UST program.

Response: EPA has determined that Hawaii's application for authorization of its State UST Program meets the criteria for approval set forth at 40 CFR part 281. As part of this determination, EPA has determined that Hawaii's UST Program is ''no less stringent'' than the Federal UST program in accordance with 40 CFR part 281, subpart C. EPA has also determined that the State has provided for an adequate enforcement program pursuant to 40 CFR part 281, subpart D, and has provided for public participation in the enforcement process in accordance with 40 CFR 281.42.

With respect to EPA's determination that Hawaii's UST program is ''no less stringent'' than the Federal UST program, in its **Federal Register** notice announcing its tentative decision to authorize Hawaii's UST Program, EPA specifically identified certain areas of the Hawaii program which EPA considers broader in scope than the Federal UST program. See 66 FR 50964–50965 (October 5, 2001). While these ''broader in scope'' provisions are enforceable by the State, they are not part of the authorized program and are thus not enforceable by EPA. EPA has determined that the remaining aspects of the State's UST Program are as stringent or more stringent than the Federal program. EPA notes that Hawaii's deadline for UST owner/operators to upgrade their existing USTs, found at Hawaii Administrative Rules (HAR) 11–281–18, was January 28, 2000, the effective date of the Hawaii regulations. The Federal deadline for upgrading existing tanks, found at 40 CFR 280.21, was December 22, 1998. For USTs which met Hawaii's deadline but failed to meet the Federal deadline, Hawaii and EPA, through the MOA, have agreed that EPA will assume all related enforcement responsibilities.

As explained above, authorization of a state Program is a prospective action only and an authorized state Program only operates in lieu of the Federal Program as of the effective date of the authorization. The Agency may undertake enforcement of the Federal requirements for violations of those Federal requirements which occurred prior to the effective date of authorization of the state's Program. Since the Hawaii UST Program operates in lieu of the Federal UST Program as of September 30, 2002, the Federal deadline for upgrading existing tanks, found at 40 CFR 280.21, December 22, 1998, is not affected by this authorization. EPA may continue to undertake enforcement of violations of the Federal regulation, 40 CFR 280.21, occurring between December 22, 1998 and September 30, 2002. EPA may also enforce the State regulation, HAR 11–281–18, with respect to tanks that continue to be in violation of the upgrade requirement on or after September 30, 2002.

With the exception of those provisions deemed ''broader in scope'' than the Federal program, the Hawaii program being authorized by today's action consists of the following statutory and regulatory provisions: HRS 128D–4; HRS 342L–1 through 342L–53; and HAR 11–281–01 through 11–281–131.

EPA has also determined that the State has provided for public participation in the enforcement process in accordance with 40 CFR 281.42 and that the State's enforcement program is ''adequate'' in terms of the factors set forth at 40 CFR part 281, subpart D. Based on these determinations, EPA is authorizing the State's UST Program pursuant to today's rulemaking.

9. *Comment:* The Petition to Withdraw asserted that the State had denied access to public documents in violation of the Hawaii Uniform Information Practices Act (HRS 92F–1 *et seq.*) (UIPA).

Response: EPA notes that the UIPA contains provisions allowing persons aggrieved by denial of access to State governmental records to compel disclosure of the requested information. See HRS 92F–15.

10. *Comment:* EPA received comments requesting information on how farm tanks and agricultural businesses using USTs are regulated and how spills from such systems would be addressed.

Response: The Federal UST requirements exclude from the definition of ''underground storage tank'' or ''UST'' any ''[f]arm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.'' 40 CFR 280.12. The Federal regulations define ''farm tank'' as ''a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements.'' 40 CFR 280.12. The Federal definition of ''farm tank'' also makes clear that a farm tank must be located on the farm property and that the term ''farm'' includes fish hatcheries, rangeland and nurseries with growing operations. 40 CFR 280.12. Hawaii's definitions of ''underground storage tank'' or ''UST'', ''farm'' and ''farm tank'' track the Federal definitions but also indicate that a farm tank must be used only for farm related purposes. See HAR 11–281–03. Thus, EPA has determined that Hawaii's UST Program is broader in scope than the Federal UST program to the extent that Hawaii regulates 1,100 gallon capacity or less USTs storing motor fuel on farms when such USTs are used for non-commercial purposes other than farming purposes.

Spills from tanks which are excluded from the definition of ''underground storage tank'' or ''UST'' under Hawaii's UST Program would not be addressed using the corrective action authorities set forth at HAR 11–281 Subchapter 7. However, the State may have additional authorities available to it to address cleanup of such spills under certain circumstances. For instance, HRS 128D–4 provides the State with specific release response and enforcement authorities in order to address certain releases of hazardous substances. Other State and Federal authorities may also

exist, depending on the circumstances associated with any particular spill.

C. Decision

I conclude that the State of Hawaii's application for final program approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Hawaii is granted final approval to operate its Underground Storage Tank Program for petroleum and hazardous substances. The State of Hawaii, as of the effective date of this rule, has the responsibility for managing all regulated underground storage tank facilities within its border and carrying out all aspects of the Underground Storage Tank Program where the EPA will have regulatory authority. Hawaii also has primary enforcement responsibility, although the EPA retains the right to conduct enforcement actions under section 9006 of RCRA and to gather information under section 9005 of RCRA.

D. Administrative Requirements

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal Governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, Local, and Tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal Governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling Officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, Local or Tribal Governments or the private sector. The UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary Federal program. Hawaii's participation in the EPA's State Program approval process under RCRA Subtitle I is voluntary. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may own and/or operate underground storage tanks, they are already subject to the regulatory requirements under the existing State requirements that the EPA is now approving and, thus, are not subject to any additional significant or unique requirements by virtue of this action. Thus, the requirements of section 203 of the UMRA also do not apply to today's rule.

Regulatory Flexibility Act (RFA) (as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rule-making requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's action on small entities, a small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that own and/or operate underground storage tanks are already subject to the State underground storage tank requirements which the EPA is now approving. This action merely approves for the purpose of RCRA Section 9004 those existing State requirements.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With Executive Order 13045 (Children's Health)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on

health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a state program.

Compliance With Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal Officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.''

This rule does not have Tribal implications. There are no federally-recognized Indian tribes within the State of Hawaii. The authorization of Hawaii's UST program will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Even if Indian Country existed within the State, Hawaii would not be approved to implement the RCRA Underground Storage Tank Program in Indian Country and this action would have no effect on the Underground Storage Tank Program that the EPA would implement in Indian Country within the State. Thus, Executive Order 13175 does not apply to this rule.

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and Local Officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have Federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under section 6 of Executive Order 13132, the EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and Local Governments, or EPA consults with State and Local Officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has Federalism implications and that preempts State law unless the Agency consults with State and Local Officials early in the process of developing the proposed regulation.

This action does not have Federalism implications. It will not have a substantial direct effect on 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, as specified in Executive Order 13132, because it affects only one state. This action simply provides the EPA approval of Hawaii's voluntary proposal for its State Underground Storage Tank Program to operate in lieu of the Federal Underground Storage Tank Program in that State. Thus, the requirements of Section 6 of the Executive Order do not apply.

National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, Section 12(d) (15 U.S.C. 272) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6974(b), 6991c.

Dated: September 13, 2002.

Laura Yoshii,

Acting Regional Administrator, Region 9.

[FR Doc. 02–24228 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

Universal Service

CFR Correction

In Title 47 of the Code of Federal Regulations, Parts 40 to 69, revised as of October 1, 2001, § 54.403 is corrected on page 114 by adding paragraph (c) to read as follows:

§ 54.403 Lifeline support amount.

* * * * *

(c) Lifeline support for providing toll limitation shall equal the eligible telecommunications carrier's incremental cost of providing either toll blocking or toll control, whichever is selected by the particular consumer.

[FR Doc. 02–55522 Filed 9–24–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99–216; FCC 00–400]

2000 Biennial Regulatory Review of Adopting Technical Criteria and Approving Terminal Equipment: Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations which were published at 66 FR 7579, January 24, 2001. The regulations privatize the process by which technical criteria are established for customer premise equipment (CPE or terminal equipment) that are sold for connection to the public switched network, and for the approval of such equipment to demonstrate compliance with the relevant technical criteria.

DATES: Effective May 25, 2001.

FOR FURTHER INFORMATION CONTACT: John C.K. Hays (202) 418–0875 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The final regulations that are the subject of this correction concern the negotiations between a LEC and a building owner to relocate the telecommunications demarcation point(s) to the minimum point of entry (MPOE). The regulations require that the LEC complete the negotiations within 45 days of the building owner's initial request. This requirement was originally adopted in the *Competitive Networks Report and Order* 66 FR 2322, 2335). However, it was inadvertently changed in the *Part 68 Streamlining Report and Order* (66 FR 7579, 7592).

Need for Correction

As published, the final regulations contain errors, which may prove to be misleading and are in need of clarification.

List of Subjects in 47 CFR Part 68

Administrative practice and procedure, Communications equipment, Labeling, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Accordingly, 47 CFR part 68 is corrected by making the following amendment.

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

Authority: 47 U.S.C. 154, 303.

§ 68.105 [Corrected]

2. In § 68.105(d)(3) remove the word ''relocation'' and add, in its place, the word ''negotiations''.

[FR Doc. 02–24211 Filed 9–24–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1011

[STB Ex Parte No. 588]

Revision of Delegation of Authority Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board is revising the delegation of authority regulations to reflect changes made by the ICC Termination Act of 1995 and other changes. These rules set out the organization of the Board and procedures in processing cases, certain litigation, and informal opinions. The Board's revision to its regulations include the removal of obsolete delegations of authority, and the updating of references to statutory provisions.

EFFECTIVE DATE: These rules are effective on September 30, 2002.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565–1661. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's decision adopting these regulations (which includes the new rules) is posted on the Board's website, *www.stb.dot.gov.* In addition, copies of the decision may be purchased from Dā-2-Dā Legal Copy Service by calling 202–293–7776 (assistance for the hearing impaired is available through FIRS at 1–800–877–8339) or visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

Decided: September 18, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, part 1011, of title 49, chapter X, of the Code of Federal Regulations is revised as follows:

PART 1011— BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

Sec.
1011.1 General.
1011.2 The Board.
1011.3 The Chairman, Vice Chairman, and Board Member.
1011.4 Delegations to individual Board Members.
1011.5 Employee boards.
1011.6 Delegations of authority by the Chairman.
1011.7 Delegations of authority by the Board to specific offices of the Board.

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 11144, 14122, and 15722.

§ 1011.1 General.

(a) This part describes the organization of the Board, and the assignment of jurisdiction and the responsibilities to the Board, individual Board Members or employees, and employee boards.

(b) As used in this part, *matter* includes any case, proceeding, question, or other matter within the Board's jurisdiction; and *decision* includes any decision, ruling, order, or requirement of the Board, an individual Board Member or employee, or an employee board.

§ 1011.2 The Board.

(a) The Board reserves to itself for consideration and disposition:

(1) All rulemaking and similar proceedings involving the promulgation of rules or the issuance of statements of general policy.

(2) All investigations and other proceedings instituted by the Board, except as may be ordered in individual situations.

(3) All administrative appeals in a matter previously considered by the Board.

(4) All other matters submitted for decision except those assigned to an

individual Board Member or employee or an employee board.

(5) Except for matters assigned to the Chairman of the Board under § 1011.4(a)(6):

(i) The determination of whether to reconsider a decision being challenged in court;

(ii) The disposition of matters that have been the subject of an adverse decision by a court; and

(iii) The determination of whether to file any memorandum or brief or otherwise participate on behalf of the Board in any court.

(6) The disposition of all matters involving issues of general transportation importance, and the determination whether issues of general transportation importance are involved in any matter.

(7) All appeals of initial decisions issued by the Director of the Office of Proceedings under the authority delegated by § 1011.7(b). Appeals must be filed within 10 days after service of the Director decision or publication of the notice, and replies must be filed within 10 days after the due date for appeals or any extension thereof.

(b) The Board may bring before it any matter assigned to an individual Board Member or employee or employee board.

§ 1011.3 The Chairman, Vice Chairman, and Board Member.

(a)(1) The Chairman of the Board is appointed by the President as provided by 49 U.S.C. 701(c)(1). The Chairman has authority, duties, and responsibilities assigned under 49 U.S.C. 701(c)(2) and described in this part.

(2) The Vice Chairman is elected by the Board for the term of 1 calendar year.

(3) In the Chairman's absence, the Vice Chairman is acting Chairman, and has the authority and responsibilities of the Chairman. In the Vice Chairman's absence, the Chairman, if present, has the authority and responsibilities of the Vice Chairman. In the absence of both the Chairman and Vice Chairman, the remaining Board Member is acting Chairman, and has the authority and responsibilities of the Chairman and Vice Chairman.

(b)(1) The Chairman is the executive head of the Board and has general responsibilities for:

(i) The overall management and functioning of the Board;

(ii) The formulation of plans and policies designed to assure the effective administration of the Interstate Commerce Act and related Acts;

(iii) Prompt identification and early resolution, at the appropriate level, of major substantive regulatory problems; and

(iv) The development and use of effective staff support to carry out the duties and functions of the Board.

(2) The Chairman of the Board exercises the executive and administrative functions of the Board, including:

(i) The appointment, supervision, and removal of Board employees, except those in the immediate offices of Board Members other than the Chairman;

(ii) The distribution of business among such personnel and among administrative units of the Board; and

(iii) The use and expenditures of funds.

(3) In carrying out his or her functions, the Chairman is governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board by law is authorized to make.

(4) The appointment by the Chairman of the heads of offices is subject to the approval of the Board. All heads of offices report to the Chairman.

(c)(1) The Chairman presides at all sessions of the Board and sees that every vote and official act of the Board required by law to be recorded is accurately and promptly recorded by the Secretary or the person designated by the Board for that purpose.

(2) Regular sessions of the Board are provided for by Board regulations. The Chairman may call the Board into special session to consider any matter or business of the Board. The Chairman shall convene a special session to consider any matter or business on request of a member of the Board unless a majority of the Board votes either not to hold a special session or to delay conference consideration of that item, or unless the Chairman finds that special circumstances warrant a delay. Notwithstanding the two immediately preceding sentences of this paragraph, on the written request of any member of the Board, the Chairman shall schedule a Board conference to discuss and vote on significant Board proceedings involving major transportation issues, and such conference shall be held within a reasonable time following the close of the record in the involved proceeding.

(3) The Chairman exercises general control over the Board's argument calendar and conference agenda.

(4) The Chairman acts as correspondent and speaks for the Board in all matters where an official expression of the Board is required.

(5) The Chairman brings any delay or failure in the work to the attention of the supervising Board Member, employee, or board, and initiates ways of correcting or preventing avoidable delays in the performance of any work or the disposition of any matter.

(6) The Chairman may appoint such standing or *ad hoc* committees of the Board as he or she considers necessary.

(7) The Chairman may reassign related proceedings to a board of employees and may remove a matter from an individual Board Member or employee or employee board for consideration and disposition by the Board.

(8) The Chairman may authorize any officer, employee, or administrative unit of the Board to perform a function vested in or delegated to the Chairman.

(9) The Chairman authorizes the institution of investigations on the Board's own motion, and their discontinuance at any time before hearing.

(10) The Chairman approves for publication all publicly issued documents by an office, except:

(i) Those authorized or adopted by the Board or an individual Board Member that involve decisions in formal proceedings;

(ii) Decisions or informal opinions of an office; and

(iii) Documents prepared for court cases or for introduction into evidence in a formal proceeding.

§ 1011.4 Delegations to individual Board Members.

(a) The following matters are referred to the Chairman of the Board:

(1) Entry of reparation orders responsive to findings authorizing the filing of statements of claimed damages as provided at 49 CFR part 1133.

(2) Extensions of time for compliance with orders and procedural matters in any formal case or pending matter, except appeals taken from the decision of a hearing officer on requests for discovery.

(3) Postponement of the effective date of orders in proceedings that are the subject of suits brought in a court to enjoin, suspend, or set aside the decision.

(4) Dismissal of complaints and applications on the unopposed motion of any party.

(5) Requests for access to waybills and to statistics reported under orders of the Board.

(6) Exercise of control over litigation arising under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), except for determinations whether to seek further judicial review of:

(i) A decision in which a court finds under 5 U.S.C. 552(a)(4)(F) that Board

personnel may have acted arbitrarily or capriciously in improperly withholding records from disclosure; or

(ii) A decision in which a court finds under 5 U.S.C. 552a(g)(4) that Board personnel acted intentionally or wilfully in violating the Privacy Act.

(7) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed.

(8) Designation in writing of employees authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment pursuant to 49 U.S.C. 11144, 14122, and 15722.

(b) The following matters are referred to the Vice Chairman of the Board:

(1) Matters within the jurisdiction of the Accounting Board if certified to the Vice Chairman by the Accounting Board or if removed from the Accounting Board by the Vice Chairman.

(2) Matters involving the admission, disbarment, or discipline of practitioners before the Board under 49 CFR part 1103.

(c) The Chairman, Vice Chairman, or other Board Member to whom a matter is assigned under this part may certify such matter to the Board.

(d) The Chairman shall notify all Board Members that a petition for a stay has been referred to the Chairman for disposition under paragraphs (a)(2) or (3) of this section. The Chairman shall also inform all Board Members of the decision on that petition before service of such decision. At the request of a Board Member, made at any time before the Chairman's decision is served, the petition will be referred to the Board for decision.

§ 1011.5 Employee boards.

This section covers matters assigned to the Accounting Board, a board of employees of the Board.

(a) The Accounting Board has authority:

(1) To permit departure from general rules prescribing uniform systems of accounts for carriers and other persons under the Interstate Commerce Act, and from the regulations governing accounting and reporting forms;

(2) To prescribe rates of depreciation to be used by railroad and water carriers;

(3) To issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the Interstate Commerce Act; and

(4) To grant extensions of time for filing annual, periodic, and special reports in matters that do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(b) The board may certify any matter assigned to it to the Board.

§ 1011.6 Delegations of authority by the Chairman.

(a)(1) This section provides for delegations of authority by the Chairman of the Surface Transportation Board to individual Board employees.

(2) The Chairman of the Board may remove for disposition any matter delegated under this section, and any matter delegated under this section may be referred by the Board employee to the Chairman for disposition.

(b) The Board will decide appeals from decisions of employees acting under authority delegated under this section. Appeals must be filed within 10 days after the date of the employee's action, and replies must be filed within 10 days after the due date for appeals. Appeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.

(c)(1) As used in this paragraph, *procedural matter* includes, but is not limited to, the assignment of the time and place for hearing; the assignment of proceedings to administrative law judges; the issuance of decisions directing special hearing procedures; the establishment of dates for filing statements in cases assigned for hearing under modified (non-oral hearing) procedure; the consolidation of proceedings for hearing or disposition; the postponement of hearings and procedural dates; the waiver of formal specifications for pleadings; and extensions of time for filing pleadings. It does not include interlocutory appeals from the rulings of hearing officers; nor does it include postponement of the effective date of:

(i) Decisions pending judicial review,

(ii) Decisions of the entire Board,

(iii) Cease and desist orders, or

(iv) Final decisions where petitions for discretionary review have been filed under 49 CFR 1115.3.

(2) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of procedural matters is delegated to administrative law judges or Board Members in proceedings assigned to them.

(3) Unless otherwise ordered by the Board in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an administrative law judge or a Board Member, is assigned to the Secretary of the Board. The Secretary shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Board in individual proceedings, to decide whether complaint proceedings shall be handled under the modified procedure or be assigned for oral hearings. In carrying out these duties, the Secretary shall consult, as necessary, with the General Counsel and the Director of any Board office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Secretary.

(e) Authority to grant or deny access to waybills and to statistics reported under orders of the Board is delegated to the Director of the Office of Economics, Environmental Analysis, and Administration.

(f) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Board approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director and Associate Director of the Office of Economics, Environmental Analysis, and Administration and the Chief of the Section of Economics.

(g) The Secretary of the Board is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, to:

(1) Sign and transmit to the Small Business Administration certifications of no significant economic effect for proposed rules, that if adopted by the Board, will not have a significant economic impact on a substantial number of small entities; and

(2) Sign and transmit findings regarding waiver or delay of an initial regulatory flexibility analysis or delay of a final regulatory flexibility analysis.

(h) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed is delegated to the Director of the Office of Proceedings.

§ 1011.7 Delegations of authority by the Board to specific offices of the Board.

(a) *The Secretary.* The Secretary of the Board is delegated the following authority:

(1) Whether (in consultation with involved Offices) to waive filing fees set forth at 49 CFR 1002.2(f).

(2) To issue, on written request, informal opinions and interpretations

(exclusive of informal opinions and interpretations on carrier tariff provisions), which are not binding on the Board. In issuing informal opinions or interpretations, the Secretary shall consult with the Director of the appropriate Board office. Such requests must be directed to the Secretary, Surface Transportation Board, Washington, DC 20423. Authority to issue informal opinions and interpretations on carrier tariff provisions is delegated at paragraph (c)(2) of this section to the Office of Compliance and Enforcement.

(b) *Office of Proceedings.* In addition to the authority delegated at 49 CFR 1011.6(h), the Director of the Office of Proceedings shall have authority initially to determine the following:

(1) Whether to designate abandonment proceedings for oral hearings on request.

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10904(d) for purposes of negotiations or, in exemption proceedings, for purposes of partial revocation and negotiations.

(3) Whether:

(i) To impose, modify, or remove environmental or historic preservation conditions; and

(ii) In abandonment proceedings, to impose public use conditions under 49 U.S.C. 10905 and the implementing regulations at 49 CFR 1152.28.

(4) In abandonment proceedings, when a request for interim trail use/rail banking is filed under 49 CFR 1152.29, to determine whether the National Trails System Act, 16 U.S.C. 1247(d), is applicable and, where appropriate, to issue Certificates of Interim Trail Use or Abandonment (in application proceedings) or Notices of Interim Trail Use or Abandonment (in exemption proceedings).

(5) In any abandonment proceeding where interim trail use/rail banking is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the National Trails System Act, 16 U.S.C. 1247(d).

(6) Whether to institute requested declaratory order proceedings under 5 U.S.C. 554(e).

(7) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10904 and at the railroad's request:

(i) In application proceedings, immediately issuing decisions authorizing abandonment or discontinuance; and

(ii) In exemption proceedings, immediately vacating the decision that postponed the effective date of the exemption.

(8) In proceedings under the Feeder Railroad Development Program under 49 U.S.C. 10907 and the implementing regulations at 49 CFR part 1151:

(i) Whether to accept or reject primary applications under 49 CFR 1151.2(b); competing applications under section 1151.2(c); and incomplete applications under 49 CFR 1151.2(d).

(ii) Whether to grant waivers from specific provisions of 49 CFR part 1151.

(9) In exemption proceedings subject to environmental or historic preservation reporting requirements, to issue a decision, under 49 CFR 1105.10(g), making a finding of no significant impact where no environmental or historic preservation issues have been raised by any party or identified by the Board's Section of Environmental Analysis.

(10) Whether to issue notices of exemption under 49 U.S.C. 10502:

(i) For acquisition, lease, and operation transactions under 49 U.S.C. 10901 and 10902 and the implementing regulations at 49 CFR part 1150, subparts D and E;

(ii) For connecting track constructions under 49 U.S.C. 10901 and the implementing regulations at 49 CFR 1150.36;

(iii) For rail transactions under 49 U.S.C. 11323 and the implementing regulations at 49 CFR 1180.2(d); and

(iv) For abandonments and discontinuances under 49 U.S.C. 10903 and the implementing regulations at 49 CFR 1152.50.

(11) When an application or a petition for exemption for abandonment is filed, the Director will issue a notice of that filing pursuant to 49 CFR 1152.24(e)(2) and 49 CFR 1152.60, respectively.

(12) Whether to issue a notice of exemption under 49 U.S.C. 13541 for a transaction under 49 U.S.C. 14303 within a motor passenger carrier corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.

(13) Whether to issue rail modified certificates of public convenience and necessity under 49 CFR part 1150, subpart C.

(14) Whether to waive the regulations at 49 CFR part 1152, subpart C, on appropriate petition.

(15) To reject applications, petitions for exemption, and verified notices (filed in class exemption proceedings) for noncompliance with the environmental rules at 49 CFR part 1105.

(16) To reject applications by The Burlington Northern and Santa Fe Railway Company to abandon rail lines in North Dakota exceeding the 350-mile cap of section 402 of Public Law 97–102, 95 Stat. 1465 (1981), as amended by The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102–143, section 343 (Oct. 28, 1991).

(c) *Office of Compliance and Enforcement.* The Office of Compliance and Enforcement is delegated the authority to:

(1) Reject tariffs and railroad transportation contract summaries filed with the Board that violate applicable statutes, rules, or regulations. Any rejection of a tariff or contract summary may be by letter signed by or for the Director, Office of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(2) Issue, on written request, informal opinions and interpretations on carrier tariff provisions, which are not binding on the Board.

(3) Grant or withhold special tariff authority granting relief from the provisions of 49 CFR part 1312. Any grant or withholding of such relief may be by letter signed by or for the Director, Office of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(4) Resolve any disputes that may arise concerning the applicability of motor common carrier rates under 49 U.S.C. 13710(a)(2).

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Proposed Rules

Federal Register
Vol. 67, No. 186
Wednesday, September 25, 2002

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. # FV–00–303]

Peaches, Plums, and Nectarines; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines. These standards are issued under the Agricultural Marketing Act of 1946. The changes being proposed are based on the findings of a California Tree Fruit Agreement (CTFA) Task Force that was formed to review the standards and on subsequent discussions with industry. This document also contains conforming and editorial changes.

DATES: Comments must be received by November 25, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2065 South Building, STOP 0240, Washington, DC 20250; Fax (202) 720–8871, E-mail *FPB.DocketClerk@usda.gov.* Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and 12988

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action. This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This 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 the rule.

Regulatory Flexibility Act

The Agricultural Marketing Service (AMS) received a request to update and revise the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Nectarines from the CTFA. The United States Standards for Grades of Peaches has not had a major revision since June 1952. There was a minor revision in 1995. The United States Standards for Grades of Fresh Plums and Prunes were last revised in June 1973, and the United States Standards for Grades of Nectarines were last revised April 1966. The CTFA is an industry association representing over 2,000 individual growers, packers and shippers. The CTFA has requested that these standards be revised to bring them into conformity with current packing, marketing and cultural practices. This request also has the support of the California Plum Marketing Board, Peach Commodity Committee, and the Nectarine Administrative Committee. The revisions being proposed will benefit all aspects of the peach, plum, prune, and nectarine industries making the standards current with today's marketing trends and practices.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule will revise the U.S. Standards for Grades of Peaches, the U.S. Standards for Grades of Fresh Plums and Prunes and the U.S. Standards for Grades of Nectarines that were issued under the Agricultural Marketing Act of 1946. Standards issued under the 1946 Act are voluntary.

There are approximately 400 handlers of peaches, plums and nectarines and approximately 2,200 producers of these fruits in the United States. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. The majority of these handlers and producers may be classified as small entities.

This proposed rule would: delete the ''Unclassified'' section; establish a 25-count minimum sample; revise standard pack and size requirements for all three grade standards; develop en route or at destination tolerances for grades of peaches; define damage and serious damage by discoloration and growth cracks for grades of plums and prunes; revise color requirements for grades of nectarines.

The effects of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

This proposed action would make the standards more consistent and uniform with marketing trends and practices. This proposed action will not impose any additional reporting or recordkeeping requirements on either small or large peach, plum, prune, or nectarine producers or handlers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs which regulate the handling of nectarines and peaches under 7 CFR Parts 916 and 917. Nectarines and peaches under the marketing order have to meet certain requirements set forth in the grade standards for nectarines and peaches.

Alternatives were considered for this action. One alternative would be to not issue a rule. However, the need for revisions have increased as a result of changing marketing characteristics by

industry, and the proposal is the result of input from all sectors of the peach, plum, prune, and nectarine industries and government. Further, since the purpose of these standards is to facilitate the marketing of agricultural commodities in the U.S., not revising the standards could result in confusion in terms of industry marketing and the proper application of the grade standards.

Background and Proposed Rule

The United States Standards for Grades of Peaches has not had a major revision since June 1952. There was a minor revision in 1995. The United States Standards for Grades of Fresh Plums and Prunes were last revised in June 1973, and the United States Standards for Grades of Nectarines were last revised April 1966. In May 2000, AMS received a request to update and revise the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines from the CTFA. The CTFA is an industry association representing over 2,000 individual growers, packers and shippers. The CTFA, acting on behalf of the California industry, formed a task force to review the U.S. grades standards peaches, plums and prunes, and nectarines. AMS and its State cooperator in California has been working with the CTFA in the updating and review of the U.S. grade standards. The CTFA has requested that these standards be revised to bring them into conformity with current packing, marketing and cultural practices. The revisions being proposed would benefit all aspects of the peach, plum, prune, and nectarine industries making the standards current with today's marketing trends and practices.

This rule proposes a number of changes in the U.S. standards. This proposed rule would: delete the ''Unclassified'' section; establish a 25-count minimum sample; revise standard pack and size requirements for all three grade standards; develop en route or at destination tolerances for grades of peaches; define damage and serious damage by discoloration and growth cracks for grades of plums and prunes; revise color requirements for grades of nectarines. In an effort to clearly outline these proposed changes the first column of the following chart shows the section as it currently reads. The second column shows the proposed change and the third column states why the change is being proposed.

Current standard	Proposed	Discussion
United States Standards for Grades of Peaches		
§ 51.1210 U.S. Fancy. (b) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of this grade other than for color, but not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, and not more than one-fifth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be for soft, overripe, or decayed peaches en route or at destination. In addition, not more than 10 percent, by count, of the peaches in any lot may be below the specified color requirement.	Revise language and move to separate Tolerance section. (See ''Tolerance'' section.)	Currently the tolerances for each of the grades are in different sections within the standards. It is proposed that a ''Tolerance'' section be created. This would make for easier referencing and be consistent with other fruit and vegetable standards.
§ 51.1211 U.S. Extra No. 1. (a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of U.S. No. 1 grade, but not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, and not more than one-fifth of this amount, or 1 percent, shall allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, overripe or decayed peaches en route or at destination. No part of any tolerance shall be used to reduce for the lot as a whole the 50 percent of peaches required to have not less than one-fourth of the surface showing blushed, pink or red color, but individual packages may contain not less than 40 percent of peaches having this amount of color: *Provided,* That the entire lot averages not less than 50 percent	Revise language and move to separate Tolerance section. (See ''Tolerance'' section.)	Currently the tolerances for each of the grades are in different sections within the standards. It is proposed that a ''Tolerance'' section be created. This would make for easier referencing and be consistent with other fruit and vegetable standards.

Current standard	Proposed	Discussion
§ 51.1212 U.S. No. 1. (a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of this grade, but not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, and not more than one-fifth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, overripe, or decayed peaches en route, or at destination.	Revise language and move to separate Tolerance section. (See ''Tolerance'' section.)	Currently the tolerances for each of the grades are in different sections within the standards. It is proposed that a ''Tolerance'' section be created. This would make for easier referencing and be consistent with other fruit and vegetable standards.
§ 51.1213 U.S. No. 2. (a) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the peaches in any lot may fail to meet the requirements of this grade, but not more than one-tenth of this amount, or 1 percent, shall be allowed for decay at shipping point: *Provided,* That an additional tolerance of 2 percent shall be allowed for soft, overripe, or decayed peaches en route or at destination.	Revise language and move to separate Tolerance section. (See ''Tollerance'' section.)	Currently the tolerances for each of the grades are in different sections within the standards. It is proposed that a ''Tolerance'' section be created. This would make for easier referencing and be consistent with other fruit and vegetable standards.
Unclassified **§ 51.1214 Unclassified.** ''Unclassified'' consists of peaches which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.	Delete the title ''Unclassified'' and all reference to unclassified. Revise section to read as follow: **§ 51.1214 Tolerances.** In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified: (a) U.S. Fancy, U.S. Extra No. 1, and U.S. No. 1 grades. (1) For defects at shipping point. 10 percent of the peaches in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount, 5 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for peaches which are affected by decay. (2) For defects en route or at destination. 14 percent for peaches in any lot that fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed: (i) 10 percent for permanent defects; (ii) 7 percent for defects causing serious damage, included therein not more than 5 percent for serious damage by permanent defects, and not more than 2 percent for soft, overripe, or decayed peaches. (3) For color. (i) U.S. Fancy grade. 10 percent for peaches in any lot which fails to meet the requirements of the grade. (ii) U.S. Extra No. 1 grade. Individual packages may contain not less than 40 percent of peaches which meet the requirements of the grade: *Provided,* That the entire lot averages not less than 50 percent. (b) U.S. No. 2 grade. (1) For defects at shipping point. 10 percent of the peaches in any lot may fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 1 percent for peaches which are affected by decay.	When changing or updating standards in recent years, references to ''Unclassified'' have been removed in an attempt to eliminate the confusion this term creates. People have incorrectly assumed that ''Unclassified'' is an actual grade name; it is not. To avoid further confusion, it is proposed that all references to this term be eliminated. Section 51.1214 is redesignated as the tolerance section. As previously stated, creating a ''Tolerance'' section makes referencing easier. Instead of providing tolerances in several different sections within the standards, consolidating the tolerances into one section is proposed. The proposed addition of the phrase ''a minimum 25 count sample'' establishes a basis for sampling uniformity. Also, the proposed establishment of an ''En Route or At Destination'' tolerance will be consistent with similar standards.

Current standard	Proposed	Discussion
	(2) For defects en route or at destination. 14 percent for peaches in any lot that fail to meet the requirements of the grade. *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed: (i) 10 percent for permanent defects; (ii) 2 percent for peaches which are affected by soft, overripe, or decay.	
§ 51.1216 Size requirements. (a) The numerical count or the minimum diameter of the peaches packed in a closed container shall be indicated on the container.	**§ 51.1216 Size requirements.** (a) The numerical count or a count-size based on equivalent tray pack size designations or the minimum diameter of the peaches packed in a closed container shall be indicated on the container.	Adding ''or a count-size based on equivalent tray size designations'' is proposed to reflect current packaging practices.
§ 51.1217 Standard pack. (c) Peaches packed in standard western boxes shall be reasonably uniform in size and arranged in the packages according to the approved and recognized methods. Each wrapped peach shall be fairly well enclosed by its individual wrapper. All packages shall be well filled and tightly packed but the contents shall not show excessive or unnecessary bruising because of over-filled packages. The number of peaches in the box shall not vary more than 4 from the number indicated on the box.	No change.	Industry requested ''well filled'' be defined here as well as in paragraph ''(g)'' of this section. We propose adding this definition as a separate paragraph ''(i)'' for easier referencing. Also, this would enable the definition to be stated once which is consistent with other definitions in the standards.
(g) In order to allow for variations incident to proper packing, not more than 10 percent of the packages in any lot may not meet these requirements.	(g) Peaches packed in loose or volume filled boxes shall be uniform in size and well filled.	Adding reference to ''loose'' and ''volume'' filled packs to reflect industry's current packaging practices is proposed. Due to this addition paragraph ''(g)'' is redesignated as paragraph ''(h).'' As previously stated, industry requested ''well filled'' be defined here and in paragraph ''(c)'' of this section. We propose adding this definition as a separate paragraph ''(i)'' for easier referencing. Also, this would enable the definitions to be stated once which is consistent with other definition in the standards.
	(h) In order to allow for variations incident to proper packing, not more than 10 percent of the packages in any lot may not meet these requirements.	As previously stated, paragraph ''(g)'' is being redesignated as paragraph ''(h)'' due to the additional type of package being added to this section.
	(i) ''Well filled'' means that the peaches are packed within 1 inch from the top of the container.	Industry has requested a definition for ''well filled'' be added to the standard after the term well filled in § 51.1215 ''(c) and ''(g).'' We propose adding this definition as a separate paragraph ''(i)'' for easier referencing. Also, this would enable the definition to be stated once which is consistent with other definitions within the standards.
United States Standards for Grades of Fresh Plums and Prunes		
§ 51.1524 Unclassified. ''Unclassified'' consists of plums or prunes which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.	**§ 51.1524** (Reserved).	When changing or updating standards in recent years, references to ''Unclassified'' have been removed in an attempt to eliminate the confusion this term creates. People have incorrectly assumed that ''Unclassified'' is an actual grade name; it is not. To avoid further confusion, it is proposed that all references to this term be eliminated.
§ 51.1525 Tolerances. In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:	**§ 51.1525 Tolerances.** In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:	The proposed addition of the phrase ''a minimum 25 count sample'' establishes a basis for sampling uniformity.

Current standard	Proposed	Discussion
§ 51.1527 Standard pack. (a) Packing. (1) All packages shall be tightly packed or well filled, according to the approved and recognized methods.	No change.	Industry has requested a definition for ''well filled'' be added to this paragraph, however we propose adding this definition as a separate paragraph ''(3)'' for easier referencing. Also, this is consistent with the way in which other definitions are stated in the standards.
(a)(3) Four-basket crates. Four-basket crates shall not be packed more than three layers deep.	(3) ''Well filed'' means that the plums or prunes are packed within 1 inch from the top of the container.	Deleting reference to ''four basket creates'' is proposed as this type of pack is no longer used by industry. Industry has requested a definition for ''well filled'' be added to paragraph (1) of this section. We propose redesignating (3) for defining ''well filled.'' This is consistent with other definitions in the standards as they are stated separately and it also makes for easier referencing.
(3)(i) The arrangement of the bottom layer shall be one row less one way, and may be one row less each way than the arrangement of the top layer; the arrangement of the middle layer may be the same as the top layer, or may be one row less one way than the arrangement of the top layer.	Delete.	This deletion is proposed as this type of pack is no longer being used by industry.
(ii) In the 3½—4x5 and 3½—4x4 packs the face of each half of the crate shall be packed as a unit, with not shim between the two baskets.	Delete.	This deletion is proposed as this type of pack is no longer being used by industry.
	(4) ''Tightly packed'' means the plums or prunes are the proper size for the mold or cell compartments in which they are packed, and the molds or cells are filed in such a way that movement is not allowed.	The industry has requested that a definition for ''well filled'' be added to the standards. We propose also adding a definition for ''tightly packed'' because of the option given in Section § 51.1567(a)(1) of ''tightly packed or well filled.''
(b) Marking. (1) The size of plums or prunes shall be marked on each package, and shall be indicated in terms of minimum diameter, or number of fruits per package, or in accordance with the arrangement of the top layer of fruit in the package or subcontainer, or in terms of the four-basket crate designation for fruit of equivalent sizes. Size may also be shown in terms of maximum number of fruit for a specified weight, such as ''8 per pound,'' ''6.4 per pound'' or ''7⅔ per pound.''	(b) Marking. (1) The size of plums or prunes shall be marked on each package, and shall be indicated in terms of minimum diameter, or number of fruit per package, or in accordance with the arrangement of the top layer of fruit in the package or subcontainer. Size may also be shown in terms of maximum number of fruit for a specified weight, such as ''8 per pound,'' ''6.4 per pound'' or ''7⅔ per pound'' or by a count-size designation based on the number of fruits contained in a 10 pound sample with the designation rounded to an applicable number which is divisible by 5 (example: 40 size, 45 size, 50 size, 55 size, etc.).	Deleting reference to ''four basket crates'' is proposed as this type of pack is no longer used by industry. The adding of a reference to counter-size designation markings is proposed to reflect current packaging practices.
(i) Four-basket crates. The size of plums packed in four-basket crates shall be indicated in accordance with the arrangement in the top layer of the baskets, as follows: 6x6, 5x5, or 4x4 (square packs); 5x6, 4x5, or 3x4, (offset packs); 3½— 4x5, 3—4x5, 3½—4x4, or 3—4x4 (diagonal packs).	(i) California peach boxes, lug boxes and small consumer packages. In layer-packed California peach boxes or lug boxes, and in small layer packed consumer packages, the count of the entire contents shall be marked on the package. The number of plums or prunes in California peach boxes or lug boxes shall not vary more than 4 from the number indicated on the package. Loose filled consumer packs not in a master container shall have a count-size marked on the package or on a tag closure. Master containers of loose filled consumer packages shall have a count-size marked on the package describing the size of plums or prunes within the container.	Deletion of information concerning ''four-basket crates'' is proposed as this type of pack is no longer used by industry. Due to this deletion, paragraph ''(ii)'' would be redesignated as ''(i).'' Additionally, adding ''layer packed'' and marking instructions for loose filled consumer packages is proposed as it reflects current marketing and packing practices.
(ii) California peach boxes, lug boxes and small consumer packages. In layer-packed California peach boxes or lug boxes, and in small consumer packages, the count of the entire contents shall be marked on the package. The number of plums or prunes in California peach boxes or lug boxes shall not vary more than 4 from the number indicated on the package.	(ii) Face and fill packs in cartons and lug boxes. In face and fill packs in cartons and lug boxes the number of rows in the face shall be marked on the package, as ''6 row,'' ''8 row,'' etc.	Due to the redesignating of paragraph ''9ii)'' paragraph ''(iii)'' would be redesignated as ''(ii).''

Current standard	Proposed	Discussion
(iii) Face and fill packs in cartons and lug boxes. In face and fill packs in cartons and lug boxes the number of rows in the face shall be marked on the package, as ''6 row,'' ''8 row,'' etc.		There would be no paragraph ''(iii)'' due to the redesignation of preceding paragraphs.
(c) Sizing. (1) Not more than 5 percent, by count, of the plums or prunes in any package may vary more than one-fourth inch in diameter.	(c) Sizing. (1) Not more than 5 percent, by count, of the plums or prunes in any package may vary more than one-fourth inch in diameter, except that not more than 5 percent, by count, of the plums or prunes 2¼ inches or larger in diameter and packed in loose or volume filled containers may vary more than three-eights inch in diameter.	Industry has requested the addition of a three-eights inch variance for plums and prunes 2¼ inch in diameter or larger.
§ 51.1532 Damage	(c) (6) When extending from within to outside the stem cavity, when more than three-eights inch in length if the major portion of the crack is within the stem cavity or when more than one-fourth inch in length if the major portion of the crack is outside the stem cavity;	Currently there is no specific guideline for growth cracks occurring in this manner. Adding specific scoring criteria would provide an objective means of evaluating this defect.
(e) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter or a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle three-eights inch in diameter on a fruit larger than 2 inches in diameter or 4 × 4 size;	(e) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(h)(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size or smaller; or when the area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(h) (1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(2) Fairly light colored, fairly smooth scars when, in the case of Italian type prunes, the area exceeds that of a circle one-half inch in diameter; or when, in the case of other types of plums, the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size.	(2) Fairly light colored, fairly smooth scars when, in the case of Italian type prunes, the area exceeds that of a circle one-half inch in diameter; or when, in the case of other types of plums, the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter.	This deletion is proposed as this type of pack is no longer being used by industry.
(3) Light colored, smooth scars when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(3) Light colored, smooth scars when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(i)(1) Rough russeting when the area exceeds that a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(i)(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(2) Slightly rough russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(2) Slightly rough russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.

Current standard	Proposed	Discussion
(3) Fairly smooth or smooth russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle 1 inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size.	(3) Fairly smooth or smooth russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle 1 inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
	(j) Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 10 percent of the surface.	This defect is currently being scored based on the ''general definition.'' Adding specific scoring criteria would provide an objective means of evaluating this defect.
§ 51.1536 Serious damage.	(c)(5) When extending from within to outside the stem cavity, when healed and aggregating more than five-eighths inch in length if the major portion of the crack is within the stem cavity or when healed and aggregating more than one-half inch in length if the major portion of the crack is outside the cavity;	Currently there is no specific guideline for growth cracks occurring in this manner. Adding specific scoring criteria would provide an objective means of evaluating this defect.
(e) Scab or bacterial spot, when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(e) Scab or bacterial spot, when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(h)(1) Dark or rough scars or rough russeting when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(h)(1) Dark or rough scars or rough russeting when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
	(l) Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 25 percent of the surface.	This defect is currently being scored based on the ''general definition.'' adding specific scoring criteria would provide an objective means of evaluating this defect.
United States Standards for Grades of Nectarines		
§ 51.3145 U.S. Fancy. (a) In the case of the John Rivers variety each nectarine shall show some blushed or red color. In the case of other varieties each nectarine shall have not less than one-third of its surface showing red color characteristic of the variety. (See § 51.3150.)	(a) Each nectarine shall have not less than one-third of its surface showing red color characteristic of the variety. (See § 51.3150.)	Deleting reference to the John Rivers variety is proposed as it is no longer of commercial importance.
§ 51.3146 U.S. Extra No. 1. (a) In the case of the John Rivers variety at lease 50 percent of the nectarine in any lot shall show some blushed or red color. In the case of other varieties at least 75 percent of the nectarines in any lot shall show some blushed or red color including therein at least 50 percent of the nectarines with not less than one-third of the fruit surface showing red color characteristic of the variety. (See § 51.3150.)	(a) At least 75 percent of the nectarines in any lot shall show some blushed or red color including therein at least 50 percent of the nectarines with no less than one-third of the fruit surface showing red color characteristic of variety. (See § 51.3150.)	Deleting reference to the John Rivers variety is proposed as it is no longer of commercial importance.
§ 51.3147 U.S. No. 1. (a) At least 75 percent of the nectarines in any lot shall show some blushed or red color, except that there are no color requirements for nectarines of the John Rivers variety in this grade. (See § 51.3150.)	Delete.	Delete paragraph ''(a)'' containing color requirements is proposed as many new varieties do not show a red blush color. This deletion would allow varieties of this type to meet the requirements of U.S. No. 1 grade. Also, deleting reference to the John Rivers variety is proposed as it is no longer of commercial importance.

Current standard	Proposed	Discussion
§ 51.3148 U.S. No. 2. (a) There are no color requirements for nectarines in this grade. (See § 51.3150.)	Delete.	U.S. standards typically state that is required opposed to what is ''not'' a requirement of the grade. If there are no color requirements stated then it is assumed there are no color requirements.
§ 51.3149 Unclassified. ''Unclassified'' consists of nectarines which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.	**§ 51.3149** (Reserved)	When changing or updating standards in recent years, references to ''Unclassified'' have been removed in an attempt to eliminate the confusion this term creates. People have incorrectly assumed that ''Unclassified'' is an actual grade name; it is not. To avoid further confusion, it is proposed that all references to this term be eliminated.
§ 51.3150 Tolerances. In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:	**§ 51.3150 Tolerances.** In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:	The proposed addition of the phrase ''a minimum 25 count sample'' establishes a basis for sampling uniformity.
(3)(ii) U.S. Extra No. 1 grade and U.S. No. 1 grade. Individual containers may contain not more than 10 percentage points less than the required percentage of nectarines showing the amount of color specified for the respective grade: *Provided,* That the entire lot averages not less than the required percentage of nectarines showing the specified color for the grade.	(3)(ii) U.S. Extra No. 1 grade and when specified in connection with a grade. Individual containers may contain not more than 10 percentage points less than the required percentage of nectarines showing the amount of color specified for the grade: *Provided,* That the entire lot averages not less than the required percentage of nectaries showing the specified color for the grade.	U.S. No. 1 would be eliminated from the heading since deleting the color requirements for the U.S. No. 1 grade would eliminate the need for a color tolerance for the grade. However, a qualifying statement would be added for instances in which a color is specified in connection with a grade.
§ 51.3152 Standard pack. (a) Nectarines shall be fairly uniform in size and shall be packed in boxes, lugs, crates, cartons, or baskets and arranged according to the approved and recognized methods. All such containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising resulting from overfilling. The nectarines in the shown face shall be reasonably representative in size, color and quality of the contents of the container. Each wrapped fruit shall be fairly well enclosed by its individual wrapper.	**§ 51.3152 Standard pack.** (a) Nectarines shall be fairly uniform in size and shall be packed in boxes, lugs, crates, or cartons and arranged according to the approved and recognized methods. All such containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising resulting from overfilling. The nectarines in the shown face shall be reasonably representative in size, color and quality of the contents of the container.	The deleting of reference to ''basket'' is proposed as this type of pack is no longer used by industry. Also deleting the reference to ''wrapped fruit'' is proposed because typically industry no longer packs fruit in this manner. Industry has requested a definition for ''well filled'' be added to this paragraph, however we propose adding this definition as a separate paragraph for easier referencing. Additionally, this is consistent with the way in which other definitions are stated in the standards.
(b) When packed in closed containers, the size shall be indicated by marking the container with the numerical count, the pack arrangement, or the minimum diameter or minimum and maximum diameters in terms of inches and not less than one-eighth fractions of inches.	(b) When packed in closed containers, the size shall be indicated by marking the container with the numerical count, the pack arrangement, or the minimum diameter or minimum and maximum diameters in terms of inches and not less than one-eighth fractions of inches, or a count-size based on equivalent tray pack size designations.	Adding ''or a count-size based on equivalent tray size designations'' is proposed to reflect current packaging practices.
(d) Four-basket crates:	(d) ''Well filled'' means that the nectarines are packed within 1 inch from the top of the container.	The deletion of ''Four-basket crates'' is proposed as this type of pack is no longer used by industry. Industry has requested a definition for well filled be added to paragraph ''(a)'' of this section. We propose redesignating ''(d)'' for defining well filled. This is consistent with other definitions in the standard as they are stated separately and it also makes for easier referencing.
(1) The size of nectarines packed in four-basket crates shall be indicated as follows: 3x4, 3—4x4, 3–4x5, 4x4, etc., in accordance with the arrangement in the top layer of the basket. These packs shall not be more than three layers deep.	Delete.	This deletion is proposed as this type of pack is no longer being used by industry.

Current standard	Proposed	Discussion
(2) The arrangement of the bottom layer shall be one row less one way, and may be one row less each way, than the arrangement of the top layer. The arrangement of the middle layer may be the same as the top layer or may be one row less one way than the arrangement of the top layer. Straight, offset, and diagonal packs in the layers are permitted.	Delete.	This deletion is proposed as this type of pack is no longer being used by industry.
(e) Baskets: Nectarines packed in U.S. standard half-bushel baskets shall be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the nectarines within the baskets when lidded.	(e) ''Fairly uniform in size'' means that when the average diameter of nectarines in any container is 2 inches or smaller not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of one-fourth inch; when the average diameter of nectarines in any container is over 2 inches not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of three-eighths inch.	This deletion is proposed as this type of pack is no longer being used by industry. Due to this deletion paragraph ''(f)'' would be redesignated as paragraph ''(e).''
(f) ''Fairly uniform in size'' means that when the average diameter of nectarines in any container is 2 inches or smaller not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of one-fourth inch; when the average diameter of nectarines in any container is over 2 inches not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of three-eighths inch.	(f) Minimum size: When size is indicated in terms of minimum diameter not more than 5 percent, by count, of the fruit in any container may be smaller than the size marked.	Due to the redesignation of paragraph ''(f)'' paragraph ''(g)'' would be redesignated as ''(f).''
(g) Minimum size: When size is indicated in terms of minimum diameter not more than 5 percent, by count, of the fruit in any container may be smaller than the size marked.	(g) ''Diameter'' means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.	Due to the redesignation of paragraph ''(g),'' paragraph ''(h)'' would be redesignated as ''(g).''
(h) ''Diameter'' means the greatest dimension measured at right angles to a line from stem to blossom end of the fruits.	(h) Tolerances. In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements for standard pack.	Due to the redesignation of paragraph ''(h),'' paragraph ''(i)'' would be redesignated as ''(h).''
(i) Tolerances. In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements for standard pack.		There would be no paragraph ''(i)'' due to redesignation of preceding paragraphs.
§ 51.3156 Injury. (c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(g)(1) Light colored; smooth scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(g)(1) Light colored, smooth scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(h)(1) Rough or slightly rough russeting when the area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size	(h)(1) Rough or slightly rough russeting when the area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.

Current standard	Proposed	Discussion
§ 1.3157 Damage. (c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(f)(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(f)(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(3) Light colored, smooth scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(3) Light colored, smooth scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(g)(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(g)(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(2) Slightly rough russeting when the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(2) Slightly rough russeting when the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(3) Fairly smooth or smooth russeting when the area exceeds 25 percent of the fruit surface of Freedom, Early LeGrand, and Quetta varieties and 15 percent of the fruit surface of other varieties: *Provided,* That discoloration occurring as yellow to brown staining of the skin shall not be considered as russeting and shall be considered as causing damage only when materially detracting from the appearance of the nectarine, and that speckling characteristic of certain varieties shall not be considered as russeting or discoloration.	(3) Fairly smooth or smooth russeting when the area exceeds 15 percent of the fruit surface: *Provided,* That discoloration occurring as yellow to brown staining of the skin shall not be considered as russeting and shall be considered as causing damage only when materially detracting from the appearance of the nectarine, and that speckling characteristic of certain varieties shall not be considered as russeting or discoloration.	This deletion is proposed as these varieties are no longer of commercial importance.
§ 51.3159 Serious damage. (c) Scab or bacterial spot when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter or 4x4 size;	(c) Scab or bacterial spot when the aggregate area exceeds that of a circle one-half inch in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.
(g)(1) Dark or rough scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or 4x4 size, or smaller; or when the area exceeds that of a circle one inch in diameter on fruit larger than 2 inches in diameter or 4x4 size;	(g)(1) Dark or rough scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on fruit larger than 2 inches in diameter;	This deletion is proposed as this type of pack is no longer being used by industry.

Accordingly, AMS proposes to amend the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, it is proposed that 7 CFR part 51 be amended as follows:

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In part 51, §§ 51.1210, 51.1211, 51.1212, 51.1213, 51.1214, 51.1216 and 51.1217 are revised to read as follows:

Subpart—United States Standards for Peaches

§ 51.1210 U.S. Fancy.

''U.S. Fancy'' consists of peaches of one variety which are mature but not soft or overripe, well formed and which are free from decay, bacterial spot, cuts which are not healed, growth cracks, hail injury, scab, scale, split pits, worms, worm holes, leaf or limb rub injury; and free from damage caused by bruises, dirt or other foreign material, other disease, insects or mechanical or other means. In addition to the above requirements, each peach shall have not less than one-third of its surface showing blushed, pink or red color.

§ 51.1211 U.S. Extra No. 1.

Any lot of peaches may be designated ''U.S. Extra No. 1'' when the peaches meet the requirements of U.S. No. 1 grade: *Provided*, That in addition to these requirements, 50 percent, by count, of the peaches in any lot shall have not less than one-fourth of the surface showing blushed, pink or red color.

§ 51.1212 U.S. No. 1.

''U.S. No. 1'' consists of peaches of one variety which are mature but not soft or overripe, well formed, and which are free from decay, growth cracks, cuts which are not healed, worms, worm holes, and free from damage caused by bruises, dirt, or other foreign material, bacterial spot, scab, scale, hail injury, leaf or limb rubs, split pits, other disease, insects or mechanical or other means.

§ 51.1213 U.S. No. 2.

''U.S. No. 2'' consists of peaches of one variety which are mature but not soft or overripe, not badly misshapen, and which are free from decay, cuts which are not healed, worms, worm holes, and free from serious damage caused by bruises, dirt or other foreign material, bacterial spot, scab, scale, growth cracks, hail injury, leaf or limb rubs, split pits, other disease, insects, or mechanical or other means.

§ 51.1214 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

(a) U.S. Fancy, U.S. Extra No. 1, and U.S. No. 1 grades. (1) For defects at shipping point.[1] 10 percent of the peaches in any lot may fail to meet the requirements of the specified grade: *Provided*, That included in this amount 5 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for peaches which are affected by decay.

(2) For defects en route or at destination. 14 percent for peaches in any lot that fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 10 percent for permanent defects;

(ii) 7 percent for defects causing serious damage, included therein not more than 5 percent for serious damage by permanent defects and not more than 2 percent for soft, overripe, or decayed peaches.

(3) For color. (i) U.S. Fancy grade. 10 percent for peaches in any lot which fails to meet the requirements of the grade.

(ii) U.S. Extra No. 1 grade. Individual packages may contain not less than 40 percent of peaches which meet the requirements of the grade: *Provided,* That the entire lot averages not less than 50 percent.

(b) U.S. No. 2 grade. (1) For defects at shipping point. 10 percent of the peaches in any lot may fail to meet the requirements of this grade: *Provided*, That included in this amount not more than 1 percent for peaches which are affected by decay.

(2) For defects en route or at destination. 14 percent for peaches in any lot that fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 10 percent for permanent defects;

(ii) 2 percent for peaches which are affected by soft, overripe, or decay.

* * * * *

§ 51.1216 Size requirements.

(a) The numerical count or a count-size based on equivalent tray pack size designations or the minimum diameter of the peaches packed in a closed container shall be indicated on the container.

(b) When the numerical count is not shown the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eight inches, as 2 inches minimum, 2–¼ inches minimum, 1–⅞ inches minimum, in accordance with the facts. The minimum and maximum diameters may both be stated, as 1–⅞ to 2 inches, or 2 to 2–¼ inches, in accordance with the facts.

(c) *Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

(d) In order to allow for variations incident to proper sizing, not more than 10 percent, by count, of peaches in any lot may be below the specified minimum size and not more than 15 percent may be above any specified maximum size.

§ 51.1217 Standard pack.

(a) Each package shall be packed so that the peaches in the shown face shall be reasonably representative in size, color and quality of the contents of the package.

(b) Peaches packed in U.S. Standard bushel baskets, or half-bushel baskets shall be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the peaches within the packages when lidded.

(c) Peaches packed in standard western boxes shall be reasonably uniform in size and arranged in the packages according to the approved and recognized methods. Each wrapped peach shall be fairly well enclosed by its individual wrapper. All packages shall be well filled and tightly packed but the contents shall not show excessive or unnecessary bruising because of overfilled packages. The number of peaches in the box shall not vary more than 4 from the number indicated on the box.

(d) Peaches packed in other type boxes such as wire-bound boxes and fiber-board boxes may be place packed, or jumble packed faced, and all packs shall be well filled.

(e) Peaches packed in boxes equipped with cell compartments or molded trays

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

shall be of the proper size for the cells or the molds which they are packed.

(f) Peaches placed in individual paper cups and packed in boxes shall be in cups of the proper size for the peaches.

(g) Peaches packed in loose or volume filled boxes shall be uniform in size and well filled.

(h) In order to allow for variations incident to proper packing, not more than 10 percent of the packages in any lot may not meet these requirements.

(i) *Well filled* means that the peaches are packed within 1 inch from the top of the container.

§ 51.1524 [Removed and reserved]

3. Section 51.1524 is removed and reserved.

4. Section 51.1525 is amended by revising the introductory text.

Subpart–United States Standards for Grades of Fresh Plums and Prunes

§ 51.1525 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

* * * * *

5. Section 51.1527 is amended by revising paragraphs (a), (b), and (c)(1) to read as follows:

§ 51.1527 Standard pack.

(a) *Packing.* (1) All packages shall be tightly packed or well filled, according to the approved and recognized methods.

(2) The plums or prunes in the top layer of any package shall be reasonably representative in quality and size of those in the remainder of the package.

(3) *Well filled* means that the plums or prunes are packed within 1 inch from the top of the container.

(4) *Tightly packed* means the plums or prunes are the proper size for the mold or cell compartments in which they are packed, and the molds or cells are filled in such a way that movement is not allowed.

(b) *Marking.* (1) The size of plums or prunes shall be marked on each package, and shall be indicated in terms of minimum diameter, or number of fruit per package, or in accordance with the arrangement of the top layer of fruit in the package or subcontainer. Size may also be shown in terms of maximum number of fruit for a specified weight, such as ''8 per pound,'' ''6.4 per pound'' or ''7–⅔ per pound'' or by a count-size designation based on the number of fruits contained in a 10 pound sample with the designation rounded to an applicable number which is divisible by 5 (example: 40 size, 45 size, 50, size, 55 size, etc.).

(i) *California peach boxes, lug boxes and small consumer packages.* In layer-packed California peach boxes or lug boxes, and in small layer packed consumer packages, the count of the entire contents shall be marked on the package. The number of plums or prunes in California peach boxes or lug boxes shall not vary more than 4 from the number indicated on the package. Loose filled consumer packs not in a master container shall have a count-size marked on the package or on a tag closure. Master containers of loose filled consumer packages shall have a count-size marked on the package describing the size of plums or prunes within the container.

(ii) *Face and fill packs in cartons and lug boxes.* In face and fill packs in cartons and lug boxes the number of rows in the face shall be marked on the packages, as ''6 row,'' ''8 row,'' etc.

(c) *Sizing.* (1) Not more than 5 percent, by count, of the plums or prunes in any package may vary more than one-fourth inch in diameter, except that not more than 5 percent, by count, of the plums or prunes 2–¼ inches or larger in diameter and packed in loose or volume filled containers may vary more than three-eights inch in diameter.

* * * * *

6. Section 51.1532 is amended by adding paragraphs (c)(6) and (j) and revising paragraphs (e), (h)(1), (h)(2), (h)(3), (i)(1), (i)(2) and (i)(3) to read as follows:

§ 51.1532 Damage.

* * * * *

(c) * * *

(6) When extending from within to outside the stem cavity, when more than three-eights inch in length if the major portion of the crack is within the stem cavity or when more than one-fourth inch in length if the major portion of the crack is outside the stem cavity;

* * * * *

(e) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(h) * * *

(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(2) Fairly light colored, fairly smooth scars when, in the case of Italian type prunes, the area exceeds that of a circle one-half inch in diameter; or when, in the case of other types of plums, the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Light colored, smooth scars when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(i) * * *

(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

(2) Slightly rough russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Fairly smooth or smooth russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle 1 inch in diameter on a fruit larger than 2 inches in diameter.

(j) Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 10 percent of the surface.

7. Section 51.1536 is amended by adding paragraph (c)(5), revising paragraphs (e) and (h)(1) and adding paragraph (l) to read as follows:

§ 51.1536 Serious damage.

* * * * *

(c) * * *

(5) When extending from within to outside the stem cavity, when healed and aggregating more than five-eighths inch in length if the major portion of the crack is within the stem cavity or when

healed and aggregating more than one-half inch in length if the major portion of the crack is outside the cavity;

* * * * *

(e) Scab or bacterial spot, when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(h) * * *

(1) Dark or rough scars or rough russeting when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(l) Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 25 percent of the surface.

8. Section 51.3145 is amended by revising paragraph (a) to read as follows:

Subpart–United States Standards for Grades of Nectarines

§ 51.3145 U.S. Fancy.

* * * * *

(a) Each nectarine shall have not less than one-third of its surface showing red color characteristic of the variety. (See § 51.3150.)

9. Section 51.3146 is amended by revising paragraph (a) to read as follows:

§ 51.3146 U.S. Extra No. 1.

* * * * *

(a) At least 75 percent of the nectarines in any lot shall show some blushed or red color including therein at least 50 percent of the nectarines with not less than one-third of the fruit surface showing red color characteristic of the variety. (See § 51.3150.)

§ 51.3147 [Amended]

10. Section 51.3147 is amended by removing paragraph (a).

§ 51.3148 [Amended]

11. Section 51.3148 is amended by removing paragraph (a).

§ 51.3149 [Removed and reserved]

12. Section 51.3149 is removed and reserved.

13. Section 51.3150 is amended by revising the introductory text and paragraph (a)(3)(ii) to read as follows:

§ 51.3150 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

* * * * *

(a) * * *

(3) * * *

(ii) U.S. Extra No. 1 grade and when specified in connection with a grade. Individual containers may contain not more than 10 percentage points less than the required percentage of nectarines showing the amount of color specified for the grade: *Provided,* That the entire lot averages not less than the required percentage of nectarines showing the specified color for the grade.

* * * * *

14. Section 51.3152 is revised to read as follows:

§ 51.3152 Standard pack.

(a) Nectarines shall be fairly uniform in size and shall be packed in boxes, lugs, crates, or cartons and arranged according to the approved and recognized methods. All such containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising resulting from overfilling. The nectarines in the shown face shall be reasonably representative in size, color and quality of the contents of the container.

(b) When packed in closed containers, the size shall be indicated by marking the container with the numerical count, the pack arrangement, or the minimum diameter or minimum and maximum diameters in terms of inches and not less than one-eighth fractions of inches, or a count-size based on equivalent tray pack size designations.

(c) Boxes, lugs or cartons: (1) Nectarines packed in containers equipped with cell compartments, cardboard fillers or molded trays shall be of the proper size for the cells, fillers, or molds in which they are packed, and the number of nectarines in the container shall correspond to the count marked on the container.

(2) In order to allow for variations incident to proper packing, when packed in other types of packs in lugs, cartons, or boxes, the number of nectarines in the container may vary not more than two from the number marked on the container.

(d) *Well filled* means that the nectarines are packed within 1 inch from the top of the container.

(e) *Fairly uniform in size* means that when the average diameter of nectarines in any container is 2 inches or smaller not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of one-fourth inch; when the average diameter of nectarines in any container is over 2 inches not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of three-eighths inch.

(f) *Minimum size:* When size is indicated in terms of minimum diameter not more than 5 percent, by count, of the fruit in any container may be smaller than the size marked.

(g) *Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

(h) *Tolerances.* In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements for standard pack.

15. Section 51.3156 is amended by revising paragraphs (c), (g)(1), and (h)(1) to read as follows:

§ 51.3156 Injury.

* * * * *

(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(g) * * *

(1) Light colored, smooth scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(h) * * *

(1) Rough or slightly rough russeting when the area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

16. Section 51.3157 is amended by revising paragraphs (c), (f), and (g) to read as follows:

§ 51.3157 Damage.

* * * * *

(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(f) Scars, including those caused by hail, when the surface of the fruit is depressed more than one-sixteenth inch, or when exceeding any of the following aggregate areas, or a combination of two

or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Light colored, smooth scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(4) Twig or limb scratches which are not well healed or which have an aggregate length of more than one-half inch; and

(g) Russeting which exceeds any of the following aggregate areas of any one type of russeting, or a combination of two or more types of russeting the seriousness of which exceeds the maximum allowed for any one type:

(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

(2) Slightly rough russeting when the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Fairly smooth or smooth russeting when the area exceeds 15 percent of the fruit surface: *Provided,* That discoloration occurring as yellow to brown staining of the skin shall not be considered as russeting and shall be considered as causing damage only when materially detracting from the appearance of the nectarine, and that speckling characteristic of certain varieties shall not be considered as russeting or discoloration.

17. Section 51.3159 is amended by revising paragraphs (c) and (g)(1) to read as follows:

§ 51.3159 Serious damage.

* * * * *

(c) Scab or bacterial spot when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

* * * * *

(g) * * *

(1) Dark or rough scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on fruit larger than 2 inches in diameter;

* * * * *

Dated: September 15, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–24349 Filed 9–24–02; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: NCUA proposes to amend its rule that permits a Federal credit union to provide reasonable retirement benefits to its employees and officers. These amendments clarify the scope of the rule and the investments federal credit unions may use to fund employee benefits. This proposal is substantially similar to an earlier proposal issued in December 2001, but, as a result of comments received in response to the earlier proposal, addresses additional investment issues related to particular benefit plans.

DATES: Comments must be received on or before November 25, 2002.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You are encouraged to fax comments to (703) 518–6319 or email comments to *regcomments@ncua.gov* instead of mailing or hand-delivering them. Whatever method you choose, please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In December 2001, NCUA issued a proposed rule with request for comments to clarify that the scope of § 701.19(a), which currently states that a federal credit union (FCU) may provide reasonable retirement benefits for its employees and officers, is not limited only to retirement benefits, but is more broadly applicable to other employee benefit plans. 66 FR 65662 (December 20, 2001). NCUA received fifteen comments: seven from credit union trade associations and eight from federal credit unions. All of the comments were generally supportive of the proposal.

Having considered those comments, the Board has determined that it will issue this second proposed rule to address certain issues raised in the comments, including the need to distinguish defined contribution plans from various kinds of defined benefit plans. This revised proposal is, however, substantially similar to the first proposal issued in December 2001 and contains much of the same background information from the first proposal.

As competition to attract and retain highly qualified employees has increased and the employee benefit marketplace has become more sophisticated, FCUs are increasingly providing more diverse and less traditional forms of employee benefits including, for example, deferred compensation plans and stock option plans. As a result, FCUs need flexibility to use safe, reasonable and efficient methods to fund their employee benefit obligations. In addition to providing this flexibility, this proposed rule updates the regulatory language to reflect current employee benefits terminology including renaming the rule ''Benefits for Employees of Federal Credit Unions.''

An FCU investing on its own behalf is subject to the investment provisions of the Federal Credit Union Act (Act) and NCUA regulations. 12 U.S.C. 1757(7), (8), (15); 12 CFR part 703. In legal opinion letters, the NCUA's Office of General Counsel has stated that these investment provisions do not apply when an FCU is acting under its authority to provide and fund retirement or other employee benefits. 12 U.S.C. 1761b(12); 12 CFR § 701.19. NCUA's long-standing legal interpretation is that an FCU may purchase an otherwise impermissible investment to fund an employee benefit obligation as long as there is a direct connection between the investment and the employee benefit obligation it serves to fund. In that context, NCUA has also

stated that once the obligation ceases to exist, the FCU must divest itself of the impermissible investment.

For example, an FCU is generally not permitted to purchase equity investments when investing for its own account. An FCU that is obligated under an employee benefit plan to provide an employee with 100 shares of XYZ Corporation stock on a specific date, however, may purchase and hold 100 shares of that stock for that purpose. It may not, however, purchase 100 shares of *ABC* Corporation stock. In that instance, there would not be a sufficient connection between the investment and the obligation to be funded.

NCUA is aware that for-profit corporations often provide employee benefits that contain investment options an employee may exercise after he or she has separated or retired from the employer. For example, an employer may grant an employee the option to purchase a fixed number of shares in a mutual fund for a fixed price on a specific date after the employee separates or retires from the employer. These post-separation or post-retirement options would require a prudent FCU to buy and hold shares in that mutual fund to fund the potential obligation it faces after its employee has separated or retired. In legal opinion letters, the NCUA's Office of General Counsel has also taken the position that an FCU may hold an impermissible investment to fund an ongoing employee benefit obligation after the employee separates or retires provided the investment option period is reasonable. Upon the exercise or expiration of the option, the FCU must divest itself of the impermissible investment. This proposed regulation incorporates the positions taken by the Office of General Counsel in these legal opinion letters.

B. Comments

Defined Contribution Plans and Defined Benefit Plans

Comments received in response to the first proposed rule raised issues about interpretation of the requirement that an investment be ''directly related'' to an FCU's obligation to fund an employee benefit plan. A direct relationship is necessary between the investment and the employee benefit obligation it is intended to fund as it is the legal basis on which NCUA permits FCUs to make otherwise impermissible investments. Without a direct relationship between the investment and the employee benefit obligation, an FCU is merely investing for its own account and, as noted above, is subject to the general statutory and regulatory limitations applicable to FCU investments. The absence of a direct relationship between the investment and the employee obligation also raises safety and soundness concerns as an FCU is investing without statutory or regulatory limits. Specifically, the existence of a direct relationship is an issue in defined benefit plans.

Previously issued legal opinions have generally analyzed issues involving the funding of employee benefit obligations under defined contribution plans, not defined benefit plans. Under defined contribution plans, a credit union's obligation is to make a fixed contribution, for example, to contribute a fixed dollar amount at a particular time or over a period of time, and the level of benefits vary depending on the return on the investments. Thus, the risk of investment performance is on the employee under a defined contribution plan.

NCUA has more recently had cause to analyze issues involving the funding of employee benefit obligations under defined benefit plans. Under defined benefit plans, a credit union typically promises to pay a specified dollar amount to an employee at a specified time. Thus, with defined benefit plans, the risk of investment performance is on the credit union.

The differences between defined contribution plans and defined benefit plans are significant, and defined benefit plans warrant different treatment under NCUA's employee benefits rule for two primary reasons. First, with defined benefit plans, the investment risk is on the credit union. Poor investment performance not only can result in a loss of all or part of the principal a credit union invests, but, after sustaining losses, a credit union is still obligated to fulfill its employee benefit obligation. Second, it is much more difficult to determine if there is a direct relationship between investments a credit union chooses and the obligation it is intended to fund. This is because a credit union's obligation under a defined benefit plan typically is for a fixed dollar amount, as opposed to, for example, a specified number of shares of a particular company's stock.

For example, if a credit union obligates itself to pay a senior executive an employee benefit of $500,000 on a certain date, it may want to purchase and hold investments to meet that future obligation. If the performance of those investments cannot be conservatively predicted with any degree of certainty, then it is difficult to conclude there is a direct relationship between the investment and the obligation it is intended to fund. NCUA is concerned that this difficulty in predicting the return on an investment could result in credit unions underfunding the investment and not meeting their employee benefit obligations. NCUA is also concerned that other credit unions could overfund the investment in hopes of obtaining a return in excess of their employee benefit obligations. For both legal and safety and soundness concerns, NCUA cannot permit credit unions to make impermissible, speculative investments for their own accounts when funding an employee benefit obligation under § 701.19.

The revised proposal permits FCUs to offer defined benefit plans yet addresses the legal and safety and soundness concerns they raise by distinguishing between defined benefit plans covered by the fiduciary responsibilities of Employee Retirement Income Security Act (ERISA) and those that are not. 29 U.S.C. 1101–14. NCUA believes the ERISA fiduciary requirements, which provide for a trust and places obligations on the trustee to act prudently on behalf of the credit union and its employees, are a sufficient safeguard against the risks about which NCUA is concerned.

FCUs may still make investments, otherwise impermissible by statute and regulation, to fund a defined benefit plan not covered by ERISA fiduciary requirements, but must meet certain additional criteria. The proposed rule provides that these investments must have a fixed rate of return, mature on or before the date of the employee benefit obligation, and be rated by a nationally recognized statistical rating organization in one of the four highest rating categories. These broad criteria support the determination that an investment is directly related to the employee benefit the investment is intended to fund and, in addition, address the safety and soundness concerns these otherwise unrestricted investments present. An FCU investing to fund a defined benefit plan that is not covered by ERISA may invest in a registered investment company or collective investment fund that restricts investments to those permitted by the proposed rule, except for the maturity restriction. Although not included as a requirement for defined benefit plans not covered by ERISA, an FCU should consider sufficiently diversifying its investments to control the risk of loss.

Regardless of what kind of investment plan is used, an FCU must comply with safety and soundness standards by ensuring that the kind and amount of employee benefits it offers are reasonable given its size, financial

condition, and the duties of the employees. Furthermore, an FCU's authority to offer and fund an employee benefit plan does not guarantee the permissibility or treatment of the plan under other laws, such as ERISA and the Internal Revenue Code.

FCUs with assets of $10 million or greater are reminded that they are required to account for their employee benefit plans in accordance with generally accepted accounting principles (GAAP). FCUs with assets under $10 million are not required to follow GAAP, but are encouraged to do so in this context. All FCUs are encouraged to seek the advice of an independent accountant if they have questions regarding the proper accounting for these benefit plans.

Finally, § 701.19(b) provides that an FCU acting as a fiduciary, as defined in ERISA, must obtain appropriate liability coverage as provided in § 410(b) of ERISA. NCUA wishes to clarify that section 410(b) of ERISA describes certain kinds of insurance coverage and permits certain parties to purchase that insurance, but does not require any party to purchase insurance. 29 U.S.C. 1110.

Additional Issues Raised in Comments

Several commenters noted that it was not clear if the first proposed rule applied to corporate credit unions because it did not contain a reference to the investment authority for corporate credit unions provided in part 704 of NCUA's rules. The revised proposal has been modified in response to this comment to include a reference so it is clear the rule applies to corporates as well.

Several comments suggested that, because the title of the rule will refer more generally to employee benefits instead of retirement benefits, it should also state that other benefits, including non-monetary forms of compensation, are included and should specify those benefits such as fringe benefits, welfare benefits, training, and so forth. The Board believes this change is unnecessary. The rule states generally that FCUs may provide benefits and that the kind and amount of benefits must be reasonable in relation to the size and financial condition of the credit union and the duties of the employees. The Board is concerned that by specifying particular benefits, even in broad categories, that the rule could be interpreted as being restrictive. Another change in this revised proposal, namely, the provisions regarding plan trustees and custodians are stated in a separate subsection, makes the general statement of FCU authority more clearly applicable to non-monetary benefits as well as monetary benefits.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under one million dollars in assets). The proposed rule only clarifies that credit unions have additional options and flexibility to manage their employee benefit obligations without imposing any regulatory burden. The proposed rule would not have a significant economic impact on a substantial number of small credit unions, and therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The proposed rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive.

List of Subjects in 12 CFR part 701

Credit unions.

By the National Credit Union Administration Board on September 19, 2002.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Revise § 701.19 to read as follows:

§ 701.19 Benefits for employees of federal credit unions.

(a) *General authority.* A Federal credit union may provide employee benefits, including retirement benefits, to its employees and officers who are compensated in conformance with the Act and the bylaws, individually or collectively with other credit unions. The kind and amount of these benefits must be reasonable given the Federal credit union's size, financial condition, and the duties of the employees.

(b) *Plan trustees and custodians.* Where a Federal credit union is the benefit plan trustee or custodian, the plan must be authorized and maintained in accordance with the provisions of part 724 of this chapter. Where the benefit plan trustee or custodian is a party other than a federal credit union, the benefit plan must be maintained in accordance with applicable laws governing employee benefit plans, including any applicable rules and regulations issued by the Secretary of Labor, the Secretary of the Treasury, or any other federal or state authority exercising jurisdiction over the plan.

(c) *Investment authority.* A Federal credit union investing to fund an employee benefit plan obligation is not subject to the investment limitations of the Act and part 703 or, as applicable, part 704, of this chapter and may purchase an investment that would otherwise be impermissible if the investment is directly related to the Federal credit union's obligation or potential obligation under the employee

benefit plan and the Federal credit union holds the investment only for as long as it has an actual or potential obligation under the employee benefit plan.

(d) *Additional investment requirements for defined benefit plans.* A Federal credit union may invest to fund a defined benefit plan if the investment meets the conditions provided in paragraph (c) of this section, and only if the plan is subject to the fiduciary responsibility provisions of part 4 of the Employee Retirement Income Security Act of 1974. If a defined benefit plan is not subject to the fiduciary responsibility provisions of part 4 of the Employee Retirement Income Security Act of 1974, then the investment must yield a fixed rate of return, mature on or before the date of the employee benefit obligation, and be rated by a nationally recognized statistical rating organization in one of the four highest rating categories.

(e) *Liability insurance.* No Federal credit union may occupy the position of a fiduciary, as defined in the Employee Retirement Income Security Act of 1974 and the rules and regulations issued by the Secretary of Labor, unless it has obtained appropriate liability insurance as described and permitted by section 410(b) of the Employee Retirement Income Security Act of 1974.

(f) *Definitions.* For this section, defined benefit plan has the same meaning as in 29 U.S.C. 1002(35) and employee benefit plan has the same meaning as in 29 U.S.C. 1002(3).

[FR Doc. 02–24288 Filed 9–24–02; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–93–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Bombardier CL–600–2C10 series airplanes. This proposal would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate functional and operational checks of the active and standby actuators of the rudder travel limiter (RTL) system. This action is necessary to prevent a significant latent failure in the RTL, which could lead to a critical loss of RTL function under certain conditions, and consequent loss of controllability of the airplane or structural damage. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–93–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–93–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–93–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–93–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on all Bombardier Model CL–600–2C10 series airplanes. TCCA advises that a significant latent failure may exist in the rudder travel limiter (RTL) system. A failure of the active actuator lane (actuator #1 and spoiler stabilizer command module (SSCM) channel 1A) may lead to a critical loss of function of the RTL under either of the following two conditions:

1. A dormant failure of the RTL on SSCM channel 1B, 2A, or 2B, or an undetected mechanical jam may be present in the RTL (standby) actuator #2; or

2. An undetected mechanical jam may be present in the RTL active actuator in the range of 4 to 8 degrees.

Under either of these two conditions, this latent failure in the RTL could lead to a critical loss of RTL function, which, if not corrected, could result in loss of controllability of the airplane or structural damage.

Explanation of Relevant Service Information

The manufacturer has issued the following temporary revisions:

TABLE—TEMPORARY REVISIONS

CRJ 700 Regional jet temporary revision	Task number	Task description
MRM2–41, dated September 28, 2001	27–20–00–108	RTL standby actuator (with SSCU part number (P/N) C13045BA01): Operational check of the RTL standby actuator.
MRM2–42, dated September 28, 2001	27–20–00–107	RTL active and standby actuators (with SSCU P/N C13045BA02): Functional check of the RTL active and standby actuators.
MRM2–43, dated September 28, 2001	27–20–00–102	RTL active and standby actuators (with SSCU P/N C13045BA02): Operational check of the RTL active and standby actuators.

Accomplishment of the actions specified in the temporary revisions is intended to adequately address the identified unsafe condition. TCCA classified these temporary revisions as mandatory and issued Canadian airworthiness directive CF–2002–06, dated January 21, 2002, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate functional and operational checks of the active and standby actuators of the RTL system. The actions would be required to be accomplished in accordance with the temporary revisions described previously.

Cost Impact

The FAA estimates that 15 Model CL–600–2C10 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $900, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket 2002–NM–93–AD.

Applicability: All Model CL–600–2C10 series airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR Part 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR part 91.403(c), the operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Compliance: Required as indicated, unless accomplished previously.

To prevent a significant latent failure in the rudder travel limiter (RTL), which could lead to a critical loss of RTL function under certain conditions, and consequent loss of controllability of the airplane or structural damage, accomplish the following:

Revise Airworthiness Limitations Section

(a) Within 30 days of the effective date of this AD, revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness by incorporating the tasks of the Temporary Revisions of Part 2 of the Maintenance Requirements Manual (MRM), Section 1, Appendix A, Certification Maintenance Requirements; as listed in the following table; into the Airworthiness Limitations Section:

TABLE—TEMPORARY REVISIONS

CRJ 700 Regional jet temporary revision	Task number	Task description
MRM2–41, dated September 28, 2001	27–20–00–108	RTL standby actuator (with SSCU part number (P/N) C13045BA01): Operational check of the RTL standby actuator.
MRM2–42, dated September 28, 2001	27–20–00–107	RTL active and standby actuators (with SSCU P/N C13045BA02): Functional check of the RTL active and standby actuators.
MRM2–43, dated September 28, 2001	27–20–00–102	RTL active and standby actuators (with SSCU P/N C13045BA02): Operational check of the RTL active and standby actuators.

(b) Thereafter, except as provided by paragraph (c) of this AD, no alternative operational and functional checks or check intervals may be approved for the task numbers specified in the temporary revisions listed in paragraph (a) of this AD.

Alternative Methods of Compliance

(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, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2002–06, dated January 21, 2002.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24282 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–394–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require an initial inspection to identify all H–11 steel bolts on the outer chord of the body station (BS) 2360 aft pressure bulkhead between stringers 12L and 12R; follow-on repetitive inspections to identify all remaining H–11 steel bolts on the entire outer chord of the BS 2360 aft pressure bulkhead; and follow-on and corrective actions, if necessary. This proposal also would require eventual replacement of all H–11 steel bolts with Inconel bolts. This action is necessary to prevent broken bolts, which could result in progressive failure of the remaining bolts and consequent structural damage and rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 12, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–394–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–394–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: *Technical Information:* Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 687–4243, fax (425) 687–4248. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received. Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–394–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–394–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of numerous broken H–11 steel bolts found on the outer chord of the aft pressure bulkhead on certain Boeing Model 747 series airplanes. The broken bolts have been attributed to the steel material being susceptible to corrosion and subsequent stress corrosion cracking. If multiple adjacent H–11 steel bolts are broken, a progressive failure of the remaining bolts may occur. Such failure could result in structural damage and consequent rapid depressurization of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001, which describes procedures for an initial inspection to identify all H–11 steel bolts on the outer chord of the body station (BS) 2360 aft pressure bulkhead between stringers 12L and 12R. The inspection procedures include checking the bolt part number stamped on the top, the outside diameter, or the sloped surface of the bolt head; or verifying the bolt is steel by using a magnet.

The service bulletin also describes procedures for follow-on repetitive inspections to identify all remaining H–11 steel bolts on the entire outer chord of the BS 2360 aft pressure bulkhead.

The follow-on and corrective action procedures include doing either an ultrasonic inspection or a torque check for cracked or broken bolts if any H–11 steel bolt is found, or replacing the H–11 steel bolt with an Inconel bolt; and, if the H–11 steel bolt is replaced, visually inspecting the bolt hole for corrosion, oversizing the hole up to 1/32-inch to remove any corrosion, and, after installation of a new Inconel bolt, coating the bolt with corrosion inhibitor compound. The procedures also recommend replacing any cracked or broken bolt with an Inconel bolt before further flight.

The service bulletin also specifies contacting the manufacturer if additional oversizing of the bolt holes is necessary. Replacing all H–11 steel bolts with Inconel bolts would eliminate the need for the repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This Proposed Rule and the Service Information

The service bulletin does not specify the type of initial and follow-on inspections to be used to find H–11 steel bolts on the outer chord of the body station 2360 aft pressure bulkhead. For the purposes of this AD, we have determined that the procedures in the service bulletin constitute a ''detailed inspection.'' Note 2 of this proposed AD defines such an inspection.

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repairs, this proposed AD would require such repairs to be accomplished per a method approved by us, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

Cost Impact

There are approximately 487 airplanes of the affected design in the worldwide fleet. The FAA estimates that 165 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 9 work hours per airplane to accomplish the proposed initial inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the initial inspection on U.S. operators is estimated to be $89,100, or $540 per airplane.

It would take approximately 35 work hours per airplane to accomplish the proposed follow-on inspection to identify all remaining H–11 steel bolts on the entire outer chord, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the follow-on inspection on U.S. operators is estimated to be $346,500, or $2,100 per airplane, per inspection cycle.

Should an operator be required to replace the H–11 steel bolts, it would take approximately 108 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,233 per airplane. Based on these figures, the cost impact is estimated to be $9,713 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this

action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Boeing: Docket 2001–NM–394–AD.

Applicability: Model 747 series airplanes, line numbers 1 through 644 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent broken H–11 steel bolts, which could result in progressive failure of the remaining bolts and consequent structural damage and rapid depressurization of the airplane, accomplish the following:

Initial Inspection

(a) Within 18 months after the effective date of this AD: Do a detailed inspection to identify all H–11 steel bolts on the outer chord of the body station (BS) 2360 aft pressure bulkhead between stringers 12L and 12R. Do the inspection by checking the bolt part number stamped on the bolt head, or verifying the bolt is steel by using a magnet, per Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001. If no H–11 steel bolt is found, no further action is required by this paragraph. If any H–11 steel bolt is found, do the requirements specified in paragraph (c) of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Follow-On Inspections/Corrective Actions

(b) Within 18 months after doing the inspection required by paragraph (a) of this AD, or within 18 months after the effective date of this AD, whichever is later: Do a detailed inspection to identify all remaining H–11 steel bolts on the entire outer chord of the BS 2360 aft pressure bulkhead, per Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001. If no H–11 steel bolt is found, no further action is required by this AD. If any H–11 steel bolt is found, do the requirements specified in paragraph (c) of this AD.

(c) For any H–11 steel bolt found during any inspection required by paragraph (a) or (b) of this AD: Before further flight, do either an ultrasonic inspection or a torque check for cracked or broken bolts, or replace the H–11 steel bolt with an Inconel bolt per Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001. Replace any cracked or broken bolt with an Inconel bolt before further flight per the service bulletin. Then repeat the inspection at least every 18 months until the terminating action required by paragraph (d) of this AD is done.

Terminating Action

(d) Within 6 years after the effective date of this AD: Replace all H–11 steel bolts on the entire outer chord of the BS 2360 aft pressure bulkhead with Inconel bolts (including visually inspecting the bolt hole for corrosion, oversizing the hole up to 1/32 inch to remove any corrosion, and, after installing an Inconel bolt, coating the bolt with corrosion inhibitor compound), per Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001. When this paragraph is done, the requirements of this AD are terminated.

Exceptions to Service Information

(e) Where Boeing Alert Service Bulletin 747–53A2474, dated October 25, 2001, specifies to contact Boeing for appropriate action: Before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Spares

(f) As of the effective date of this AD: No person shall install an H–11 steel bolt on the outer chord of the BS 2360 aft pressure bulkhead on any airplane.

Alternative Methods of Compliance

(g) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, , Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24281 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–315–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 800XP airplanes. This proposal would require installing jumper wires on the computer control switches to power the digital electronic engine control when overspeed protection is selected, and tying and stowing the jumper wires on the switches. The actions specified by the proposed AD are intended to prevent loss of the overspeed protection function without the flightcrew's awareness, due to missing jumper wires, which could result in engine overspeed and possible uncommanded engine shutdown. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 12, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–315–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–315–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Aerospace Engineer, Airframe and Propulsion Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4153; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–315–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–315–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received a report that the jumper wires, which provide power from the computer control switches to the digital electronic engine control (DEEC), were missing on a Raytheon Model Hawker 800XP airplane. Power to the DEEC is necessary so when the flightcrew places the computer control switches in the overspeed protection position, the overspeed protection mode will be activated. Investigation by the manufacturer revealed that the jumper wires were omitted from the production drawing. Such conditions, if not corrected, could result in loss of the overspeed protection function without the flightcrew's awareness. This situation could result in engine overspeed, and possible uncommanded engine shutdown.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB 76–3480, dated August 2001, which describes procedures for installing jumper wires on the computer control switches to power the digital electronic engine control (DEEC) when overspeed protection is selected, and tying and stowing the jumper wires on the switches. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 250 Model 800XP airplanes of the affected design in the worldwide fleet. The FAA estimates that 193 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 5 work hours per airplane for airplanes with two oxygen bottles, and 6 work hours per airplane for airplanes with three oxygen bottles, to accomplish the proposed actions, at an average labor rate of $60 per work hour. The cost of required parts would be nominal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $300 per airplane (for airplanes with two oxygen bottles) or $360 per airplane (for airplanes with three oxygen bottles).

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Ratheon Aircraft Company: Docket 2001–NM–315–AD.

Applicability: Model Hawker 800XP airplanes, as listed in Raytheon Service Bulletin SB 76–3480, dated August 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the overspeed protection function without the flightcrew's awareness, due to missing jumper wires, which could result in engine overspeed and possible uncommanded engine shutdown, accomplish the following:

Jumper Wire Installation

(a) Within 3 months or 300 flight hours after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD per Raytheon Service Bulletin SB 76–3480, dated August 2001.

(1) Install a four-inch jumper wire between terminals 1 and 3 on the computer control switch ''NF.''

(2) Install a six-inch jumper wire between terminals 1 and 3 on the computer control switch ''NG.''

(3) Tie and stow the jumper wires on the computer control switches ''NF'' and ''NG'' using tie-wrap.

Alternative Methods of Compliance

(b) 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, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24308 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–140–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 and –300 series airplanes. This proposal would require replacement of the screws in the aileron, rudder, and elevator trim tabs with new screws, and removal and re-installation of screws in the aileron, elevator and rudder trim tabs and the rudder spring tab, as applicable. This action is necessary to prevent reduced structural integrity of the screws in the aileron, elevator, and rudder trim tabs, and the rudder spring tab, due to countersinks that were not manufactured correctly, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–140–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–140–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a

request to change the service bulletin reference as two separate issues.

- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–140–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–140–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 and –300 series airplanes. The LBA advises that the countersinks for the trim tab hinge fitting in the aileron, rudder, and elevator trim tabs, and the rudder spring tab, were not manufactured correctly. This may reduce the structural integrity of the associated screws due to incorrect installation. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued the service bulletins listed in the following table:

TABLE—SERVICE BULLETINS

Service bulletin—	Describes procedures for—	For model—
SB–328–55–368, Revision 1, dated December 11, 2001.	Replacement of screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–100 series airplanes.
SB–328–55–422, dated February 8, 2002.	Removal and re-installation of the screws in the rudder and elevator trim tabs and the spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–100 series airplanes.
SB–328J–55–074, Revision 1, dated December 11, 2001.	Replacement of screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–300 series airplanes.
SB–328J–55–153, dated February 8, 2002.	Removal and re-installation of the screws in the rudder and elevator trim tabs and the spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–300 series airplanes.
SB–328–57–350, Revision 2, dated January 16, 2002.	Replacement of screws in the aileron trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–100 series airplanes.
SB–328J–57–057, Revision 2, dated January 16, 2002.	Replacement of screws in the aileron trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–300 series airplanes.
SB–328J–57–152, dated February 8, 2002.	Removal and re-installation of the screws in the aileron trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).	328–300 series airplanes.

Accomplishment of the actions specified in the applicable service bulletins is intended to adequately address the identified unsafe condition. The LBA classified these service bulletins as mandatory and issued German airworthiness directives 2002–126/2 and 2002–127/2, both dated June 27, 2002, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

These airplane models are manufactured in Germany and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the applicable service bulletins described previously.

Cost Impact

The FAA estimates that 53 Model 328–100 series airplanes and 48 Model 328–300 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $18,180, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific

actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Dornier Luftfahrt GMBH: Docket 2002–NM–140–AD.

Applicability: Airplanes listed in the following table of this AD, certificated in any category:

TABLE—APPLICABILITY

Model	Serial No.
328–100 series airplanes.	3005 through 3119 inclusive.
328–300 series airplanes.	3105 through 3196, excluding 3192 through 3194 inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the screws in the aileron, elevator and rudder trim tabs, and the rudder spring tab due to countersinks that were not manufactured correctly, which could result in reduced controllability of the airplane, accomplish the following:

Screw Replacement or Removal and Re-Installation

(a) For Model 328–100 series airplanes: Within 2 months after the effective date of this AD, do the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD; as applicable.

(1) Replace the screws in the aileron trim tab with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328–57–350, Revision 2, dated January 16, 2002.

(2) Replace the screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328–55–368, Revision 1, dated December 11, 2001.

(3) Except as provided by paragraph (b) of this AD, do the actions specified in paragraphs (a)(3)(i), (a)(3)(ii), and (a)(3)(iii) of this AD, per Dornier Service Bulletin SB–328–55–422, dated February 8, 2002.

(i) Remove and re-install the screws in the elevator trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(ii) Remove and re-install the screws in the rudder trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(iii) Remove and re-install the screws in the rudder spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(b) For Model 328–100 series airplanes on which the actions specified in Dornier Service Bulletin SB–328–55–368, Revision 1, dated December 11, 2001, have been accomplished, the requirements specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD do not need to be accomplished.

(c) For Model 328–300 series airplanes: Within 2 months after the effective date of this AD, do the actions specified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD; as applicable.

(1) For airplanes having serial numbers 3105 through 3174 inclusive: Replace the screws in the aileron trim tab with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–57–057, Revision 2, dated January 16, 2002.

(2) For airplanes having serial numbers 3105 through 3174 inclusive: Replace the screws in the rudder and elevator trim tabs with new screws (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–55–074, Revision 1, dated December 11, 2001.

(3) For airplanes having serial numbers 3105 through 3196, excluding serial numbers 3192 through 3194 inclusive: Except as provided by paragraph (d) of this AD, do the actions specified in paragraphs (c)(3)(i), (c)(3)(ii), and (c)(3)(iii) of this AD, per Dornier Service Bulletin SB–328J–55–153, dated February 8, 2002.

(i) Remove and re-install the screws in the elevator trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(ii) Remove and re-install the screws in the rudder trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(iii) Remove and re-install the screws in the rudder spring tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty).

(4) For airplanes having serial numbers 3175 through 3196, excluding serial numbers 3192 through 3194 inclusive: Remove and re-install the screws in the aileron trim tab (including applying zinc-chromate putty, torquing the screws, and removing the squeezed zinc-chromate putty), per Dornier Service Bulletin SB–328J–57–152, dated February 8, 2002.

(d) For Model 328–300 airplanes on which the actions specified in Dornier Service Bulletin SB–328J–55–074, Revision 1, dated December 11, 2001, have been accomplished, the requirements specified in paragraphs (c)(3)(i) and (c)(3)(ii) of this AD do not need to be accomplished.

Alternative Methods of Compliance

(e) 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in German airworthiness directives 2002–126/2 and 2002–127/2, both dated June 27, 2002.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24307 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–343–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, that would have required inspection of landing gear parts and/or their records to see that parts have serial numbers and that each part's number of flight cycles has been tracked; assignment of serial numbers and flight cycle use numbers if necessary; and removal of individual landing gear components from service when they reach their life limit. This new action revises the proposed rule by adding landing gear parts to the lists of safe-life components, and assigning life limits to landing gear parts already in service. The actions specified by this new proposed AD are intended to prevent failure of landing gear parts, which could lead to landing gear collapse. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–343–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–343–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Suzanne Lucier, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2186; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–343–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–343–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 28, 2001 (66 FR 45194). That NPRM would have required inspection of landing gear parts and/or their records to see that parts have serial numbers and that each part's number of flight cycles has been tracked; assignment of serial numbers and flight cycle use numbers if necessary; and removal of individual landing gear components from service when they reach their life limit. Failure of landing gear parts, if not corrected, could lead to landing gear collapse.

Actions Since Issuance of Previous Proposal

Since the issuance of the original NPRM, the FAA has received reports from the manufacturer indicating that, during a check of the list of life-limited parts for the main landing gear and nose landing gear on Model 737 series airplanes, some life-limited parts were not included in the tables in Part 2 of the Accomplishment Instructions of

Boeing Service Bulletin 737–32–1322, dated September 30, 1999. To correct this exclusion, the manufacturer issued Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001, which has been reviewed and approved by the FAA. This new revision of the service bulletin includes the previously omitted life-limited parts. Failure to remove these ''safe-life'' parts at their life limit could result in failure of landing gear parts, which could lead to landing gear collapse.

Compliance Time Changes

In paragraphs (a), (b), and (c) of the NPRM, the FAA specified the compliance time as, ''During the next gear overhaul or within 10 years from the effective date of this AD, whichever occurs later.'' Since there is no specific required time for ''the next gear overhaul,'' we have removed that provision from this supplemental NPRM.

Comments

Due consideration has been given to the comments received in response to the original NPRM.

Request to Cite Revision 1 of the Service Bulletin

The manufacturer, Boeing, states that Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001, was issued to add part numbers for any life-limited spares that were not included in the original issue of the service bulletin. The commenter adds that additional work may be required for previously completed work done per the original issue of the service bulletin. The commenter considers that accomplishment of Revision 1 of the service bulletin will ensure that all life-limited parts are tracked and will prevent unnecessary requests for alternative methods of compliance.

The FAA concurs with the request to cite Revision 1 of the previously referenced service bulletin, which adds additional spares part numbers that were not included in the original issue of Boeing Service Bulletin 737–32–1322, dated September 30, 1999, as cited in the original NPRM. In response, we have revised paragraphs (a), (b), (c), (d), and (f) of this supplemental NPRM accordingly.

Requests To Revise Paragraphs (e) and (f) of the Original NPRM

Several commenters request revising paragraphs (e) and (f) of the original NPRM for several reasons:

- One commenter suggests clarifying that the requirements of those paragraphs apply only to those airplane models specified in the Boeing service bulletin and in the applicability of the original NPRM. As presently stated, the requirements could be misconstrued to apply to all makes and models.
- A second commenter suggests revising paragraphs (e) and (f) of the original NPRM to specify that only ''safe-life'' landing gear parts are identified in the Boeing service bulletin.
- Another commenter suggests revising paragraph (e) of the original NPRM to add the words ''life-limited'' landing gear part because all components of the landing gear are not life-limited, and do not require tracking. (The FAA infers that the suggestion also would apply to paragraph (f) of the original NPRM.)

We concur with the requests to revise paragraphs (e) and (f) of the original NPRM. Those paragraphs are revised in the supplemental NPRM to specify that ''* * * no person shall install on any Model 737–100, −200, −200C, −300, −400, and −500, line numbers 1 through 3132 inclusive, a life-limited landing gear part unless * * *.''

Request To Change a Service Information Reference

One commenter requests changing paragraph (f) of the original NPRM to reference ''737 Type Certificate Data Sheet A1WE'' instead of Boeing Service Bulletin 737–32–1322, dated September 30, 1999. The commenter contends that the service bulletin includes an incomplete list of life-limited landing gear parts, but the type certificate data sheet provides landing gear life limits and a reference to a detailed list of life-limited components.

We partially concur with the request to change the service information reference in paragraph (f) of the original NPRM. However, we do not concur that the previously referenced type certificate data sheet should be cited instead of the service bulletin in paragraph (f) of the supplemental NPRM. We point out that the proposed AD does not change the requirements for all of the life-limited landing gear parts cited in the data sheet, but only for certain specified parts. However, as described previously, this supplemental NPRM has been revised to cite Revision 1 instead of the original issue of the service bulletin. Paragraph (f) of the supplemental NPRM is changed accordingly.

Requests To Withdraw Proposed Rule

The Air Transport Association (ATA) of America, on behalf of two of its member airlines, requests withdrawal of the original NPRM. The commenters contend that the requirements in the original NPRM already exist in other regulations (*e.g.*, FAR 121.380), which provide an equivalent level of safety for all fleets, including Model 737. The commenters state that they previously have complied with the intent of the service bulletin. In addition, one of the commenters states that the time required for the original NPRM process, and for development of the service data, indicate that the problem is not urgent, and therefore the NPRM is not needed.

We do not concur that the original NPRM should be withdrawn. We consider that issuance of the proposed supplemental NPRM is necessary to include the life-limited parts that were not included in the original NPRM. Issuance will ensure that operators add serial numbers and track the specified parts. No change to the supplemental NPRM is necessary in this regard.

Request To Remove ''Unsafe'' From Note 1 in the Original NPRM

One commenter requests deleting the word ''unsafe'' from Note 1 in the original NPRM. The commenter contends that the condition addressed by the original NPRM, and by Revision 1 of the previously referenced service bulletin, is a compliance issue. As such, life-limited components are required to be tracked and removed from service when the specified life limit is reached. Revision 1 of the service bulletin identifies parts that previously should have been identified as life-limited, and provides procedures to ensure that operators comply with the requirements for adding serial numbers and tracking those parts. In addition, the commenter is not aware that any condition addressed by the original NPRM has resulted in the failure of any landing gear components, or has created an unsafe condition.

We do not concur that the word ''unsafe'' should be removed from the text of Note 1 of the original NPRM. The supplemental NPRM addresses a potential problem that would be unsafe: using life-limited landing gear parts beyond their safe-life limitations. No change to Note 1 in the supplemental NPRM is necessary in this regard.

Request To Clarify Requirements for Life-Limited Parts

One commenter requests clarification of the requirements in the original NPRM for life-limited parts. The commenter states that the original NPRM requires the actions specified in the original issue of Service Bulletin 737–32–1322, dated September 30, 1999. That service bulletin cites additional life-limited parts that were not previously listed in Boeing Drawing

65C73761, ''737 Main Landing Gear Components,'' and Boeing Drawing 65C73762, ''737 Nose Landing Gear Components.'' The commenter considers that the original NPRM applies only to the life-limited parts listed in the service bulletin and not to those listed in Boeing Service Letter 32–18D, dated December 22, 1999. The commenter also states that, because it has tracked each life-limited part listed in the service letter since 1996, such action meets the requirements of the original NPRM. The FAA infers that the service letter includes more life-limited parts than the service bulletin.

We do not concur that accomplishment of the actions specified in the service letter meets the requirements of the supplemental NPRM. However, we note that the requirements in the supplemental NPRM are limited only to the life-limited parts specified in Revision 1 of the service bulletin. No change to the supplemental NPRM is necessary in this regard. As discussed earlier, the supplemental NPRM cites Revision 1 of the service bulletin instead of the original issue.

Request To Revise the Parts Requirements

One commenter requests revising the parts requirements in the original NPRM. The commenter suggests discarding life-limited parts at each landing gear overhaul and replacing them with new parts, instead of adding serial numbers to the specified parts and tracking those parts. The commenter states that, at first overhaul, landing gear parts are commonly found beyond economical repair. Therefore, replacing the parts would be more economical and would simplify the tracking system.

We do not concur with the commenter's request to revise the parts requirements. We consider that, in order to ensure that parts are not used beyond their safe-life limit, it is necessary for operators to permanently mark each part and track its service use. However, under the provisions of paragraph (g) of the supplemental NPRM, the FAA may consider requests for approval of an alternative method of compliance, if sufficient data are submitted to substantiate that such an option would provide an acceptable level of safety.

Request To Delete Paragraph (d) of the Original NPRM

One commenter requests deleting paragraph (d) of the original NPRM because that paragraph is redundant with existing regulatory requirements. The commenter states that the Original Equipment Manufacturer has added the parts referenced in Boeing Service Bulletin 737–32–1322, dated September 30, 1999, in Boeing drawings 65C73761 and 65C73762, and in Boeing Service Letters 737–SL–32–21 and 737–SL–32–018. The commenter contends that the requirements of the proposed AD will require operators to maintain two sets of records to track the identified parts.

We do not concur with the request to delete paragraph (d) of this supplemental NPRM. We point out that the documents referenced by the commenter are not regulatory. Therefore, it is necessary for this supplemental NPRM to include a requirement to remove from service a specified part that has reached its life limits to ensure regulatory compliance. Further, paragraph (d) of the supplemental NPRM does not impose any additional recordkeeping requirement for operators. No change to the supplemental NPRM is necessary in this regard.

Conclusion

Since the changes described previously expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 3,132 Model 737–100, −200, −200C, −300, −400, and −500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,099 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $65,940, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–343–AD.

Applicability: Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category; line numbers 1 through 3132 inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of landing gear parts, which could lead to landing gear collapse, accomplish the following:

Inspection of Parts and/or Records

(a) Within 10 years from the effective date of this AD, examine records and/or landing gear parts per Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001, to determine whether parts have serial numbers and whether the number of flight cycles for each part has been tracked. If landing gear parts have serial numbers, as listed in Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001, and the number of flight cycles has been tracked, no further action is necessary for paragraphs (a), (b), or (c) of this AD.

Assignment of Serial Numbers and Flight Cycles

(b) If any part examined, as mandated in paragraph (a) of this AD, does not have a serial number, within 10 years from the effective date of this AD, do the actions required by paragraphs (b)(1) and (b)(2) of this AD.

(1) Assign a serial number to each part per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(2) Mark the serial number on each part per Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001.

(c) If flight cycles for any part examined, as mandated in paragraph (a) of this AD, have not been tracked, within 10 years from the effective date of this AD, assign a number of lifetime flight cycles to that part per Part 2.B. of the Accomplishment Instructions of Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001.

Removal from Service at Life Limit

(d) When any landing gear part has reached its life-limit number of flight cycles, as described in Part 2.B. of the Accomplishment Instructions of Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001, before further flight, remove that part from service and replace it with a landing gear part having a serial number and a lifetime flight cycle number per the service bulletin.

Spare Parts

(e) As of the effective date of this AD, no person shall install on any airplane a life-limited landing gear part unless it has been assigned a serial number and a lifetime flight cycle number per the requirements of this AD.

(f) As of the effective date of this AD, no person shall install on any airplane a life-limited landing gear part that has reached its life limit of flight cycles, per Boeing Service Bulletin 737–32–1322, Revision 1, dated September 27, 2001.

Alternative Methods of Compliance

(g) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 16, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24306 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219–AB29

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: MSHA is initiating rulemaking to amend certain provisions of its existing health standard entitled, ''Diesel Particulate Matter Exposure (DPM) of Underground Metal and Nonmetal Miners,'' published in the **Federal Register** on January 19, 2001 (66 FR 5706), and amended on February 29, 2002 (67 FR 9180). This rulemaking is part of a settlement agreement reached in response to a legal challenge to the January 19, 2001 DPM standard. Accordingly, the scope of this rulemaking will be limited to the terms of the settlement agreement that MSHA shared with the public in its recent **Federal Register** document (final rule; stay of effectiveness notice) of July 18, 2002 (67 FR 47296). MSHA will propose to revise § 57.5060, limit on concentration of DPM; § 57.5061, compliance determinations; and, § 57.5062, diesel particulate matter control plan. In addition, MSHA will address technological and economic feasibility for the underground metal and nonmetal mining industry to comply with revised interim and final DPM concentration limits. Some mine operators have begun to implement control technology on their underground diesel-powered equipment as a result of the January 19, 2001 final rule. Therefore, MSHA requests relevant information on current experiences with availability of control technology, installation of control technology, effectiveness of control technology to reduce DPM levels, and cost implications of compliance with the current DPM standard. MSHA emphasizes the significance of obtaining this information from mine operators.

The existing rulemaking record, including the risk assessment for the January 19, 2001 standard, will be incorporated into this new rulemaking record. Commenters may submit evidence of new scientific data related to the health risk to underground metal and nonmetal miners from exposure to DPM.

DATES: Comments, suggestions and information on the advance notice of proposed rulemaking (ANPRM) must be received on or before November 25, 2002.

ADDRESSES: Comments on the ANPRM may be transmitted by electronic mail, fax, or mail.

Comments by electronic mail must be clearly identified as such and sent to *comments@msha.gov*.

Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations and Variances, 202–693–9441.

Send comments by mail to: MSHA, Office of Standards, Regulations and Variances, Room 2352, 1100 Wilson Boulevard, Arlington, VA 22209–3939.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances; MSHA, 1100 Wilson Boulevard, Room 2313, Arlington, Virginia 22209–3939. Mr. Nichols can be reached at *nichols-marvin@MSHA.gov*, 202–693–9440, or 202–693–9441 (fax).

SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 2001, MSHA published a final rule addressing diesel particulate matter exposure of underground metal and nonmetal miners (66 FR 5706). The final rule established new health standards for underground metal and nonmetal mines that use equipment powered by diesel

engines. The effective date of the rule was listed as March 20, 2001.

On January 29, 2001, AngloGold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the final rule in the District of Columbia Circuit Court of Appeals. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of the rule in the District of Columbia Circuit. The three petitions have been consolidated and are pending in the District of Columbia Circuit. The United Steelworkers of America (USWA) has intervened in the litigation.

While these challenges were pending, the AngloGold petitioners filed with MSHA an application for reconsideration and amendment of the final rule and to postpone the effective date of the final rule pending judicial review. The Georgia Mining petitioners similarly filed with MSHA a request for an administrative stay or postponement of the effective date of the rule.

On March 15, 2001, MSHA delayed the effective date of the rule until May 21, 2001, in accordance with a January 20, 2001 memorandum from the President's Chief of Staff (66 FR 15032). The delay was necessary to give Department of Labor officials the opportunity for further review and consideration of new regulations. On May 21, 2001 (66 FR 27863), MSHA published a notice in the **Federal Register** delaying the effective date of the final rule until July 5, 2001. The purpose of this delay was to allow the Department of Labor the opportunity to engage in further negotiations to settle the legal challenges to this rule.

II. Outcome of First Partial Settlement

As a result of a partial settlement agreement with the litigants, MSHA published two documents in the **Federal Register** on July 5, 2001 addressing the January 19, 2001 DPM final rule. One document (66 FR 35518) delayed the effective date of § 57.5066(b) regarding the tagging provision of the maintenance standard; clarified the effective dates of certain provisions of the final rule; and included correction amendments.

The second document (67 FR 35521) proposed a rule to clarify § 57.5066(b)(1) and (b)(2) of the maintenance standards and to add a new paragraph (b)(3) to § 57.5067 regarding the transfer of existing equipment from one underground mine to another underground mine. MSHA finalized these changes to the January 19, 2001 rule and published them in the **Federal Register** on February 27, 2002, (67 FR 9180). The final rule was effective on March 29, 2002.

As a result of the partial settlement agreement, MSHA also agreed to conduct joint sampling with industry and labor at 31 underground metal and nonmetal mines to determine existing concentration levels of DPM; to assess the performance of the SKC submicron dust sampler with the NIOSH Method 5040; to assess the feasibility of achieving compliance with the standard's concentration limits at the 31 mines; and, to assess the impact of interferences on samples collected in the metal and nonmetal underground mining environment before the limits established in the final rule become effective. Sampling and data analyses are completed, and MSHA is in the process of developing the final report. MSHA will include the final report in this rulemaking record.

III. Outcome of Second Partial Settlement

Settlement negotiations continued on the remaining unresolved issues in the litigation. On July 15, 2002, the parties signed an agreement that is the basis for this advance notice of proposed rulemaking.

On July 18, 2002, MSHA published a notice in the **Federal Register** (67 FR 47296) announcing that the following provisions of the final rule as published on January 19, 2001 (66 FR 5706) would become effective on July 20, 2002:

(a) § 57.5060(a), addressing the interim concentration limit of 400 micrograms of total carbon per cubic meter of air;

(b) § 57.5061, addressing compliance determinations; and

(c) § 57.5071, addressing environmental monitoring. MSHA also announced that the following provisions of the final rule would continue in effect:

(a) § 57.5065, Fueling and idling practices;

(b) § 57.5066, Maintenance standards;

(c) § 57.5067, Engines;

(d) § 57.5070, Miner training; and

(e) § 57.5075, Diesel particulate records, as they relate to the requirements of the rule that are in effect on July 20, 2002.

MSHA announced that it was staying the effectiveness of the following provisions pending completion of further rulemaking to address these issues:

(a) § 57.5060(d), permitting miners to work in areas where the level of diesel particulate matter exceeds the applicable concentration limit with advance approval from the Secretary;

(b) § 57.5060(e), prohibiting the use of personal protective equipment to comply with the concentration limits;

(c) § 57.5060(f) prohibiting the use of administrative controls to comply with the concentration limits; and

(d) § 57.5062, addressing the control plan.

Finally, MSHA published in the same notice the terms of the DPM settlement agreement and announced its intentions to propose specific changes to the final DPM rule as discussed below.

IV. Summary of Issues To Be Addressed in the Proposed Standard

MSHA is including the following questions to facilitate public comment. The Agency invites comments on all aspects of the following issues:

1. *Section 57.5060(a) and (b), Limit on concentration of diesel particulate matter.*

The existing provisions include an interim concentration limit that restricts total carbon (TC) to 400 micrograms per cubic meter of air, and a final concentration limit of 160 micrograms per cubic meter of air by January 20, 2006. Diesel particulate matter consists of a core of elemental carbon (EC), other carbon-containing compounds, and many other components. There is no appropriate sampling method for diesel particulate matter itself. As a result, a substitute or surrogate must be used for DPM. MSHA agreed to propose to change the surrogate, or indicator of DPM, from (TC) to elemental carbon (EC) for both the interim and final limits. MSHA also agreed to propose that a single personal sample of a miner's exposure would be an adequate basis for all compliance determinations. Furthermore, MSHA agreed to propose the current hierarchy of controls that MSHA applies in its other metal and nonmetal exposure-based health standards for abating violations as further discussed in this notice. MSHA seeks information, data, and comments on the following:

(a) What are the appropriate interim and final limits if EC is the surrogate?

(b) What error factor should MSHA use for determining noncompliance on an EC standard?

(c) Are there any interferences in the environment of an underground metal and nonmetal mine that would preclude personal sampling with the impactor when EC is used as the surrogate for DPM?

(d) Is a field blank required if EC is used as the surrogate? (A field blank is a control device to account for

background interferences from manufacturing and storage of the filter).

2. *Section 57.5060(c) addresses application and approval requirements for an extension of time in which to reduce the concentration of DPM to the final limit.*

The existing provision allows mine operators to apply for additional time to come into compliance with the final concentration limit of 160 micrograms of TC per cubic meter of air due to technological constraints. MSHA agreed to propose to adapt this provision to the interim concentration limit as well, to include consideration of economic feasibility, and to allow for annual renewals of such special extensions, upon application to and approval by the Secretary.

(a) What circumstances would necessitate an extension of time to come into compliance?

(b) What should be the duration of the extension?

(c) Should MSHA allow more than one extension?

(d) What actions should mine operators be required to take to minimize DPM exposures if they are operating under an extension?

3. *Section 57.5060(d) addresses certain exceptions to the concentration limit.*

The existing provision permits miners engaged in specific activities, such as inspection, maintenance, or repair activities, to work in concentrations of DPM that exceed the interim and final limits, with advance approval from the Secretary.

(a) Would this provision be necessary if MSHA includes in the final rule its current hierarchy of controls for its other exposure-based health standards for metal and nonmetal mines?

(b) What would be the impact of removing this provision?

4. *Section 57.5060(e) prohibits use of personal protective equipment to comply with the concentration limits; and § 57.5060(f) prohibits use of administrative controls to comply with the concentration limits.*

MSHA agreed to propose to amend these provisions to require mine operators to establish, use, and maintain all feasible engineering control methods, consistent with the Agency's long-standing enforcement policy for its other existing exposure-based health standards applicable to metal and nonmetal mines. Therefore, MSHA will propose to require mine operators to supplement feasible engineering and administrative control methods with personal protective equipment, in the event that controls do not reduce the concentration level to the required limit, or are not feasible, or do not produce significant reductions in DPM exposures. MSHA also agreed to consider the advisability of requiring periodic application to the Secretary before respirators could be used. MSHA will propose to prohibit the practice of rotation of employees as an administrative control for compliance with the DPM standard.

(a) Currently, there is no approved respirator for use in protecting miners exposed to DPM atmospheres. If MSHA includes requirements for some form of respiratory protection, what type of respirators would be protective of miners? What are their specifications?

(b) Should MSHA propose to require mine operators to implement a written respiratory protection program when miners must wear respiratory protection?

(c) Should MSHA require mine operators to apply to the Secretary for approval to use respiratory protection? Should the application be in writing? What conditions should MSHA require mine operators to meet before approval is granted to use respirators?

(d) Should MSHA propose to require mine operators to implement a written administrative control plan when they use administrative controls to reduce miners' exposures to the required limit?

5. *Section 57.5061(b) addresses how MSHA will collect and analyze samples for compliance purposes.*

MSHA agreed to propose to change the DPM surrogate from TC to EC. Therefore, MSHA would propose to delete the reference to analyzing the samples for the amount of ''total carbon'' included in this paragraph and propose to insert ''elemental carbon.''

6. *Section 57.5061(c) provides for MSHA to conduct personal, area, and occupational sampling for compliance determinations.*

MSHA agreed to propose a revision to this paragraph to state that the Agency would conduct personal sampling only for compliance determinations for the interim and final DPM standards. As a result, MSHA would propose to revise this paragraph to delete the references to ''area'' and ''occupational sampling'' for compliance determinations.

(a) What would be the cost implications for mine operators to conduct personal sampling of miners' DPM exposures if EC is the surrogate?

(b) What experience do mine operators have with DPM sampling and analysis?

(c) Is there experience with DPM sampling in other industries and other countries?

7. *Section 57.5062 addresses the diesel particulate control plan.*

The existing MSHA standard includes requirements for implementing a DPM control plan. MSHA agreed to propose revisions to these requirements. The settlement agreement does not include any specifics on the language of a proposal.

(a) How should the control plan be changed?

(b) What is an appropriate duration for a control plan?

(c) Should a single violation trigger implementation of a control plan? If not, what is an appropriate trigger?

(d) What roles should respiratory protection and administrative controls have under a control plan?

(e) Are there regulatory alternatives to the existing control plan requirement that are at least as protective of miners, such as requiring a written administrative control plan and/or a written respiratory protection plan?

(f) Since MSHA is proposing to include its long-standing hierarchy of controls for compliance with the revised standard, is there any benefit from retaining the control plan?

(g) Should MSHA delete the control plan requirements—why or why not?

8. *Technological and economic feasibility.*

New information on the technological and economic feasibility of current control technology was presented to MSHA following promulgation of the January 19, 2001 standard. MSHA intends to evaluate this new information in conjunction with compliance changes that would result from a proposed standard.

(a) What experience do you have modifying ventilation systems to reduce miners' exposure to DPM?

(b) What were the costs to mine operators for auxiliary fans, booster fans, flexible ducts, or major ventilation upgrades necessary to meet the interim concentration limit?

(c) What has been the experience of mine operators with retrofitting existing diesel-powered equipment, especially in the range with less than 50 hp, as well as equipment that has greater than 250 hp, with DPM control devices? What adjustment did mine operators have to make to DPM control devices before there were reductions in DPM levels?

(d) What are the engineering costs associated with retrofitting?

(e) What technical assistance should MSHA provide to mine operators in retrofitting DPM control devices or evaluating a mine's ventilation system, or filtration systems in environmental cabs?

(f) Are there circumstances where mine operators have had to change an engine model to accommodate DPM

control devices? What were the costs of the engine models?

(g) How much did control devices cost for different horse-powered engines?

(h) Did mine operators have to modify the exhaust system to apply the DPM control? What were the costs for doing so?

(i) What are the advantages, disadvantages, and relative costs of different DPM control devices?

(j) What types of DPM control devices are commercially available and how much do these devices cost?

(k) What are the engineering costs of the DPM control devices?

(l) What current reductions in EC levels are mine operators experiencing from having installed DPM control devices? What is the experience with filtration efficiencies?

(m) What has been the experience of mine operators with the useful life of DPM filters?

(n) Is there any information available with DPM control filters in non-mining industries or in other countries?

(o) What has been the experience of mine operators with DPM filters? Did filters fail or did they perform as the manufacturer predicted? If they failed, what were the causes of filter failure? What could be done to prolong the life of DPM filters?

(p) Do mine operators have any technical data on their experience with using cabs with filtered breathing air?

(q) Have you experienced increases in NO_2 when using any of the following: (1) A base-metal catalyzed filter; (2) a non-catalyzed filter; or (3) platinum-based catalyzed filter?

(r) What effect do high altitudes have on the ability of the DPM control device to reduce DPM exposures?

(s) What costs did mine operators incur for filters that were regenerated off board?

(t) What costs did mine operators incur for filters that were regenerated on board?

(u) Would active regeneration be feasible for your mine; such as off-board filter regeneration in an oven, or on-board electrical regeneration?

(v) What are the costs to mine operators for new engines and venting for filter ovens?

(w) Would fuel additives used to facilitate regeneration be feasible?

(x) Are there any significant technologies for controlling DPM when EC is the surrogate?

9. *Paperwork Burden Issues.*

What paperwork and other costs will you incur if changes are made to the DPM standard, particularly development of a written program for use of administrative controls, use of respiratory protection, and for development of a control plan?

Dated: September 20, 2002.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 02–24370 Filed 9–20–02; 4:22 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

RIN 0991–AB16

Medicare and State Health Care Programs: Fraud and Abuse; Safe Harbor Under the Anti-Kickback Statute For Waiver of Beneficiary Coinsurance and Deductible Amounts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would expand the existing safe harbor for certain waivers of beneficiary coinsurance and deductible amounts to benefit the policyholders of Medicare SELECT supplemental insurance. Specifically, the amended safe harbor would protect waivers of coinsurance and deductible amounts under Part A or Part B of the Medicare program owed by beneficiaries covered by a Medicare SELECT supplemental insurance policy issued in accordance with section 1882(t)(1) of the Social Security Act (the Act), if the waiver is in accordance with a price reduction agreement covering such policyholders between the Medicare SELECT issuer and the provider or supplier offering the waiver and the waiver is otherwise permitted under the Medicare program.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on October 25, 2002.

ADDRESSES: Please mail or deliver your written comments to the following address: Department of Health and Human Services, Office of Inspector General, 330 Independence Avenue, SW., Room 5246, Attention: OIG–729–P, Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file OIG–729–P.

FOR FURTHER INFORMATION CONTACT: Vicki L. Robinson, Senior Counsel, Office of Counsel to the Inspector General, (202) 619–0335.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Anti-Kickback Statute and Safe Harbors

Section 1128B(b) of the Act (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration (*i.e.*, anything of value, in cash or in kind) in order to induce or reward the referral of business reimbursable by a Federal or State health care program. Violations of the statute may also result in the imposition of a civil money penalty (CMP) under section 1128A(a)(7) of the Act (42 U.S.C. 1320a–7a(a)(7)) or program exclusion under section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)).

The statute has been in existence since 1977 and applies broadly to all kinds of health care providers and suppliers. Payments tied to referrals corrupt the health care system, increasing the risks of overutilization of items and services, increased costs to the Federal health care programs, inappropriate steering of patients, and unfair competition.

In response to concerns that the statute technically covered some relatively innocuous commercial arrangements, subjecting them to criminal prosecution, Congress enacted section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100–93, which specifically required the development and promulgation of the ''safe harbor'' provisions. The safe harbor regulations specify various payment and business practices that, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute. Since July 29, 1991, we have published in the **Federal Register** a series of final regulations establishing safe harbors for various business practices.[1]

Health care providers and others may voluntarily comply with these provisions to ensure that their business practices are not subject to any enforcement action under the anti-kickback statute, including the CMP provision for anti-kickback violations and the program exclusion authority related to kickbacks. In giving the

[1] 56 FR 35952 (July 29, 1991); 61 FR 2122 (January 25, 1996); 64 FR 63518 (November 19, 1999); 64 FR 63504 (November 19, 1999); and 66 FR 62979 (December 4, 2001).

Department the authority to protect certain arrangements and payment practices under the anti-kickback statute, Congress intended the safe harbor regulations to be evolving rules that would be updated periodically to reflect changing business practices and technologies in the health care industry.

B. Safe Harbor Regarding Waiver of Beneficiary Coinsurance and Deductible Amounts in Accordance With an Agreement between a Hospital and a Medicare SELECT Issuer

On July 29, 1991, the Department published final regulations (56 FR 35952) that included, among other provisions, a safe harbor for the waiver or reduction of coinsurance or deductible amounts (cost-sharing amounts) for inpatient hospital services reimbursed under the prospective payment system (42 CFR 1001.952(k)(1)). For full or partial waivers to be protected, three standards had to be met: (1) The hospital could not claim waived amounts as bad debt or otherwise shift the cost of the waivers; (2) the hospital could not discriminate in offering waivers or reductions based on the patient's reason for admission; and (3) the waivers or reductions could not result from an agreement between the hospital and a third-party payer. The Department concluded that waivers of cost-sharing amounts for inpatient hospital services that complied with these standards would not increase costs to the Medicare program, shift costs to other payers, or increase patient demand for inpatient hospital services.

On November 5, 1992, the Department issued an interim final rule (57 FR 52723) modifying the safe harbor to accommodate the waiver or reduction of inpatient hospital cost-sharing amounts made in accordance with a contract between the hospital and a Medicare SELECT issuer. Unlike conventional Medicare supplemental insurance policies, which must by law cover cost-sharing amounts for most Medicare services provided by qualified providers or suppliers, a Medicare SELECT issuer may contract selectively with providers or suppliers to waive cost-sharing amounts it would otherwise have to pay on behalf of policyholders, subject to certain conditions to ensure access, coverage, and quality. In other words, Medicare SELECT is similar to a preferred provider network; enrollees may receive reduced supplemental benefits (e.g., less coverage of Medicare cost-sharing) if they use an out-of-network provider. Under the 1992 modified safe harbor, Medicare SELECT issuers can enter into contracts with hospitals to waive or reduce inpatient hospital cost-sharing amounts for Medicare SELECT enrollees, provided the other requirements of the safe harbor are met. On January 25, 1996, the Department published final regulations (61 FR 2122) that included the amendments to the safe harbor made by the interim final rule.

II. Provisions of the Proposed Modification to the Rule

This proposed rule modification would add a new subsection to 42 CFR 1001.952(k) to supplement the current safe harbor to include waivers of cost-sharing amounts for Part A or Part B services for Medicare SELECT policyholders in accordance with an agreement between the Medicare SELECT issuer and a provider or supplier, *provided that the waivers are otherwise permitted under applicable Medicare program laws, regulations, and policies.* This new subsection has the limited purpose of making clear that Medicare SELECT waivers, when implemented in accordance with the safe harbor conditions, will not violate the anti-kickback statute. However, the scope of acceptable waivers under the Medicare SELECT program is within the purview of the Centers for Medicare and Medicaid Services (CMS). For example, should CMS pay exclusively based on charges (*e.g.*, no fee schedule, cap, composite rate, or prospective payment) for any fee-for-service Medicare service, we expect that CMS would not authorize routine waivers of cost-sharing amounts for those services, including waivers for Medicare SELECT beneficiaries. In short, this safe harbor will make it easier for CMS to change or expand the scope of the Medicare SELECT program.

In 1996, we specifically declined to protect waivers of cost-sharing amounts for other than hospital inpatient services. That decision was based on several reasons, including: (1) The expanded waivers were not necessary or essential to the operation or development of Medicare SELECT provider networks; (2) there was a possibility that the waivers could lead to overutilization of services and, consequently, increased costs to the Medicare program; and (3) the waivers could raise potential issues under the False Claims Act (31 U.S.C. 3729).

There have been several developments since our decision in 1996 to limit protection to waivers of hospital inpatient cost-sharing amounts for Medicare SELECT enrollees. In particular, an extensive study of the Medicare SELECT demonstration determined that the absence of a safe harbor under the anti-kickback statute for waivers of Part B cost-sharing amounts was a major impediment to expanding the Medicare SELECT networks beyond hospitals.[2] In addition, Congress made the Medicare SELECT program permanent, giving Medicare beneficiaries a wider choice of Medicare supplemental insurance coverage plans.[3] Also during the intervening period, there has been a significant movement away from cost-based and charge-based reimbursement methodologies in the Medicare program and a concomitant increase in prospective payment methodologies. Finally, there has been an increase in consumer preference for flexible managed care arrangements, such as preferred provider plans.

In light of these intervening events, we have reconsidered our earlier decision to limit the safe harbor for Medicare SELECT waivers of cost-sharing amounts to hospital inpatient services. First, the detailed evaluation of the Medicare SELECT demonstration determined that a major shortcoming of the plans was that they were almost exclusively limited to hospital networks—a direct result of the absence of broader safe harbor protection for other suppliers and providers. Given that Congress has demonstrated its support for the Medicare SELECT program by making it permanent, we should try to maximize the program's chances for success to the extent practical.

Second, we believe the expansion of the safe harbor to cover all otherwise permitted waivers of cost-sharing for Medicare services covered by a Medicare SELECT program will benefit the public by providing more choice in coverage and pricing for the Medicare supplemental insurance market. To the extent the safe harbor results in reduced expenditures for the issuer, it will also be likely to reduce the price of supplemental insurance coverage for beneficiaries who purchase Medicare SELECT policies. We understand that CMS intends that issuers will pass on a significant share of savings to beneficiaries; beneficiaries may either realize those savings in cash or purchase a policy that has greater coverage than they might otherwise be able to afford.

Third, we do not believe that the expansion of the safe harbor would result in a substantial overutilization or inappropriate utilization of Medicare services by enrollees. It is well

[2] *See* "Impact of Medicare SELECT on Cost and Utilization in 11 States," *Health Care Financing Review,* Fall 1997.

[3] Public Law 104–18.

established that any Medicare supplemental insurance coverage increases utilization, by virtue of removing discrete beneficiary cost-sharing obligations. The increase in utilization occurs with the shifting of cost-sharing obligations from a beneficiary to an insurer regardless of whether the insurer pays the cost-sharing obligations or enters into an agreement with a provider to waive cost-sharing amounts. If a beneficiary already has supplemental coverage, a waiver of cost-sharing amounts does not pose any additional risk of increased utilization.

Notwithstanding this proposed safe harbor, Medicare SELECT issuers, providers, and suppliers would still need to comply with all applicable Medicare program laws, regulations, and policies regarding payment and cost-sharing waivers.

III. Regulatory Impact Statement

A. Regulatory Analysis

We have examined the impacts of this proposed rule as required by Executive Order 12866, the Unfunded Mandates Reform Act of 1995, and the Regulatory Flexibility Act of 1980 (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any given year). Since this proposed regulation will not have a significant effect on program expenditures and as there are no additional substantive costs to implement the resulting provision, we do not consider this to be a major rule. The provisions in this proposed rule will permit individuals and entities to engage freely in competitive business practices and arrangements. Parties may voluntarily comply with safe harbor provisions to ensure that business practices are not subject to any enforcement actions under the anti-kickback statute. The current safe harbor has resulted in Medicare SELECT preferred provider networks being limited to hospitals. The proposed safe harbor will facilitate the creation of significantly broader Medicare SELECT provider networks, making Medicare SELECT a more attractive insurance option. Moreover, we understand that CMS intends that broader Medicare SELECT networks will lead to savings for beneficiaries who purchase Medicare SELECT policies, either in the form of lower premiums or the ability to purchase a more comprehensive policy than they could otherwise afford.

Additionally, in accordance with the Unfunded Mandates Reform Act of 1995, we believe that there are no significant costs associated with these safe harbor guidelines that would impose any mandates on State, local, or tribal governments, or on the private sector that will result in an expenditure of $110 million or more, adjusted for inflation, in any given year. Further, in reviewing this rule under the threshold criteria of Executive Order 13132, Federalism, we have determined that this rule will not significantly affect the rights, roles, and responsibilities of States, and that a full analysis under these Acts is not necessary.

Further, in accordance with the RFA, and the Small Business Regulatory Enforcement and Fairness Act of 1996, which amended the RFA, we are required to determine if this proposed rule will have a significant economic effect on a substantial number of small entities and, if so, to identify regulatory options that could lessen the impact. For purposes of the RFA, small entities include small businesses, nonprofit organizations and Government agencies. Most hospitals (and most other providers) are small entities, either by nonprofit status or by having revenues of $5 million to $25 million or less annually. For purposes of the RFA, most other providers and suppliers that contract with Medicare SELECT issuers are considered to be small entities. Individuals and States are not included in the definition of a small entity. In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural providers. This analysis must conform to the provisions of section 603 of the RFA.

While these proposed safe harbor provisions may have an impact on small entities and rural providers, we believe that the aggregate economic impact of this proposed rulemaking will be minimal, since it is the nature of the conduct and not the size of the entity that results in a violation of the anti-kickback statute. Moreover, the proposed safe harbor may benefit some providers by increasing their flexibility to enter into Medicare SELECT provider agreements without risk under the anti-kickback statute. The safe harbor should effectively expand opportunities for providers to enter into preferred provider arrangements that they find beneficial. For these reasons and because the vast majority of individuals and entities potentially affected by this proposed regulation do not engage in prohibited arrangements, schemes, or practices in violation of the law, we are not preparing analyses for either the RFA or section 1102(b) of the Act, because we have determined, and we certify, that this proposed rule would not have a significant impact on a substantial number of small entities, or a significant impact on the operations of a substantial number of small rural providers.

The Office of Management and Budget (OMB) has reviewed this proposed rule in accordance with Executive Order 12866.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) of 1995, we are required to provide a 60 day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to OMB for review and approval. In order to evaluate fairly whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA required that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues with respect to the proposed safe harbor, which contains information collection requirements.

We believe the burden associated with these requirements is exempt in accordance with 5 CFR 1320.3(b)(2), because the requirements are consistent with the usual and customary business practices of issuers, providers, and suppliers, and because the time, effort, and financial resources necessary to comply with the requirements would be incurred by issuers, providers, and suppliers in the normal course of their business activities. Specifically, the safe harbor requires that: (i) The offer to waive cost-sharing amounts be part of a price reduction agreement in a contract for the furnishing of items and services to a Medicare SELECT beneficiary between the provider or supplier and the Medicare SELECT issuer; and (ii) the beneficiary must be covered by a Medicare supplemental insurance

policy that complies with the terms of section 1882(t)(1) of the Act. The network contracts and the insurance policies are prepared in the normal course of business and are usual and customary business practices for parties engaged in arrangements that would be covered by the safe harbor.

Comments on these information collection activities should be sent to the following address within 60 days following the **Federal Register** publication of this proposed rule: OIG Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, 725 17th Street NW., Washington, DC 20053, FAX: (202) 395–6974.

IV. Public Inspection of Comments and Response to Comments

Comments will be available for public inspection beginning October 25, 2002, in Room 5518, Office of Counsel to the Inspector General, at 330 Independence Avenue, SW., Washington, DC on Monday through Friday of each week (Federal holidays excepted) between the hours of 9 a.m. and 4 p.m., (202) 619–0089.

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and will respond to the comments in the preamble of the final rule.

List of Subjects in 42 CFR Part 1001

Administrative practice and procedure, Fraud, Grant programs—Health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare.

Accordingly, 42 CFR part 1001 is proposed to be amended as set forth below:

PART 1001—[AMENDED]

1. The authority citation for part 1001 would continue to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7,1320a–7b, 1395u(j), 1395u(k), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

2. Section 1001.952 would be amended by republishing the introductory text, by revising the introductory text of paragraph (k), and by adding a paragraph (k)(3) to read as follows:

§ 1001.952 Exceptions.

The following payment practices shall not be treated as a criminal offense under section 1128B of the Act and shall not serve as the basis for an exclusion:

* * * * *

(k) *Waiver of beneficiary coinsurance and deductible amounts.* As used in section 1128B of the Act, ''remuneration'' does not include any reduction or waiver of a Medicare or a State health care program beneficiary's obligation to pay coinsurance or deductible amounts as long as all of the standards are met within one of the following three categories of health care providers:

* * * * *

(3) If the coinsurance or deductible amounts are owed by an individual who is a beneficiary under title XVIII of the Act for items or services for which Medicare pays under parts A or B, the provider or supplier must comply with both of the following two standards—

(i) The provider or supplier must not later claim the amount reduced or waived as bad debt for payment purposes under Medicare or otherwise shift the burden of the reduction or waiver onto Medicare, a State health care program, other payers, or individuals.

(ii) The offer of the provider or supplier to reduce or waive the coinsurance or deductible amounts must be part of a price reduction agreement in a contract for the furnishing of items or services to a beneficiary of a Medicare supplemental policy issued under the terms of section 1882(t)(1) of the Act and the waiver must otherwise be permitted under applicable Medicare program laws, regulations, and policies.

* * * * *

Dated: August 13, 2002.

Janet Rehnquist,

Inspector General.

Approved: August 21, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–24344 Filed 9–24–02; 8:45 am]

BILLING CODE 4150–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–2281, MB Docket No. 02–280, RM–10558]

Television Broadcast Service; Blanco, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Univision Television Group, Inc., proposing the substitution of channel 17 for channel 52+ at Blanco, Texas. TV Channel 17 can be allotted to Blanco, Texas, with a zero offset at coordinates 29–42–58 N. and 98–30–39 W. Since the community of Blanco is located within 275 kilometers of the U.S.-Mexico border, concurrence from the Mexican government must be obtained for this allotment.

DATES: Comments must be filed on or before November 12, 2002, and reply comments on or before November 27, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott R. Flick, Brendan Holland, Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037–1128 (Counsel for Univision Television Group, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–280, adopted September 13, 2002, and released September 18, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed

Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Texas, is amended by removing Channel 52+ and adding Channel 17 at Blanco.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–24355 Filed 9–24–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI50

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period for the Proposed Rule to List the Plant *Lepidium papilliferum* (slickspot peppergrass) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed rule to list the *Lepidium papilliferum* (slickspot peppergrass) as endangered. The comment period is reopened to allow additional time for all interested parties to submit written comments on the proposal. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule.

DATES: The original public comment period on the proposal closed on September 13, 2002. The public comment period is reopened, and we will accept comments until November 25, 2002. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action.

ADDRESSES: Copies of the draft proposal are available on the Internet at: *http://endangered.fws.gov/frpubs/02fedreg.htm* or by writing to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

You may submit written comments and information to the Supervisor at the address above.

You may also send comments by electronic mail (e-mail) to: *fw1srbocomment@fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, Snake River Basin Office (*see* **ADDRESSES**) (telephone 208/378–5243; facsimile 208/378–5262). Information regarding this proposal is available in alternative formats upon request.

SUPPLEMENTARY INFORMATION:

Background

Lepidium papilliferum is a herbaceous annual or biennial plant that occurs in sagebrush-steppe habitats. This species is found along the Snake River Plain and Owyhee Plateau in Ada, Canyon, Gem, Elmore, Payette, and Owyhee counties. *Lepidium papilliferum* is threatened by a variety of activities including urbanization, gravel mining, irrigated agriculture, habitat degradation due to cattle and sheep grazing, fire and fire rehabilitation activities, and continued invasion of habitat by non-native plant species. Of 88 known occurrences of *Lepidium papilliferum,* 70 are currently extant (exist), 13 are considered extirpated (extinct), and five are historic and have not been relocated.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), we published a proposed rule to list *Lepidium papilliferum* as endangered on July 15, 2002 (67 FR 46441). For further information regarding background biological information, previous Federal actions, factors affecting the species, and conservation measures available to *Lepidium papilliferum,* please refer to our proposed rule published in the **Federal Register** on July 15, 2002.

Public Comments Solicited

With this notification, we solicit additional information and comments that may assist us in making a final decision on the proposed rule to list *Lepidium papilliferum* as endangered. We intend that any final listing action resulting from our proposal will be as accurate and effective as possible. Therefore, we request comments and additional information from the general public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information regarding the range, locations, and population size of this species;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on this species; and

(4) The reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act, including whether the benefit of designation will outweigh any benefits of exclusion.

Previously submitted written comments on this proposal need not be resubmitted. If you submit comments by e-mail, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: RIN 1018-AI50'' and your name and return address in your e-mail message. If you do not receive a confirmation from our system that we have received your e-mail message, contact us directly by calling our Snake River Basin Fish and Wildlife Office at telephone number 208/378–5243. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Snake River Basin Fish and Wildlife Office, at the above address.

In making any final decision on the proposed action, we will take into consideration the comments and any

additional information we receive, and such communications may lead to a final regulation that differs from the proposal.

Author

The primary author of this notice is Barbara Behan, U.S. Fish and Wildlife Service, Regional Office, Portland, Oregon.

Authority

The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 18, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–24363 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 67, No. 186

Wednesday, September 25, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Crook County Resource Advisory Committee, Sundance, Wyoming, USDA, Forest Service

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, October 21, 2002 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on October 21, begins at 6:30 p.m. at Crook County Courthouse Community Room. The address is 309 Cleveland St., Sundance, Wyoming. Agenda topics will include election of chairperson and process for project submission. A public forum will begin at 8:30 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steven J. Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: September 18, 2002.

Steven J. Kozel,

Bearlodge District Ranger.

[FR Doc. 02–24286 Filed 9–24–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Forest Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on October 10 at 6:30 p.m. in Thompson Falls, Montana for a business meeting. The meeting is open to the public.

DATES: October 10, 2002.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Lisa Krueger, Designated Forest Official (DFO), District Ranger Plains/Thompson Falls District, Lolo National Forest at (406) 826–4321, or Brian Avery, District Ranger Cabinet Ranger District, Kootenai National Forest at (406) 827–3533.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing project proposals and receiving public comment. If the meeting location is changed, notice will be posted in the local newspaper, including the Clark Fork Valley Press, Sanders County Ledger, Daily Interlake, Missoulian, and River Journal.

Dated: September 18, 2002.

Lisa Krueger,

Designated Federal Official, District Ranger, Plains/Thompson Falls Ranger District.

[FR Doc. 02–24304 Filed 9–24–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Request for Nominations for the Task Force on Agricultural Air Quality

SUMMARY: The Secretary of Agriculture intends to renew the Task Force on Agricultural Air Quality and requests nominations for qualified persons to serve as members.

DATES: Nominations must be received in writing or reaffirmed (see **SUPPLEMENTARY INFORMATION** section) by November 12, 2002.

ADDRESSES: Send written nominations to: Chief, USDA/Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Beth Sauerhaft, Designated Federal Official, USDA–Natural Resources Conservation Service, telephone (202) 720–8578, fax (202) 720–2646, e-mail *beth.sauerhaft@usda.gov.*

SUPPLEMENTARY INFORMATION:

Task Force Purpose

As required by Section 391 of the Federal Agriculture Improvement and Reform Act of 1996, the Chief of the Natural Resources Conservation Service (NRCS) shall establish a task force to review research results by any Federal agency that addresses air quality issues related to agriculture or agriculture infrastructure. The task force will provide recommendations to the Secretary of Agriculture for guidance on development and implementation of air quality policy. The requirements of the Federal Advisory Committee Act (FACA) apply to this task force.

The task force will:

1. Review research on agricultural air quality supported by Federal agencies;
2. Provide recommendations to the Secretary of Agriculture, regarding air quality and its relation to agriculture, based upon sound scientific findings;
3. Work to ensure intergovernmental (Federal, state, and local) coordination in establishing policy for agricultural air quality and to avoid duplication of efforts;
4. Assist, to the extent practical, Federal agencies in correcting their erroneous data with respect to agricultural air quality; and
5. Ensure that air quality research related to agriculture receives adequate peer review and considers economic feasibility.

Task Force Membership

The task force will be made up of United States citizens and be composed of:

1. Individuals with expertise in agricultural air quality and/or agricultural production;
2. Representatives of institutions with expertise in the impacts of air quality on human health;
3. Representatives from agriculture interest groups having expertise in production agriculture;
4. Representatives from state or local agencies having expertise in agriculture and air quality, and;

5. An atmospheric scientist.

Task force nominations must be in writing and provide the appropriate background documents required by the Department of Agriculture (USDA) policy, including Form AD–755. Previous nominees and current task force members who wish to be reappointed should update their nominations and provide a new background disclosure form (AD–755) to reaffirm their candidacy. Service as a task force member shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

A task force member shall serve for a term of 2 years. Task force members shall receive no compensation from the NRCS for their service as task force members except as described below.

While away from home or regular place of business as a member of the task force, the member will be eligible for travel expenses paid by NRCS, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the government service under section 5703 of Title 5, United States Code.

Additional information about the Task Force on Agricultural Air Quality may be found on the World Wide Web at *http://fargo.nserl.purdue.edu/faca/*.

Submitting Nominations

Nominations should be typed and should include the following:

1. A brief summary of no more than two pages explaining the nominee's qualifications to serve on the Task Force on Agricultural Air Quality.

2. Resume; and

3. A completed copy of Form AD–755.

Nominations should be sent to the Chief of NRCS at the address listed above and postmarked no later than November 12, 2002.

Equal Opportunity Statement

To ensure that recommendations of the task force take into account the needs of under served and diverse communities served by USDA, membership shall include, to the extent practicable, individuals representing minorities, women, and persons with disabilities.

Signed in Washington, DC, on September 13, 2002.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 02–24346 Filed 9–24–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for emergency clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Technology Administration (TA).

Title: Commercial Space Launch Range User Requirements.

Form Number(s): None.

OMB Approval Number: None.

Type of Review: Emergency.

Burden Hours: 70.

Number of Respondents: 7.

Average Hours Per Response: 10.

Needs and Uses: The information collected would allow the Department of Commerce and the Department of Transportation to follow the terms of a Memorandum of Agreement with the U.S. Air Force. The information will ensure consideration of commercial space launch range users' needs in the U.S. Air Force's range modernization planning.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and State, Local or Tribal Government.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent by September 30, 2002 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: September 19, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–24270 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Service Annual Survey.

Form Number(s): SA–484, SA–492, SA–493, SA–511, SA–512, SA–513, SA–514, SA–523, SA–532, SA–541, SA–560, SA–621, SA–622, SA–623, SA–624, SA–711, SA–712, SA–713, SA–811, SA–812, SA–813.

Agency Approval Number: 0607–0422.

Type of Request: Revision of a currently approved collection.

Burden: 39,822 hours.

Number of Respondents: 48,686.

Avg. Hours Per Response: 49 minutes.

Needs and Uses: The Service Annual Survey (SAS) provides, for selected service industries, total revenue estimates for taxable firms and total revenue and expense estimates for tax-exempt firms. Selected service industries include professional, scientific and technical services; administrative and support services; health care and social assistance; telecommunications, publishing, broadcasting and other information service industries; trucking, courier and messenger, and warehousing; selected financial services; and arts, entertainment and recreation. Data are collected on number of locations, total receipts (revenue) and receipts by source, total expenses and expenses by type, and percentage of receipts by class of client. The SAS provides continuing and timely national statistical data for the period between economic censuses.

The data produced in SAS are critical to the accurate measurement of total economic activity. The Bureau of Economic Analysis (BEA), the primary Federal user, uses the information to develop the national income and product accounts, compile benchmark and annual input-output tables, and compute gross domestic product (GDP) by industry. Agencies of the U.S. Department of Transportation (DOT) use the data for policy development and program management and evaluation. The Bureau of Labor Statistics (BLS) uses these data as inputs to its Producer Price Indexes and in developing productivity measurements. The Centers for Medicare and Medicaid Services (CMS) use the data for program planning and development of the

National Health Expenditure Accounts. The Federal Communications Commission (FCC) uses these data to assess the impact of regulatory policies. The Census Bureau uses these data to provide new insight into changing structural and cost conditions that will impact the planning and design of future economic census questionnaires. International agencies use the data to compare total domestic output to changing international activity. Private industry also uses these data as a tool for marketing analysis.

Every five years we add items requested by the Bureau of Economic Analysis for use in their input-output tables. This is done in conjunction with the mailout of the Business Expenses Survey. For the 2002 survey year, we are revising forms in the following sectors: Radio and Television Broadcasting (NAICS 5131), Cable Networks and Program Distribution (NAICS 5132), and Telecommunications (NAICS 5133). BEA has requested the following detailed expense items: contract labor, purchased communications, purchased utilities (electricity, other utilities), taxes and license fees, legal and accounting services, computer services, management services, and purchased materials and supplies (expensed computer related supplies, other purchased materials). BEA also requested additional detail on lease and rental, and purchased repair and maintenance services items. They include: (1) Land, buildings, structures, store space, and offices, and (2) Machinery, equipment, and other items, excluding computer software. Since the detailed expense items are part of items currently reported, we don't expect an increase in respondent burden. Additionally, the sales tax question will be removed for the 2002 survey year.

Affected Public: Business or other for-profit, not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 182, 224 & 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202)482–3129, Department of Commerce, room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 2002.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–24347 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2002 Business Expenses Survey.

Form Number(s): SA–5678(B) and several others with minor variations.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 158,710 hours.

Number of Respondents: 95,375.

Avg. Hours Per Response: 1.66 hours.

Needs and Uses: The 2002 Business Expenses Survey will supplement basic economic statistics produced by the 2002 Economic Census of Wholesale Trade, Retail Trade, and Service Industries with estimates of operating expenses. Further, it will provide measures of value produced for wholesale trade and retail trade. Essential measurement of the Nation's economy requires compilation of comprehensive and reliable data on both economic outputs (*e.g.*, sales) and inputs (*e.g.*, utilities and advertising expenses). This survey is the sole source of comprehensive expenses input data for covered industries. The Census Bureau will collect the information by means of a mail canvass directed to a sample of business units that represent one or more domestic establishments in covered industries. Results will be presented primarily in electronic reports containing statistical summaries by industry for the United States.

This information collection is part of the 2002 Economic Census, which is required by law under Title 13, United States Code (U.S.C.). Section 131 of this statute directs the taking of a census of businesses, including the distributive trades, service establishments, and transportation, at 5-year intervals. Section 224 makes reporting mandatory. Section 193 authorizes surveys that collect supplementary statistics related to the main topic of the censuses. Finally, Section 195 permits the use of statistical sampling methods.

There will be several variations of the prototype report form and associated instruction sheets used in this information collection. They are all very similar, varying primarily by a few industry-specific expense-type inquiries such as motor fuels expense for transportation.

Affected Public: Business or other for-profit, not-for-profit institutions.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 193, 195, and 224.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 20, 2002

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–24348 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews, requests for revocation in part and deferral of administrative review.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders

in part and to defer the initiation of an administrative review for one antidumping duty order.

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (2001), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on Pure Magnesium from Canada.

During the last anniversary month, the Department failed to note that we received a timely request to revoke in part the antidumping duty order on Canned Pineapple from Thailand (67 FR 55000). In addition, the Department received from the same party a request to defer for one year the initiation of the July 1, 2001 through June 30, 2002 adminstrative review of this exporter in accordance with 19 CFR 351.213(c). The Department received no objection to this request from any party pursuant to 19 CFR 351.213(c)(1)(ii).

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2003. On August 27, 2002, (67 FR 55000) the Department inadvertently initiated an administrative review with respect to one exporter of Canned Pineapple Fruit from Thailand. We are now rescinding that review and, in accordance with 19 CFR 351.213(c), deferring for one year the initiation of the July 1, 2001 through June 30, 2002 administrative review of the antidumping duty order on Canned Pineapple Fruit from Thailand with respect to that exporter.

	Period to be reviewed
Antidumping Duty Proceedings	
Argentina	
Oil Country Tubular Goods, A–357–810	8/1/01–7/31/02
Acindar Industria Argentina de Aceros, S.A.	
Siderca, S.A.I.C.	
Brazil	
Seamless Pipe, A–351–826	8/1/01–7/31/02
V & M do Brasil S.A.	
Canada	
Corrosion Resistant Carbon Steel Flat Products, A–122–822	8/1/00–7/31/02
Dofasco, Inc.	
Stelco, Inc.	
Pure Magnesium, A–122–814	8/1/01–7/31/02
Magnola Metallurgy Inc.	
Norsk Hydo Canada, Inc.	
Italy	
Granular Polytetrafluoroethylene (PTFE) Resin, A–475–703	8/1/01–7/31/02
Ausimont SpA	
Mexico	
Carbon and Alloy Seamless Standard, Line and Pressure Pipe (Over 4½ Inches), A–201–827	8/1/01–7/31/02
Tubos de Aceros de Mexico, S.A.	
Cut-to-Length Carbon Steel Plate, A–201–809	8/1/01–7/31/02
Altos Hornos de Mexico, S.A. de C.V.	
Gray Portland Cement and Clinker, A–201–802	8/1/01–7/31/02
GCC Cementos, S.A. de C.V.	
CEMEX, S.A. de C.V.	
Apasco, S.A. de C.V.	
Oil Country Tubular Goods, A–201–817	8/1/01–7/31/02
Tubos de Acero de Mexico S.A.	
Republic of Korea	
Corrosion-Resistant Carbon Steel Flat Products, A–580–816	8/1/01–7/31/02
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
Oil Country Tubular Goods, Other than Drill Pipe, A–580–825	8/1/01–7/31/02
SeAH Steel Corporation	
Husteel Co., Ltd. (formerly Shinho Steel Co., Ltd.)	
Structural Steel Beams, A–580–841	8/1/01–7/31/02
Dongkuk Steel Mill Co., Ltd.	
INI Steel Company (formerly Inchon Iron & Steel Co., Ltd.)	
Romania	
Certain Small Diameter Carbon and Alloy Seamless Standard Line and Pressure Pipe (Under 4½ Inches), A–485–805	8/1/01–7/31/02
Silcotub, S.A.	
The People's Republic of China	
Petroleum Wax Candles,[1] A–570–504	8/1/01–7/31/02
Dongguan Fay Candle Company, Ltd.	
Generaluxe Factory	
Guangdong Xin Hui City Si Qian Art & Craft Factory	
Sincere Factory Company	

	Period to be reviewed
Qingdao Kingking Applied Chemistry Co., Ltd.	
DDP Qingdao	
ADP (Ningbo, PRC)	
ADP Shanghai	
Allock Ltd.	
Amstar Business Company Limited	
Anyway International Trading & Manufacturing Co., Ltd.	
Huangyan Imp. & Exp. Corp.	
Aroma Consumer Products (Hangzhou) Co., Ltd.	
Candle World Industrial Co.	
China Hebei Boye Great Nation Candle Co., Ltd.	
China Overseas Trading Dalian Corp.	
China Packaging Import & Export Liaoning Co.	
China Xinxing Zhongyuan (Wuhan) Imp. & Exp.	
CNACC (Zhejiang) Imports & Export Co., Ltd.	
Cnart China Gifts Import & Export Corp.	
Dalian Hanbo Lighting Co., Ltd.	
Dandong Hengtong Handicraft Article Co., Ltd.	
Dandong Hengtong Handicraftarticle Co., Ltd.	
Ever-gain Industrial Co.	
Excel Network Limited	
Far Going Candle Gifts Co., Ltd.	
Dongijeng Fecund Imp. & Exp. Co. Ltd.	
Fujian Provincial Arts & Crafts Imp. & Exp. Corp.	
Fu Kit	
Fushun Candle Corporation	
Fushun Economy Development Zone Xinyang Candle Factory	
Fushun Huaiyuan Wax Products Co., Ltd.	
Fushun Yuhua Crafts Factory	
Fushun Yuanhang Paraffin Products Industrial Company	
Gansu Textiles Imp. & Exp. Corp.	
Green Islands Industry Shanghai Co. Ltd.	
Huangyan Imp. & Exp. Corp.	
Jason Craft Corp.	
Jiangsu Holly Corporation	
Jilin Province Arts and Crafts	
Jiangsu Yixing Foreign Trade Corp.	
Jintan Foreign Trade Corp.	
Kingking A.C. Co., Ltd.	
Kuehne & Nagel (Hong Kong) Beijing	
Kwung's International Trade Co., Ltd.	
Liaoning Arts & Crafts Import & Export	
Liaoning Native Product Import & Export Corporation, Ltd.	
Liaoning Light Industrial Products Import & Export Corp.	
Liaoning Light	
Liaoning Province Building Materials Industrial Im	
Liaoning Xinyuan Textiles Import and Export	
Li & Fung Trading Ltd.	
Lu Ke Trading Co., Ltd.	
Ningbo Free Zone Top Rank Trading Co.	
Ningbo Free Trade Zone Weicheng Trading Co., Ltd.	
Ningbo Kwung's Giftware Co., Ltd.	
Ningbo Kwung's Import & Export Co.	
Ningbo Sincere Designers & Manufacturers Ltd.	
Premier Candle Co.	
Qingdao Allite Radiance Candle Co., Ltd.	
Qingdao Happy Chemical Products Co., Ltd.	
Qingdao Kingking Applied Chemistry Co., Ltd.	
Quanzhou Wenbao Light Industry Co.	
Red Sun Arts Manufacture (Yixing) Co., Ltd.	
Rich Talent Trading Ltd.	
Round-the-World (USA) Corp.	
Round-the-World International Trade & Trans. Service (Tianjin) Co., Ltd.	
Seven Seas Candle Ltd.	
Shandong H&T Corp.	
Shangdong Jiaye General Merchandise Co. Ltd.	
Shandong Native Produce International Trading Co., Ltd.	
Shanghai Asian Development Int'l Tr	
Shanghai Broad Trading Co. Ltd.	
Shanghai Charming Wax Co., Ltd.	
Shanghai Gifts & Travel	
Shanghai Gift & Travel Products Import & Export Corp.	
Shanghai Jerry Candle Co., Ltd.	

	Period to be reviewed
Shanghai Ornate Candle Art Co., Ltd.	
Shanghai New Star Im/Ex Co., Ltd.	
Shanghai Sincere Gifts Designers & Manufacturers, Ltd.	
Shanghai Shen Hong Corp.	
Shanghai Success Arts & Crafts Factory	
Shanghai Xietong Group O/B Asia 2 Trading Company	
Shanghai Zhen Hua c/o Shanghai Light Industrial Int'l Corp., Ltd.	
Silkroad Gifts	
Simon International	
Suzhou Industrial Park Nam Kwong Imp & Exp Co., Ltd.	
Suzhou Industrial Park Nam Kwong Imp & Exp Co., Ltd.	
Tianjin Native Produce Import & Export Group Corp., Ltd.	
Taizhou International Trade Corp.	
Taizhou Sungod Gifts Co., Ltd.	
Thi Group Ltd. and THI (HK) Ltd.	
T.H.I.. (HK) Ltd.	
THI (HK) Ltd.	
Tonglu Tiandi	
Shanghai Arts and Crafts Company	
Universal Candle Company Ltd.	
Weltach	
World-Green (Shangdong) Corp., Ltd.	
World Way International (Xiamen)	
Xiamen Aider Import & Export Company	
Xiamen C&D Inc.	
Xietong (Group) Co., Ltd.	
Zen Continental Co., Inc. (Shanghai Office)	
Zhejiang Native Produce & Animal By-Products Import & Export Corp.	
Zhong Hang-Scanwell International	
Zhongnam Candle	
Zhong Nam Industrial (International) Co., Ltd.	
Zhongxing Shenyang Commercial Building (Group) Co., Ltd.	
Sulfanilic Acid [2] A–570–815	8/1/01–7/31/02
Boading Mancheng Zhenxing Chemical Plant	
Xinyu Chemical Plant	
Yude Chemical Industry, Co.	
Zhenxing Chemical Industry, Co.	
Countervailing Duty Proceedings	
Canada	
Alloy Magnesium, C–122–815	1/1/01–12/31/02
Magnola Metallurgy Inc.	
Norsk Hydro Canada Inc.	
Pure Magnesium, C–122–815	1/1/01–12/31/02
Magnola Metallurgy Inc.	
Norsk Hydro Canada Inc.	
France	
Stainless Steel Sheet and Strip in Coils, C–427–815	1/1/01–12/31/01
Ugine S.A.	
Usinor	
Italy	
Certain Pasta, C–475–819	1/1/01—12/31/01
IAPC Italia Srl.*	
*Company inadvertently omitted from previous initiation notice.	
Mexico	
Cut-to-Length Carbon Steel Plate, C–201–810	1/1/01–12/31/01
Altos Hornos de Mexico, S.A. de C.V.	
Republic of Korea	
Stainless Steel Sheet and Strip in Coils, C–580–835	1/1/01–12/31/01
INI Steel Company	
BNG Steel Company (formerly Sammi Steel Co.)	
Suspension Agreements	
None.	
Deferral of Initiation of Administrative Review	
Thailand	
Canned Pineapple Fruit, A–549–813	7/1/01–6/30/02
Siam Food Products Company, Ltd.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of petroleum wax candles from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of sulfanilic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 20, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 02–24360 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Sam Zengotitabengoa, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6320 or (202) 482–4195, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination

We preliminarily determine that non-malleable cast iron pipe fittings (pipe fittings) from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 773 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

This investigation was initiated on March 13, 2002. *See Notice of Initiation of Antidumping Duty Investigation: Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China,* 67 FR 12966 (March 20, 2002) (*Initiation Notice*).[1] Since the initiation of the investigation, the following events have occurred.

On April 9, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of pipe fitting imports from the PRC. *See Non-Malleable Cast Iron Pipe Fittings From China,* 67 FR 18635 (April 16, 2002). During March and April 2002, the Department provided participating parties with an opportunity to comment on scope and product characteristics.

The Department issued its non-market economy (NME) antidumping questionnaire[2] to the companies Beijing Metals & Minerals, Beijing Tongxian Yongxin Shop, China Unicom, Jinan Meide Casting Co., Ltd. (JMC), and Shanghai Foreign Trade Enterprises Co., Ltd. (SFTEC), the PRC Ministry of Foreign Trade & Economic Cooperation (MOFTEC), and the Embassy of the PRC in Washington, DC, on May 7, May 14, and May 20, respectively. The Department requested that MOFTEC send the questionnaire to the companies who manufacture and export non-malleable cast iron pipe fittings to the United States, as well as manufacturers who produce non-malleable cast iron pipe fittings for companies who were engaged in exporting subject merchandise to the United States during the period of investigation (POI). Only JMC and SFTEC responded to the Department's questionnaire. The Department issued supplemental questionnaires to JMC and SFTEC, where appropriate.

On July 11, 2002, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation until September 19, 2002. *See Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 67 FR 50866 (August 6, 2002).

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On September 13, 2002, JMC requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the

[1] The petitioners in this investigation are Anvil International, Inc. and Ward Manufacturing, Inc.

[2] In NME instances, Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States. Section E requests information on further manufacturing.

preliminary determination. JMC also included a request to extend the provisional measures to not more than six months after the publication of the preliminary determination. Accordingly, in accordance with section 351.210(e) of the Department's Regulations, because we have made an affirmative preliminary determination, the requesting party accounts for a significant proportion of exports of the subject merchandise, and no compelling reasons exist to deny the request, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination, and are extending the provisional measures accordingly. *See* JMC's letter to the Assistant Secretary, dated September 13, 2002.

Period of Investigation

The POI is July 1, 2001, through December 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, February 2002). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the products covered are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or un-threaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as cast iron pipe fittings or gray iron pipe fittings. These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Class or Kind of Merchandise

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 days from the publication of the *Initiation Notice. See Initiation Notice*, 67 FR at 12966. Interested parties submitted such comments by April 9, 2002.

On April 9, 2002, JDH Pacific, Inc. (JDH), a U.S. importer of ductile iron pipe fittings from the PRC and an interested party, under section 771(9)(A) of the Act, requested that the Department determine that there are two separate classes or kinds of merchandise under investigation: gray iron pipe fittings and ductile iron pipe fittings. JDH further requested that the Department establish a separate antidumping investigation with respect to ductile iron pipe fittings and then terminate the investigation because the petitioners do not produce ductile iron pipe fittings and, thus, do not qualify as interested parties under section 771(9)(C) with respect to an antidumping investigation of ductile fittings from the PRC. For the reasons outlined below, we determine that ductile iron pipe fittings and gray iron pipe fittings do not constitute separate classes or kinds of merchandise.

In past cases where the Department has been called upon to determine the number of classes or kinds of merchandise under investigation, we have based our analysis on the criteria set forth by the Court of International Trade in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983) (*Diversified Products*). *See Final Determination of Sales at Less Than Fair Value: Sulfer Dyes, Including Vat Dyes, From the United Kingdom*, 58 FR 3253 (January 8, 1993) (*Sulfer Dyes*). According to *Diversified Products*, the Department may rely upon the following factors in determining whether products belong to the same class or kind of merchandise: (1) The physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate user; (4) the channels of trade in which the product is sold; (5) the manner in which the product is advertised.

Regarding four of the five *Diversified Products* criteria (*i.e.*, ultimate use, expectations of the ultimate user, channels of trade, and manner of advertising), we find that there are no differences between the two types of pipe fittings. Both ductile iron pipe fittings and gray iron pipe fittings have the same uses and the expectations of the ultimate users are the same for both products. Further, both products move through the same channels of distribution and are advertised and displayed in the same manner.

With respect to the remaining *Diversified Products* criterion (the physical characteristics of the merchandise), we note that, when examining differences in physical characteristics in the context of class or kind analysis, the Department looks for clear dividing lines between product groups, not merely the presence or absence of physical differences between certain products. In this specific instance, although there are physical differences between ductile iron pipe fittings and gray fittings (elasticity, impact resistance, and strength/weight), ductile iron pipe fittings and gray iron pipe fittings are comparable in castability, ease of machining, vibration damping, surface hardenability, corrosion resistance, and wear resistance. Therefore, while there are physical differences between ductile iron pipe fittings and gray iron pipe fittings, we find that these physical differences are not so great or so clearly delineated as to form the sole basis for determining that these products constitute separate classes or kinds of merchandise. In other words, the physical differences among these products are not by themselves proof of different classes or kinds of merchandise. *See Sulfer Dyes* 58 FR 3253.

In light of the *Diversified Products* criteria, our analysis of ductile iron pipe fittings and gray iron pipe fittings supports a finding that these products constitute a single class or kind of merchandise. (For a more detailed discussion of this issue, see Memorandum regarding class or kind determination, from Holly A. Kuga, Senior Director, to Bernard T. Carreau, Deputy Assistant Secretary, dated concurrently with this notice.)

Non-Market Economy Country Status

The Department has treated the PRC as an NME country in all its past antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China*, 67 FR 36570, 36571 (May 24, 2002); and *Notice of Final Determination of Sales at Less Than Fair Value: Structured Steel Beams From the People's Republic of China*, 67 FR 35479, 35480 (May 20, 2000); and *Notice of Final Determination of Sales at Less Than Fair Value Certain: Folding Metal Tables and Chairs From the People's Republic of China*, 67 FR 20090 (April 24, 2002). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. No party to this investigation has sought revocation of the NME status of the PRC. Therefore, pursuant to section 771(18)(C) of the Act, the Department will continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section, below.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). JMC and SFTEC have provided the requested company-specific separate rates information and have indicated that there is no element of government ownership or control over their operations. We have considered whether JMC and SFTEC are eligible for a separate rate as discussed below.

The Department's separate-rates test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the export-related investment, pricing, and output decision-making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China*, 60 FR 14725, 14727 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. *See Silicon Carbide* and the *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

1. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

JMC and SFTEC have placed on the record a number of documents to demonstrate the absence of *de jure* control, including their business licenses, and the ''Company Law of the People's Republic of China'' of December 29, 1993. Other than limiting JMC's and SFTEC's operations to the activities referenced in the license, we noted no restrictive stipulations associated with the license. In addition, in previous cases, the Department has analyzed the ''Company Law of the People's Republic of China'' and found that it establishes an absence of *de jure* control. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China*, 60 FR 54472, 54474 (October 24, 1995). We have no information in this proceeding which would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

With regard to the issue of *de facto* control, JMC and SFTEC have reported the following: (1) There is no government participation in setting export prices; (2) their managers have authority to bind sales contracts; (3) they do not have to notify any government authorities of their management selection, and (4) there are no restrictions on the use of their export revenue and they are responsible for financing their own losses. Additionally, JMC's and SFTEC's questionnaire responses do not suggest that pricing is coordinated among exporters. Furthermore, our analysis of JMC's and SFTEC's questionnaire responses reveals no other information indicating governmental control of export activities. Therefore, based on the information provided, we preliminarily determine that there is an absence of *de facto* government control over JMC's and SFTEC's export functions. Consequently, we preliminarily determine that JMC and SFTEC have met the criteria for the application of separate rates. (For a more detailed discussion of this issue, *see Memorandum to Holly A. Kuga, Senior Director, Re Separate Rates Analysis for Preliminary Determination*, dated concurrently with this notice.)

The PRC-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters located in the NME country comprise a single exporter under common government control, the ''NME entity.'' Although the Department provided all PRC exporters of the subject merchandise, including Beijing Metals & Minerals, Beijing Tongxian Yongxin Shop, China Unicom, Jinan Meide Casting Co., Ltd. (JMC), and Shanghai Foreign Trade Enterprises Co., Ltd. (SFTEC), the PRC Ministry of Foreign Trade & Economic Cooperation (MOFTEC), and the Embassy of the PRC in Washington, DC, with the opportunity to respond to its questionnaire, only JMC and SFTEC submitted responses thereto. However, our review of U.S. import statistics reveals that there are other PRC companies, in addition to JMC and SFTEC, that exported pipe fittings to the United States during the POI. Because these exporters did not submit a response to the Department's questionnaire, and thus did not demonstrate their entitlement to a separate rate, we have implemented the Department's rebuttable presumption that these exporters constitute a single enterprise under common control by the PRC government, and we are applying adverse facts available to determine the single antidumping duty rate, the PRC-wide rate, applicable to all other PRC exporters comprising this single enterprise. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo From the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000).

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. As explained above, some exporters of the subject merchandise failed to respond to the Department's request for information. The failure of these exporters to respond significantly impedes this proceeding. Thus, pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have based the PRC-wide rate on total facts available.

In applying facts otherwise available, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action SAA accompanying the URAA*, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, ''affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, the complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act. However, section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870 and 19 C.F.R. 351.308(d). ''Corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

For our preliminary determination, as adverse facts available, we have used as the PRC-wide rate the recalculated dumping margin from the petition (see below). In the petition, the petitioners based export price (EP) on import values submitted to the U.S. Customs Service. For the NV calculation, the petitioners based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, energy, and representative capital costs) on the quantities of inputs used by the petitioners.

With regard to the EP calculation in the petition, the information relied upon was based on publicly available sources, that is, official U.S. government statistics; therefore, we find that the U.S. price from the petition margin is sufficiently corroborated. To corroborate the petitioners' NV calculations, we compared the petitioners' factor consumption data to that data on the record of this investigation. As discussed in a separate memorandum to the file, we found that the factors consumption data in the petition were reasonable and of probative value. *See the Memorandum to the File Regarding Corroboration of the Petition Data for the PRC-Wide Entity*, dated September 19, 2002. The values for the factors of production in the petition were based on publicly available information for comparable inputs; therefore, we find that these Indian surrogate values are sufficiently corroborated.

As a result of this calculation, the PRC-wide rate, for the preliminary determination, is 55.13 percent. For the final determination, the Department will consider all information on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin.

Fair Value Comparison

To determine whether JMC's and SFTEC's sales of pipe fittings to customers in the United States were made at LTFV, we compared EP to NV, calculated using our NME methodology, as described in the ''Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

We used an EP methodology in accordance with section 772(a) of the Act because JMC and SFTEC sold subject merchandise to unaffiliated U.S. customers prior to importation and because a constructed export price methodology was not otherwise warranted. At the time of sale, JMC and SFTEC knew that its reported sales of the subject merchandise were destined for the United States.

We calculated EP based on the packed, delivered prices charged to the first unaffiliated customer for exportation to the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, brokerage and handling, international freight, and marine insurance. Where foreign inland freight, marine insurance, and brokerage and handling were provided by NME companies, we used surrogate values from India to value these expenses (*see the Factors of Production Valuation Memorandum* dated September 19, 2002, on file in the Central Records Unit (CRU) located in B–099 of the main Department of Commerce building). For sales with international freight provided by NME shipping companies we used as the surrogate value a freight cost obtained from U.S. customs import statistics (*see the Factors of Production Valuation Memorandum*).

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires that the Department value the NME producer's factors of production, to the extent possible, on the prices or costs of factors of production in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The Department's Office of Policy initially identified five countries that are at a level of economic development comparable to the PRC in terms of per capita GNP and the national distribution of labor. Those countries are India, Pakistan, Indonesia, Sri Lanka and the Philippines (*see the Memorandum From Jeffrey May to Holly Kuga* dated May 17, 2002, on file in the CRU). Furthermore, based on import statistics, India was the most significant producer of comparable merchandise. Therefore, we have preliminarily calculated NV by applying Indian values to JMC's and SFTEC's factors of production.

2. Factors of Production

In their questionnaire responses, JMC and SFTEC reported factors of production for the manufacturers of the subject merchandise during the POI. The factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. *See* section 773(c)(3) of the Act. To calculate NV, we multiplied the reported per-unit quantities by publicly available surrogate values from India.

The surrogate values employed for the production of non-malleable cast iron pipe fittings were used because of their quality, specificity, and contemporaneity. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. As appropriate, we included freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic input supplier to the factory processing subject merchandise or the distance from the nearest seaport to the relevant factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997).

We valued material inputs and packing materials (including steel scrap, pig iron, limestone, ferrosilicon, ferromanganese, cast iron scrap, protective cover, innoculant, nodulizer, lubricating oil, cartons, wooden crates, woven bags, anti-rusting oil, plastic sheet, adhesive tape, wood, and nails) using publicly available 2001 Indian import statistics from the appropriate Indian Trade Classification categories, based on the Harmonized Commodity Description and Coding System (HS), published by the *Monthly Statistics of the Foreign Trade of India. Volume II: Imports (Indian Import Statistics*).

For energy, we valued foundry coke, coal, and firewood using *Indian Import Statistics.* We valued electricity using the 1997 Indian Industrial rate as reported by the International Energy Agency (IEA) in *Energy, Prices, and Taxes, 2nd Quarter 2000 (EPT 2000)* multiplied by an inflator to make the value contemporaneous with the POI. This method was used in the notice of *Final Results of Antidumping Duty Administrative Review, Silicomanganese From the People's Republic of China (Silicomanganese),* 65 FR 31514 (May 18, 2000).

We valued labor using the latest regression-based wage rate for China found on Import Administration's Web page (*http://ia.ita.doc.gov/wages/*) as described in 19 CFR 351.408(c)(3).

To value foreign inland truck freight costs, we relied upon per kilometer price quotes used by the Department in the *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China,* 65 FR 33805 (May 25, 2000), multiplied by an inflator to make the value contemporaneous with the POI. To value foreign inland rail freight costs, we relied upon per kilometer price quotes from the July 2001 *Reserve Bank of India Bulletin,* multiplied by an inflator to make the value contemporaneous with the POI. To value foreign inland boat freight costs, we relied upon per kilometer price quotes cabled to the Department from the U.S. consulate in Bombay, India, during the *Antidumping Duty Investigation of Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993), multiplied by an inflator to make the value contemporaneous with the POI. We valued ocean freight, marine insurance, and brokerage and handling using the rates in effect in India, for these expenses, which were reported in the public version of the questionnaire response placed on the record in *Certain Stainless Steel Wire Rod From India: Final Results of Administrative and New Shipper Review,* 64 FR 856 (January 6, 1999), multiplied by an inflator to make the values contemporaneous with the POI.

Because the Department did not find industry specific data to calculate selling, general and administrative (SG&A) expenses, factory overhead, and profit, we used the ''1999–2000 combined income, value of production, expenditure and appropriation account'' for a sample of 1,914 public limited companies in India that were reported in the June 2001 *Reserve Bank of India Bulletin,* as previously used in *Potassium Permanganate From the PRC: Preliminary Results of Antidumping New Shipper Review,* 67 FR 303 (January 3, 2001).

For a complete analysis of surrogate values used in the preliminary determination, *see the Factors of Production Valuation Memorandum.*

Verification

In the instant case, both respondents assert that the use of average input quantities across products (both across subject and non-subject and between subject products) does not distort the factors of production data and, therefore, that their data should be used in the calculation of NV. Their assertions are based on technical factors, such as the fact that, for castings (low yield or otherwise), while more iron is required than the net raw castings weigh, that extra iron is virtually all recovered and reused. The petitioner asserts that because the subject pipe fittings experience greater yield loss than other types of castings, the use of averages inherently distorts product-

specific factors of production data. Because the question of whether or not the use of average factors of production data distorts the calculated NV is a factual one and can be verified by the Department, we will verify the respondents' data to determine whether their assertions are correct. Therefore, after verification in accordance with section 782(i) of the Act, we will reconsider this issue for the final determination after we have a clearer understanding of the facts and verify all information relied upon in making our final determination.

Suspension of Liquidation

We are directing the U.S. Customs Service (Customs Service) to suspend liquidation of all entries of pipe fittings from the PRC entered, or withdrawn from warehouse, for consumption on or after the date on which this notice is published in the **Federal Register**. In addition, we are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following percentage weighted-average margins exist for the POI:

Manufacturer/exporter	Weighted-average margin (percent)
Jinan Meide Casting Co., Ltd	12.55
Shanghai Foreign Trade Enterprises Co., Ltd	18.97
PRC-Wide Rate	55.13

The PRC-wide rate applies to all entries of the subject merchandise except for entries from JMC and SFTEC.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of non-malleable cast iron pipe fittings from the PRC are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information to value the factors of production for purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification reports. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 19, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24359 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–806]

Notice of Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Portugal

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation of sulfanilic acid from Portugal. We determine that sulfanilic acid from Portugal is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. On May 6, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value of sulfanilic acid from Portugal. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: S. Anthony Grasso and Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3853, (202) 482–1276, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the

regulations as codified at 19 CFR Part 351 (April 2001).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company.

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Sulfanilic Acid From Portugal*, 67 FR 30362 (May 6, 2002) (''*Preliminary Determination*'')), the following events have occurred:

On July 22 through July 31, 2002, we conducted a verification of the questionnaire responses submitted by Quimigal - Quimical de Portugal, S.A. (''Quimigal'' or ''the respondent''). We issued the verification report on August 13, 2002.

The petitioner and respondent filed case and rebuttal briefs, respectively, on August 21, 2002 and August 27, 2002. A public hearing was not held because none was requested within a timely manner.

Scope of Investigation

Imports covered by this investigation are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* (''HTS''), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') for this investigation is July 1, 2000, through June 30, 2001.

Fair Value Comparisons

To determine whether sales of sulfanilic acid from Portugal to the United States were made at less than fair value, we compared the export price (''EP'') to the normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in Quimigal's calculation memorandum, which is on file in the Import Administration's Central Records Unit (''CRU'') Room B–099 of the main Department building. *See* Memorandum from team to the file, ''*Final Determination Calculation Memorandum for Quimigal - Quimica de Portugal, S.A.*'' (''*Calculation Memorandum*''), dated September 18, 2002.

Date of Sale

At the *Preliminary Determination*, we used Quimigal's invoice date as the date of sale. Based on our review of Quimigal's submissions to the Department and the information examined at verification, we used for this final determination Quimigal's contractual agreements as the date of sale in making our final determination. For more discussion about this decision, *see* the Memorandum from Richard Moreland to Faryar Shirzad: ''Issues and Decision Memorandum for the Antidumping Duty Investigation of Sulfanilic Acid from Portugal; Final Determination,'' dated September 19, 2002, (''*Decision Memorandum*'') at Comment 1.

Export Price

We calculated EP in accordance with section 772(a) of the Act. We calculated EP based on the same methodologies described in the *Preliminary Determination*, with the following exceptions. We have made changes to EP for certain clerical errors noted at verification. *See* Memorandum from Case Analysts to File: ''Verification of the Questionnaire Responses of Quimigal-Quimica de Portugal, S.A.'' (''Verification Report''). Additionally, we made adjustments to EP for the few instances where U.S. sales were invoiced in a currency other than Portuguese Escudos. For a detailed description of all U.S. sales changes made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum*.

As noted above, we have determined that the sales contract date, rather than the invoice date used in the *Preliminary Determination*, is the appropriate date of sale for U.S sales. Accordingly, we have excluded from our calculation of EP those reported sales with a date of sale prior to the POI. We have added to our calculation of EP certain sales with date of sale during the POI that were not shipped by Quimigal until after the POI. For a detailed description of all U.S. sales changes made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum*.

Normal Value

We used the same methodology as that described in the Preliminary Determination to determine the cost of production (''COP''), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

a. *Comparison Market Sales*

Because we have determined that the sales contract date is the appropriate date of sale, we have excluded from our calculation of NV those reported sales with a date of sale prior to the POI. Additionally, we have made changes to the third-country sales database in accordance with certain clerical errors noted at verification.

b. *Cost of Production Analysis*

We continued to use the reported COP amounts as adjusted by the Department in the *Preliminary Determination* to compute a weighted-average COP during the POI, except in the following instances in which the costs were not appropriately quantified or valued. Specifically, we adjusted Quimigal's reported fixed overhead and reported general and administrative (''G&A'') expenses based on findings made during verification. For further information about these adjustments, see the Decision Memorandum at Comments 2 and 4, respectively, and the Calculation Memorandum.

c. *Calculation of Normal Value Based on Constructed Value*

We calculated constructed value (''CV'') in accordance with section 773(a)(4) of the Act. We calculated CV based on the same methodologies described in the *Preliminary*

Determination, with the following exceptions. Specifically, we recalculated Quimigal's short-term interest rate and subsequently the credit expense ratio. Also, we recalculated the CV profit in accordance with section 773(e)(2)(B) of the Act. For more discussion about this revision, see the Decision Memorandum at Comment 5. For a detailed description of all recalculations made to Quimigal's margin calculations for the final determination, *see Calculation Memorandum*.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Determination*.

Verification

As provided in section 782(i)(1) of the Act, we verified the information submitted by Quimigal for our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the September 18, 2002, *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all imports of sulfanilic acid from Portugal that are entered, or withdrawn from warehouse, for consumption on or after May 6, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Quimigal - Quimica de Portugal S.A.	74.14
All Others	74.14

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

List of Comments in the Issues and Decision Memorandum

Comment 1: Date of Sale: Contract Date versus Invoice Date
Comment 2: Overhead: Straight Line Depreciation versus Accelerated Depreciation
Comment 3: Net Interest Expense Ratio
Comment 4: Selling, General, and Administrative Expense Ratio
Comment 5: Constructed Value Profit Ratio
Comment 6: Corrections and Clarifications to the Verification Report

[FR Doc. 02–24356 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–804]

Notice of Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation on sulfanilic acid from Hungary. We determine that sulfanilic acid from Hungary is being, or is likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended. On May 6, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value of sulfanilic acid from Hungary. Based on the results of verification and our analysis of the comments received, we have made changes in the margin calculations. Therefore, this final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Audrey Twyman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4126 or (202) 482–3534, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to the regulations as codified at 19 CFR Part 351 (April 2001).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company.

Case History

Since the publication of the preliminary determination in this investigation (*see Notice of Preliminary Determination of Sales at Less Than Fair Value: Sulfanilic Acid from Hungary*, 67 FR 30358 (May 6, 2002) (''*Preliminary Determination*'')), the following events have occurred:

Nitrokemia 2000 (the ''respondent'') requested a postponement of the final determination on May 13, 2002. *See Sulfanilic Acid from Hungary: Postponement of Final Determination and Extension of Provisional Measures of Antidumping Duty Investigation*, 67 FR 36151 (May 23, 2002).

We verified the questionnaire responses submitted by Nitrokemia 2000 between June 3 and 11, 2002. We issued the verification report on July 1, 2002.

The petitioner and the respondent submitted case briefs on July 31, 2002, and August 1, 2002, respectively. Neither party submitted rebuttal briefs. No public hearing was held because none was requested.

Scope of Investigation

Imports covered by this investigation are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* (''HTS''), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') for this investigation is July 1, 2000, through June 30, 2001.

Fair Value Comparisons

To determine whether sales of sulfanilic acid from Hungary to the United States were made at less than fair value, we compared the export price (''EP'') to the normal value (''NV''). Our calculations followed the methodologies described in the *Preliminary Determination*, except as noted below and in Nitrokemia 2000's September 11, 2002, calculation memorandum which is on file in the Import Administration's Central Records Unit (''CRU''), Room B–099 of the main Department of Commerce building. See Memorandum from Team to the file ''Final Determination Calculation Memorandum for Nitrokemia 2000'' (''*Calculation Memorandum*'') dated September 18, 2002.

Export Price

We calculated EP in accordance with section 772(a) of the Act. We calculated EP based on the same methodologies described in the *Preliminary Determination*, with the following exceptions. We have made changes to EP based on our findings at verification. We did not deduct certain expenses reported by Nitrokemia 2000 as ''direct expenses'' as we determined that these expenses had been separately reported by Nitrokemia 2000 and already had been deducted from EP. We revised credit to reflect the verified short-term interest rate. We have also determined that the contract date is the appropriate date of sale for U.S. sales. Accordingly, we have excluded from our calculation of EP, those reported sales with a contract date prior to the POI. We have added to our calculation of EP, certain sales with contract dates during the POI that were not shipped by Nitrokemia 2000 until after the POI. For a detailed description of all U.S. sales changes made to Nitrokemia 2000's margin calculations for the final determination, *see Calculation Memorandum*.

Normal Value

We used the same methodology as that described in the *Preliminary Determination* to determine the cost of production (''COP''), whether comparison market sales were at prices below the COP, and the NV, with the following exceptions:

1. Cost of Production Analysis

We based fixed and variable overhead, and general and administrative expenses, on Nitrokemia 2000's costs obtained during verification for 2001. We based interest expense on information obtained from Nitrokemia 2000's financial statement for 2001. For a detailed description of changes made to Nitrokemia 2000's cost of production calculation, *see Calculation Memorandum.*

2. Calculation of NV

We have made changes to NV based on our findings at verification. We did not deduct certain expenses reported by Nitrokemia 2000 as ''direct expenses'' as we determined that these expenses had been separately reported by Nitrokemia 2000 and already deducted from NV. We revised credit and inventory expenses to reflect the verified short-term interest rate.

Verification

As provided in section 782(i)(1) of the Act, we verified all information relied upon in making our final determination.

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum for the Antidumping Duty Investigation of Sulfanilic Acid from Hungary: Final Determination'' from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 18, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the Decision *Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing

the U.S. Customs Service to continue to suspend liquidation of all imports of sulfanilic acid from Hungary that are entered, or withdrawn from warehouse, for consumption on or after May 6, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Nitrokemia 2000	20.98 percent
All Others	20.98 percent

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX

List of Comments in the Issues and Decision Memorandum

Comment 1: Use of adverse facts available for the entire response
Comment 2: Use of the verified cost of manufacture for the cost test
Comment 3: Use of adverse facts available for G&A and interest expenses
Comment 4: Use of adverse facts available in the COP analysis for the unreported adjustments to comparison market sales
Comment 5: Calculation of NV based on comparison market sales after disregarding sales below COP
Comment 6: Inclusion in the dumping margin calculation of certain sales to the United States

[FR Doc. 02–24357 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–437–805]

Final Affirmative Countervailing Duty Determination: Sulfanilic Acid from Hungary

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers or exporters of sulfanilic acid from Hungary. For information on the estimated countervailing duty rates, see infra section on ''Suspension of Liquidation.''

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Daniel J. Alexy, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0116 and (202) 482–1540, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department'') regulations are to the regulations as codified at 19 CFR Part 351 (April 2002).

Petitioner

The petitioner in this investigation is Nation Ford Chemical Company (''the petitioner'').

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register**. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Sulfanilic Acid from Hungary*, 67 FR 9696 (March 4, 2002) (''*Preliminary Determination*'').

On March 5, 2002, we issued supplemental questionnaires to Nitrokemia 2000 Rt. (''Nitrokemia 2000'') and the Government of Hungary (''GOH''). We received responses to these supplemental questionnaires on March 18 and 19, 2002.

On March 27, 2002, Nitrokemia 2000 submitted comments on the *Preliminary Determination*. On May 13, 2002, the petitioner also submitted comments on the *Preliminary Determination*, as well as on the upcoming verifications.

From May 30 to June 4, 2002, we conducted a verification of the questionnaire responses submitted by the GOH and Nitrokemia 2000.

On August 15 and 16, 2002, we received case briefs from Nitrokemia 2000 and the petitioner.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation, is calendar year 2000.

Scope of Investigation

Imports covered by this investigation are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline and sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the

sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, currently classifiable under the subheading 2921.42.22 of the *Harmonized Tariff Schedule* (''HTS''), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also currently classifiable under 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline, and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), currently classifiable under the HTS subheading 2921.42.90, is a powder, granular, or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Injury Test

Because Hungary is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from Hungary materially injure, or threaten material injury to, a U.S. industry. On November 13, 2001, the ITC made its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Hungary of the subject merchandise. *See Sulfanilic Acid from Hungary and Portugal*, 66 FR 57988 (November 19, 2001).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 18, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at http://ia.ita.doc.gov/frn/ under the heading ''Hungary.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

As a result of our *Preliminary Determination*, we instructed the Customs Service (''Customs'') to suspend liquidation of all entries of sulfanilic acid from Hungary, which were entered or withdrawn from warehouse, for consumption on or after March 4, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed Customs to discontinue the suspension of liquidation for countervailing duty purposes for merchandise entered on or after July 2, 2002, but to continue the suspension of liquidation of entries made between March 4, 2002 and July 1, 2002.

We have calculated an individual net subsidy rate for Nitrokemia 2000, the only investigated manufacturer of the subject merchandise, pursuant to section 705(c)(1)(B)(i) of the Act. Because Nitrokemia 2000 is the only respondent in this case, its rate serves as the ''All Others'' rate. We determine that the total estimated net subsidy rates for Nitrokemia 2000 and for all other producers and exporters of the subject merchandise are as follows:

Producer/Exporter	Ad Valorem Subsidy Rate
Nitrokemia 2000 Rt.	2.87 percent
All Others	2.87 percent

We will issue a countervailing duty order and instruct Customs to suspend liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (''APO''), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 18, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24358 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DS–S?≤

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Solicitation of Requests for Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

AGENCY: Department of Commerce, International Trade Administration.

ACTION: The Department of Commerce (Department) is soliciting requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2003 tariff rate quotas established by the Trade and Development Act of 2000 (TDA 2000).

SUMMARY: The Department hereby solicits requests for the modification of the limitations on the quantity of imports of certain worsted wool fabric under the 2003 tariff rate quotas established by the TDA 2000, and amended by the Trade Act of 2002. To be considered, a request must be received or postmarked by 5:00 p.m. on October 10, 2002 and must comply with the requirement of 15 C.F.R 340. If a request is received, the Department will solicit comments on the request in the Federal Register and provide a twenty day comment period. Thirty days after

the end of the comment period, the Department will determine whether the limitations should be modified.

ADDRESS: Requests must be submitted to: Industry Assessment Division, Office of Textiles and Apparel, Room 3100, United States Department of Commerce, Washington, DC 20230. Six copies of any such requests must be provided.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

SUPPLEMENTARY INFORMATION:

Background

Title V of the TDA 2000 created two tariff rate quotas (TRQs), providing for temporary reductions in the import duties on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS)heading 9902.51.11); and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12).

On August 6, 2002, President Bush signed into law the Trade Act of 2002, which includes several amendments to Title V of the TDA 2000. These include the extension of the program through 2005; the reduction of the in-quota duty rate on HTS 9902.51.12 (average fiber diameter 18.5 microns or less) from 6 percent to zero, effective for goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002; and an increase in the 2003 TRQ levels to 3,500,000 square meters for HTS 9902.51.12 and to 4,500,000 square meters for HTS 9902.51.11. Both of these limitations may be modified by the President, not to exceed 1,000,000 square meter equivalents per year for each tariff rate quota.

The TDA 2000 requires the annual consideration of requests by U.S. manufacturers of men's or boys' worsted wool suits, suit-type jackets and trousers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered. On January 22, 2001, the Department published regulations establishing procedures for considering requests for modification of the limitations. 15 CFR 340.

To be considered, requests must be submitted by a manufacturer of men's or boys' worsted wool suits, suit-type jackets, and trousers in the United States and must comply with the requirements of 15 CFR 340.

A request must include: (1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester; (2) The relevant worsted wool apparel product(s) manufactured by the person(s), that is, worsted wool suits, worsted wool suit-type jackets, or worsted wool trousers; (3) The modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and (4) A statement of the basis for the request, including all relevant facts and circumstances.

A request should include the following information for each limitation that is the subject of the request, to the extent available: (1) A list of suppliers from which the requester purchased domestically produced worsted wool fabric during the period July 1, 2001 to June 30, 2002, the dates of such purchases, the quantity purchased, the quantity of imported worsted wool fabric purchased, the countries of origin of the imported worsted wool fabric purchased, the average price paid per square meter of the domestically produced worsted wool fabric purchased, and the average price paid per square meter of the imported worsted wool fabric purchased; (2) A list of domestic worsted wool fabric producers that declined, on request, to sell worsted wool fabric to the requester during the period July 1, 2001 to June 30, 2002, indicating the product requested, the date of the order, the price quoted, and the reason for the refusal; (3) The requester's domestic production and sales for the period January 1, 2002 to June 30, 2002 and the comparable six month period in the previous year, for each of the following products: worsted wool suits, worsted wool suit-type jackets, and worsted wool trousers; (4) Evidence that the requester lost production or sales due to an inadequate supply of domestically-produced worsted wool fabric on a cost competitive basis; and (5) Other evidence of the inability of domestic producers of worsted wool fabric to supply domestically produced worsted wool fabric to the requester.

Requests must be accompanied by a statement by the person submitting the request or comments (if a natural person), or an employee, officer or agent of the legal entity submitting the request, with personal knowledge of the matters set forth therein, certifying that the information contained therein is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law.

Any business confidential information provided that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission should also be provided, in which business confidential information is summarized or, if necessary, deleted.

If a request is received, the Department will cause to be published a notice in the Federal Register summarizing the request or requests and soliciting comments from any interested person, including U.S. manufacturers of worsted wool fabric, wool yarn, wool top and wool fiber, regarding the requested modification. A twenty day comment period will be provided. Thirty days after the end of the comment period, the Department will determine whether the limitations should be modified.

Dated: September 19, 2002.

James C. Leonard III,

Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries

[FR Doc.02–24318 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

September 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs

website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59409, published on November 28, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 19, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 21, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on September 25, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	288,305 dozen.
334	240,567 dozen.
340/640	5,061,820 dozen.
341	3,318,617 dozen.
351/651	1,152,243 dozen.
363	42,276,830 numbers.
369–S [2]	2,696,089 kilograms.
634	841,630 dozen.
638/639	1,704,742 dozen.
641	785,612 dozen.
645/646	656,436 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–24316 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

September 19, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryforward used, carryover, carryforward, swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 59578, published on November 29, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 19, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 23, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on September 25, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Group I	
200–220, 224–V [2], 224–O [3], 225–227, 300–326, 360–363, 369pt., [4], 400–414, 469pt., [5], 603, 604, 611–620, 625-629, 666pt. [6], as a group	263,129,459 square meters equivalent.
Sublevels within Group I	
200	611,860 kilograms.
201	3,086,357 kilograms.
611	4,874,010 square meters.
619/620	109,568,965 square meters.
624	10,483,577 square meters.
625/626/627/628/629	20,238,741 square meters.
Group II	
237, 239pt. [7], 331pt. [8], 332–348, 351, 352, 359pt., 433–438, 440–448, 459–W [9], 459pt. [10], 631pt. [11], 633–648, 651, 652, 659–H [12], 659–S [13] and 659pt. [14], as a group	569,731,238 square meters equivalent.
Sublevels within Group II	
333/334/335	352,496 dozen of which not more than 180,165 dozen shall be in Category 335.
336	73,964 dozen.
338/339	1,542,919 dozen.

Category	Adjusted twelve-month limit [1]
340	890,087 dozen of which not more than 462,162 dozen shall be in Category 340–D [15].
341	246,366 dozen.
342/642	285,944 dozen.
345	153,606 dozen.
347/348	655,977 dozen.
351/651	300,391 dozen.
352	233,756 dozen.
433	15,378 dozen.
434	7,887 dozen.
435	40,767 dozen.
436	17,286 dozen.
438	68,033 dozen.
442	58,415 dozen.
443	344,600 numbers.
444	62,488 numbers.
445/446	57,689 dozen.
447	98,422 dozen.
448	41,096 dozen.
633/634/635	1,439,396 dozen of which not more than 163,224 dozen shall be in Category 633 and not more than 608,286 dozen shall be in Category 635.
636	325,615 dozen.
638/639	5,604,067 dozen.
640–D [16]	3,024,604 dozen.
640–O [17]	2,884,380 dozen.
641	1,139,818 dozen of which not more than 44,188 dozen shall be in Category 641–Y [18].
643	866,692 numbers.
644	1,328,271 numbers.
645/646	4,131,575 dozen.
647/648	1,434,681 dozen.
659–H	1,572,144 kilograms.
659–S	235,319 kilograms.
Levels not in a group	
846	471,850 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36,0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302,51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[6] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

[7] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[8] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[9] Category 459–W: only HTS number 6505.90.4090.

[10] Category 459pt.: all HTS numbers except 6505.90.4090 (Category 459–W); 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[11] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[12] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[15] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[16] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[17] 640–O: only HTS numbers 6203.23.0080, 6203.29.2050, 6205.30.1000, 6205.30.2050, 6205.30.2060, 6205.30.2070, 6205.30.2080 and 6211.33.0040.

[18] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–24319 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Short Supply Request under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

September 19, 2002.

AGENCY: The Committee for the Implementation of Textile Agreements (The Committee).

ACTION: Denial of the request alleging that certain 100 percent stock-dyed worsted wool woven fabric, used in the production of certain men's suits and suit jackets, cannot be supplied by the domestic industry in commercial quantities in a timely manner.

SUMMARY: On July 19, 2002, the Chairman of CITA received a request from Oxford Industries alleging that certain 100 percent worsted (i.e., combed) wool woven fabric, stock-dyed (not piece-dyed) of wool yarns with an average fiber diameter of more than 18.5 microns, classified in subheading 5112.19.95 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in the production of men's suit type jackets for suits classified in subheading 6203.31.9010 of the HTSUS and men's suits classified in subheading 6203.11.9000 of the HTSUS, but excluding ''morning dress'', ''evening dress'' and ''dinner jacket suits'' (as defined in Note 3(a) to Chapter 62 of the HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel of such fabrics be eligible for preferential treatment under the CBTPA. Based on the information provided and our knowledge of the industry, CITA has determined that these subject fabrics can be supplied by the domestic industry in commercial quantities in a timely manner and therefore denies the request.

FOR FURTHER INFORMATION CONTACT: For Further Information Contact: Shikha Bhatnagar, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a CBTPA beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On July 19, 2002, the Chairman of CITA received a request from Oxford Industries alleging that certain 100 percent worsted (i.e., combed) wool woven fabric, stock-dyed (not piece-dyed) of wool yarns with an average fiber diameter of more than 18.5 microns, classified in subheading 5112.19.95 of the HTSUS, for use in the production of men's suit type jackets for suits classified in subheading 6203.31.9010 of HTSUS and men's suits classified in subheading 6203.11.9000 of the HTSUS, but excluding ''morning dress'', ''evening dress'' and ''dinner jacket suits'' (as defined in Note 3(a) to Chapter 62 of the HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requested that apparel of such fabrics that are both cut, sewn, and assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA.

On August 2, 2002, CITA solicited public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry and commercial quantities in a timely manner. We also requested the advice of the U.S. International Trade Commission and the relevant Industry Sector Advisory Committees. On August 20, 2002, CITA and the Office of the U.S. Trade Representative offered to hold consultations with the relevant Congressional Committees.

CITA has determined that certain 100 percent worsted (i.e., combed) wool woven fabric, stock-dyed (not piece-dyed) of wool yarns with an average fiber diameter of more than 18.5 microns, classified in subheading 5112.19.95 of the HTSUS, for use in the production of men's suit type jackets for suits classified in subheading 6203.31.9010 of HTSUS and men's suits classified in subheading 6203.11.9000 of the HTSUS, but excluding ''morning dress'', ''evening dress'' and ''dinner jacket suits'' (as defined in Note 3(a) to Chapter 62 of the HTSUS), can be supplied by the domestic industry in commercial quantities in a timely manner. Based on the information provided, including review of the request, public comments and advice received, and our knowledge of the industry, CITA has determined that there is current production of and domestic capacity to supply these fabrics. Oxford Industries' request is denied.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–24317 Filed 9–24–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Collection; Comment Request.

SUMMARY: The EIA is soliciting comments on the proposed three-year extension to the ''Recordkeeping Requirements of DOE's General Allocation and Price Rules,'' ERA–766R.

DATES: Comments must be filed by November 25, 2002. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to Mr. John D. Bullington. To ensure receipt of the comments by the due date, submission by FAX (202–586–6191) or e-mail, to *Dan.Bullington@hq.doe.gov is recommended.* The mailing address is Office of General Counsel, GC–90, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0103. Alternatively, Mr. Bullington may be contacted by telephone at 202–586–7364.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Bullington at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

The recordkeeping requirements are authorized by section 203(a)(1) of the Economic Stabilization Act (ESA) of 1970, as amended (Pub. L. 92–210, 85 Stat. 743) and by section 13(g) of the Federal Energy Administration Act (FEAA) of 1974, as amended (Pub. L. 93–275). DOE proposes to extend for three years the limited recordkeeping requirements presently contained in 10 CFR 210.1. The antecedent regulation was narrowed by amendment in January 1985. This limited extension is

proposed as a protective measure to preserve records relating to the prior price and allocation regulations for an additional three years.

II. Current Actions

This is an extension with no change of the existing requirements. The requirements are proposed to be extended for a period of three years, from December 31, 2002, to December 31, 2005.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. EIA is interested in receiving comments from persons regarding whether the proposed recordkeeping requirements are necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions regarding the recordkeeping requirements clear and sufficient? If not, which instructions require clarification.

B. Can information be maintained as specified in the recordkeeping requirements?

C. Public reporting burden for the recordkeeping requirements are estimated to average 4 hours per respondent. The estimated burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose and provide the information.

D. The agency estimates respondents will incur no additional costs other than the hours required to maintain the records. What is the estimated: (1) Total dollar amount annualized for capital and start-up costs, and (2) recurring annual costs of operation and maintenance, and purchase of services associated with these recordkeeping requirements.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, September 19, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–24336 Filed 9–24–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7382–8]

Risk Management Programs Under Section 112(r)(7) of the Clean Air Act as Amended; Contractor Access to Confidential Business Information and Address Change for the Submission of Risk Management Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractor to access information that has been, or will be, submitted to EPA under section 112(r) of the Clean Air Act (CAA) as amended: Computer Sciences Corporation (CSC) and its subcontractor, Creative Information Technology Inc. (CITI), (GSA Contract #GSOOT99ALD0203, expiring March 27, 2009). The EPA announces a new address to which Risk Management Plans (RMPs) are to be sent.

Some of the information submitted under section 112(r) may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than October 7, 2002. RMPs may be sent to the new address effective September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dorothy McManus, Office of Solid Waste and Emergency Response, MC: 5104a, U.S. Environmental Protection Agency, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 112(r) of the CAA that EPA may provide the above mentioned contractor and its subcontractor access to these materials on a need-to-know basis. This contractor will provide technical support to the Office of Solid Waste and Emergency Response in the receipt, processing and storage of risk management plans submitted to EPA under the CAA.

In accordance with 40 CFR 2.301(h), EPA has determined that the contractor and its subcontractor require access to CBI submitted to EPA under sections 112(r) and 114 of the CAA in order to perform work satisfactorily under the above noted contract. The contractor's and subcontractor's personnel will be given access to information submitted under section 112(r) of the CAA. Some of the information may be claimed or determined to be CBI. The contractor's and subcontractor's personnel will be required to sign nondisclosure agreements and will be permitted access to CBI. All contractor access to CAA CBI will take place at the contractor's facility. The contractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor and its subcontractor have access. Clearance for access to CBI is scheduled to expire on March 27, 2009 or at contract termination.

Risk Management Plans submitted to EPA should be mailed to: Risk Management Plan (RMP) Reporting Center, P.O. Box 1515, Lanham-Seabrook, MD 20703–1515. Courier deliveries and express mail should be addressed to the RMP Reporting Center, c/o CSC, Suite 300, 8400 Corporate Drive, New Carrollton, MD 20785.

Dated: September 13, 2002.

Deborah Y. Dietrich,

Director, Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response.

[FR Doc. 02–24341 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0259; FRL–7275–6]

The Association of American Pesticide Control Officials; State FIFRA Issues Research and Evaluation Group; Working Committee on Water Quality and Pesticide Disposal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO), The State Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal will hold a 2–day meeting. This notice announces the

location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, October 28, 2002, from 8:30 a.m. to 5 p.m., and Tuesday, October 29, 2002, from 8:30 a.m. to 12 noon.

ADDRESSES: This meeting will be held at the Doubletree Hotel, 300 Army-Navy Drive, Arlington, VA.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0259 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: mcduffie.georgia@epa.gov.

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax (802) 472–6957; e-mail address: aapco@plainfield.bypass.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encourage to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP–2002–0259. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0259 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0259. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Tentative Agenda

The following outlines the tentative agenda of the 2–day meeting.

1. Introductions and new members.
2. Review of isoxaflutole registration and monitoring experiences.
3. EPA Office of Water and Office of Pesticide Program presentation and discussion, various topics including: 319 guidance development Re: How to Address Pesticides and Monitoring Standards Development/Setting and Selection of Priority Compounds Resources for Surface Water Monitoring Responsibility for New Products versus Reregistrations.
4. Pesticide regulatory education program (PREP) report and content of revised pesticide/water quality management plan.
5. Issue team report—disposal label language project.
6. Disposal initiatives—national pesticide stewardship alliance mamagememt report.
7. Iodosulfuron registration review—issue team and EPA perspectives.
8. FY 2003 registration work plan (EPA).
9. Review ad hoc roster—FY 2003 work group assignments.
10. Issue team report—registration authority project.
11. EPA update on copper chromated arsenate (CCA) update.
12. State and regional reports.
13. Farm association and environment review training experience.
14. Office of Pesticide Program update.
15. Office of Enforcement and Compliance Assurance up-date.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 18, 2002.

Jay S. Ellenberger,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 02–24225 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0251; FRL–7274–4]

Availability of Interim Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60-day public comment period on the Interim Reregistration Eligibility Decision (IRED) document for the pesticide active ingredient diazinon. The IRED represents EPA's formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket ID number OPP–2002–0251, must be received on or before November 25, 2002.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5776; e-mail address: parsons.laura@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticides users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0251. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. To access RED documents and RED fact sheets electronically, go directly to the REDs table on the EPA Office of Pesticide Programs Home Page, at http://www.epa.gov/pesticides/reregistration/status.htm.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is

that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2002–0251. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2002–0251. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2002–0251.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2002–0251. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued an IRED for the pesticide active ingredient diazinon.

Under FIFRA, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of diazinon is substantially complete. Taking into account both the risks and benefits of diazinon uses, the Agency has determined that with the adoption of all the mitigation measures recommended in the IRED, use of diazinon will not pose unreasonable adverse risks to people or the environment when used according to its currently approved labeling. Please note that this is only an interim decision. Upon the Agency's completion of its assessment of the cumulative risk posed by the organophosphates as a class, EPA will issue a final reregistration eligibility decision on pesticides containing diaizinon.

All registrants of pesticide products containing diazinon will be sent the appropriate REDs, labeling requirements and product specific data requirements pending OMB approval of the diazinon Data Call-In.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this IRED with a 60-day comment period. The comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendment to the IRED. EPA invites comment specifically on the use of the diazinon benefit assessments which can be found with the diazinon documents on the EPA's website at http://www.epa.gov/pesticides/reregistration/status.htm. All comments will be carefully considered by the Agency. If any comment significantly affects this IRED, EPA will amend the IRED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this IRED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products, and either reregistering products or taking ''other appropriate regulatory action.''

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 13, 2002.

Lois Ann Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–24231 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0214; FRL–7194–1]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2002–0214, must be received on or before October 25, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0214 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Bryceland,Biochemical Pesticides Branch, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6928; e-mail address; bryceland.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0214. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity

Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0214 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0214. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 16, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticides Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by Certis USA LLC and represents the view of Certis USA LLC. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Certis USA LLC

PP 2F6477

EPA has received a pesticide petition [2F6477] from Certis USA LLC 9145 Guild Road, Suite 175, Columbia, MD 21046, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the biochemical pesticide ammonium bicarbonate.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Certis USA LLC has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Certis USA LLC and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

1. The biochemical ammonium bicarbonate is proposed for use as an insect feeding attractant in the end use product olive fly attract and kill (A&K) target device; EPA registration pending. Ammonium bicarbonate acts as a feeding attractant to the olive fruit fly (*Bactrocera oleae.*) The end use product also contains the active ingredients lambda-cyhalothrin insecticide and the pheromone 1,7-dioxaspiro-(5,5)-undecane. The proposed use of the product is in olive orchards to control the olive fruit fly. The active ingredient,

ammonium bicarbonate, is listed by the U.S. Food and Drug Administration as a direct food additive under 21 CFR 73.85, 163.110, 163.111, 163.112 and is listed as generally recognized as safe (GRAS) under 21 CFR 184.1135. It is exempt from the requirement of a tolerance under 40 CFR 180.1001(c) when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

2. The ammonium bicarbonate in the end use product, when exposed to air, decomposes and releases gaseous ammonia. Ammonia is a by-product of protein decomposition and as such is recognized by the olive fruit fly as a potential food source. The ammonia released from the end use product attracts the insects to the device. Ammonia per se is exempt from the requirement of a tolerance under 40 CFR 180.1003 when used as a fungicide applied to grapefruit, lemons, oranges and corn grain.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Ammonium bicarbonate, CAS number 1066–33–7, is also known as ammonium hydrogen carbonate. It is a naturally occurring mineral. It is a white, crystalline powder soluble in water but non-soluble in alcohol and acetone. It decomposes at 36 to 60 degrees centigrade to ammonia, carbon dioxide and water vapor. It has many applications including use in baking powders, fire-extinguishing mixtures, agricultural fertilizers and is used as a surfactant, suspending agent and dispersing agent in pesticide formulations.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* The end use product contains 4 grams of ammonium bicarbonate bound in a polymer. The polymer is attached to a cellulose card material which is approximately 19 centimeters (cm) by 20 cm in size. The card is suspended from olive tree limbs at a rate of 42 cards per acre of olive orchard resulting in 168 grams (0.37 pounds) of ammonium bicarbonate per acre of orchard. Being contained in the polymer and attached to the cellulose card there is little opportunity for the ammonium bicarbonate to come in contact with either the fruit or the soil. Upon application the end use product will be constantly exposed to sunlight and elevated temperatures which will continually release very small amounts of gaseous ammonia.

Ammonia is a naturally occurring compound which is a key intermediate in the nitrogen cycle. Under normal conditions, ammonia is essential for many biological processes. Ammonia may be released to the atmosphere by volatilization from numerous sources including: Decaying organic matter, animal livestock excreta, fertilization of soil, and burning of coal, wood, and other natural products. Because of its significance in natural cycles, ammonia is found at a local concentration in most environmental media. The half-life of atmospheric ammonia is estimated to be only a few days. In olive orchards atmospheric concentrations of ammonia will be present from the decay of organic matter and from the application of fertilizer to soil as ammonia, ammonium compounds or ammonia precursors (such as urea). Because ammonia, as ammonium ion, is the nutrient of choice for many plants, uptake of soil ammonia by living plants is an important fate process. The rate of uptake by plants varies with the growing season. At normal environmental concentrations, ammonia does not have a very long soil half-life. It is either rapidly taken up by plants, bioconverted by the microbial population, or volatilized to the atmosphere.

Under the conditions of use proposed and given the natural background levels of ammonia in the atmosphere and in the soil, no residues of ammonia or of ammonium bicarbonate are expected to occur in olive fruit from the use of the olive fly attract and kill (A&K) target device.

3. Residues in olive fruit are not expected from the use of the olive fly attract and kill target device; therefore, an analytical method is not needed.

C. Mammalian Toxicological Profile

Because toxicity studies in the scientific literature are limited for ammonium bicarbonate, data on the related ammonium salt, ammonium chloride, and on the carbonate salt, sodium bicarbonate, are discussed. The single dose LD_{50} of ammonium chloride in the mouse and the rat, administered orally, is reported in scientific literature as 1,300 milligrams/kilogram (mg/kg) and 1,650 mg/kg, respectively. The single dose LD_{50} of sodium bicarbonate in the mouse and rat, administered orally, is reported in scientific literature as 5,650 mg/kg and 3,400 mg/kg, respectively. For ammonia, the acute inhalation LC_{50} in the rat exposed for a single period of 15 minutes, was reported in scientific literature as 17,401 parts per million (ppm). The acute inhalation LC_{50} in the mouse exposed for a single period of 30 minutes was reported as 21,430 ppm.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Ammonium bicarbonate as used in the olive fly attract and kill target device will not come into direct contact with olives. Therefore, no residues of this compound are expected to occur in olives. Ammonium bicarbonate is listed by the U.S. Food and Drug Administration as a direct food additive and is commonly used as a leavening agent in baked goods.

There is some potential for the decomposition product ammonia gas to come into contact with growing olives. However, it is expected that levels of gaseous ammonia would be well below the normal background levels of atmospheric ammonia present in an area of crop production.

ii. *Drinking water.* Given the mode of application whereby the ammonium bicarbonate is bound in a polymer matrix attached to a cellulose card which is suspended from olive tree branches, there is little likelihood that residues of ammonium bicarbonate would occur in drinking water from this use.

2. *Non-dietary exposure.* When exposed to air, sun and elevated temperatures in an olive orchard, the ammonium bicarbonate will slowly decompose to ammonia, carbon dioxide, and water vapor. The total amount of ammonium bicarbonate applied per acre in the olive fly attract and kill target devices is 168 grams. Assuming the complete consumption of the ammonium bicarbonate during the growing season, the theoretical yield of ammonia would be equal to approximately 36.1 grams. Assuming that this amount of ammonia is distributed over an acre of olive orchard to a height of 15 feet at a single point in time, this is equal to a theoretical concentration of 3 parts per billion (ppb) of ammonia. But a more realistic scenario would take into account that the release of ammonia would occur over the 4–5 month period after application in the orchard resulting in a daily concentration that is approximately one hundred times less, i.e. 0.025 ppb. This concentration of ammonia would be well below the worldwide atmospheric background concentration of ammonia that has been estimated in scientific literature at approximately 1–3 ppb. Also by comparison, farmers can be exposed to ammonia when applying fertilizer. The ammonia concentration over a field during the application of gaseous anhydrous ammonia fertilizer was reported in scientific literature as high as 213 microgram/cubic meter (ug/m^3)

300 ppb. This is ten thousand fold higher than the theoretical exposure from the olive fly attract and kill target device.

E. Cumulative Exposure

Because of the method of application and the low use rates of ammonium bicarbonate, little to no exposure is expected. Since ammonium bicarbonate is approved as a direct food additive and is listed as ''Generally Recognized as Safe'' by the U.S. Food and Drug Administration, there is no concern regarding the potential for cumulative effects of ammonium bicarbonate from the proposed use with other substances due to a common mechanism of action.

F. Safety Determination

1. *U.S. population.* Evidence of ammonium bicarbonate's low toxicity is demonstrated in the data reported for the related salts, ammonium chloride and sodium bicarbonate. The U.S. Food and Drug Administration has placed the following limitations on the maximum allowable levels of ammonium bicarbonate in processed foods: up to 3.2% in baked goods, grain, snack foods and reconstituted vegetables. This is the equivalent of 32,000 ppm of ammonium bicarbonate concentration in these foods.

Ammonium bicarbonate is exempt from the requirement of a tolerance under 40 CFR 180.1001(c) when it is used as a surfactant, suspending agent or dispensing agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The amount of ammonium bicarbonate used in a pesticide formulation is not restricted by 40 CFR 180.1001(c). Therefore, any level of residue of ammonium bicarbonate in or on olives is currently acceptable when used for these purposes.

Given the method of application of ammonium bicarbonate where it is bound in a polymer within a discrete target device it is extremely unlikely for this compound to come into contact with and result in residues in or on olive fruit. Thus, aggregate exposure to ammonium bicarbonate from use in the olive fly attract and kill target device and any risk to human health will be negligible.

2. *Infants and children.* Given the low toxicity of the related salts ammonium chloride and sodium bicarbonate and the allowable levels of ammonium bicarbonate in processed foods, there is a reasonable certainty of no harm to children and infants from the use of the olive fly attract and kill target device in olive orchards.

G. Effects on the Immune and Endocrine Systems

Certis USA has no information to suggest that ammonium bicarbonate will adversely affect the immune or endocrine systems.

H. Existing Tolerances

Ammonium bicarbonate is exempt from the requirement of a tolerance under 40 CFR 180.1001(c) when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Ammonia is exempt from the requirement of a tolerance under 40 CFR 180.1003 when used as a fungicide applied to grapefruit, lemons, oranges, and corn grain.

I. International Tolerances

There is no Codex maximum residue level (MRL) for ammonium bicarbonate. Canada has established permitted residue levels of ammonium bicarbonate in cocoa products and in unstandardized food products.

[FR Doc. 02–24343 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7382–9]

Office of Environmental Information Contact Information Data Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of information availability and request for comments.

SUMMARY: Notice of availability is hereby given for a 45-day public comment period on the Contact Information Data Standard. The draft standard consists of a list of data elements, definitions for these elements, notes, and explanatory preamble language. Also included in the Docket are a set of Frequently Asked Questions Concerning the Contact Information Data Standard. The draft standard was developed by the partnership efforts of States, Tribes, and U.S. Environmental Protection Agency participating in the Environmental Data Standards Council (EDSC). The EDSC convened Action Teams consisting of representatives from EPA, and the States to develop the core set of data elements to facilitate the sharing of information regarding contact name, address, and communication information. The EPA and the EDSC invite comment on these standards from States, EPA, Tribes, database managers in the public and private sectors, and the general public with interest in development and use of data for which defines the who, where, and how in contacting a person or organization.

DATES: Comments must be submitted on or before November 12, 2002.

ADDRESSES: Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Linda Spencer, OEI/OIC/CSTD, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (MC 2822T), Washington, DC 20460, Phone: 202 566 1651, Fax: 202 566 1624, e-mail: *spencer.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID No. OEI—2002–0007. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the OEI Docket is (202) 566–1752).

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,''

then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. However, late comments may be considered if time permits.

1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet home page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. **OEI–2002–0007**. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to *OEI.docket@epa.gov,* Attention Docket ID No. **OEI–2002–0007**. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit 1.B. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

iv. By Mail. Send your comments to: OEI Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. **OEI–2002–0007.**

v. By Hand Delivery or Courier. Deliver your comments to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW, Washington, DC, Attention Docket ID No. **OEI–2002–0007.** Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I. A. 1.

vi. By Facsimile. Fax your comments to: 202–566–1753, Attention Docket ID. No. **OEI–2002–0007.**

C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Environmental Data Standards Council (EDSC) Background

Data sharing has become an increasingly important aspect of sound environmental management. States, Tribes, and EPA together face the critical challenge of sharing information among themselves and with their respective stakeholders and public. Fundamental to the seamless exchange of data are data standards. Data standards help improve the ability of partners (internal and external) to exchange data efficiently and accurately, and also assist secondary users of data to understand, interpret, and use data appropriately. Recognition of the need for EPA, States and Tribes to develop and agree upon data standards for environmental information sharing has lead to the creation of the EDSC. Data standards are documented agreements on formats and definitions of data elements. Standards are developed only when there is an environmental management business reason.

The EDSC's mission is to promote the efficient sharing of environmental information between EPA, States, Tribes, and other parties through the development of data standards. The EDSC identified contact information as an information area for which having a standard will create value to all interested parties. An Action Team deliberation process bringing together State, EPA, and Tribal parties began in June 2002 for the Contact Information Data Standard. The standard was delivered to the EDSC for consideration in August 2002 and approved for initiation of this 45-day public comment period.

After the comment period announced in this Notice, the EDSC and its Action Team will review comments received and make appropriate modifications. The EDSC will then consider approval of these data standards as appropriate. EDSC approval does not bind an individual agency to using a standard. It will be up to the individual or programs to determine if, when, and how it might use a standard developed under the auspices of the EDSC. It will be the intent of EPA to adopt and implement the consistent use of EDSC-approved standards in its information systems and programs.

III. Draft Contact Information Data Standard Background

The draft Contact Information Data Standard includes: (1) Point of Contact, (2) Address, and (3) Communication information. The Contact Information Data Standard helps define the answers to: who, where, and how in contacting a person or organization. In order to ensure consistency among data standards, some of the data elements which are included in this Contact Information Data Standard have been incorporated from the Facility Identification Data Standard and the Permitting Standards which were previously approved by the EDSC. In addition to being available in the docket, the Draft Contact Information Data Standard and the Frequently Asked questions concerning the Data Standard can be accessed on the EDSC Web site at *http://www.epa.gov/edsc* or in the U.S. Environmental Protection Agency's Environmental Data Registry at *http://www.epa.gov/edr*.

IV. Future Revisions

EDSC standards will be periodically reviewed and revised as recommended by the EDSC. The most current standards will be posted at *www.edsc.org* and *www.epa.gov/edr*.

V. Review of Draft Standard to Date

The draft standard has received significant input through the representatives from EPA program, States, and Tribal organizations. In addition, the preliminary versions of the draft standards have been reviewed by State and EPA programs managers during the second quarter of 2002. EDSC members have also reviewed and recommended these draft standards for this public comment process.

Dated: September 17, 2002.

Mark Luttner,

Director, Office of Information Collection, Office of Environmental Information.

[FR Doc. 02–24340 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7382–5]

Amendment to Proposed Second Administrative Cashout Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Beede Waste Oil Superfund Site, Plaistow, NH

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of amendment to proposed second administrative settlement and request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9622(i), notice is hereby given of an amendment to the proposed second administrative settlement for recovery of past and projected future response costs concerning the Beede Waste Oil Superfund Site in Plaistow, New Hampshire with the settling parties listed in the Supplementary Information portion of this notice. A notice for public comment for the proposed second administrative settlement, which is embodied in a CERCLA section 122(g) Administrative Order on Consent (''AOC''), was published in the **Federal Register** on September 10, 2002 (67 FR 57426). This notice simply amends the original **Federal Register** notice published as noted above to add one additional settling party listed in the Supplementary portion of this notice and to delete the United States Army Corps of Engineers from the list of settling parties. The revised aggregate total dollar amount for this settlement is approximately $4,750,223.10 and the number of participating parties is 415. Please note that this amendment does not enlarge the comment period already commenced for this second settlement. As stated in 67 FR 57426 the comment period runs from September 10, 2002 to October 10, 2002. During this time, EPA will receive written comments relating to the notice of second settlement, including this amendment. The EPA will consider all comments received and may modify or withdraw its consent to the second settlement if comments received disclose facts or considerations which indicate that the second settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023 (Telephone Number: 617–918–1440).

DATES: Comments must be submitted on or before October 10, 2002.

ADDRESSES: The proposed second settlement is available for public inspection at the EPA Records Center, 1 Congress Street, Boston, MA 02114–2023. Please call 617–918–1440 to schedule an appointment. A copy of the proposed second settlement may be obtained from Kristin Balzano, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1772). Comments should reference the Beede Waste Oil Superfund Site in Plaistow, New Hampshire and EPA Docket No. CERCLA–1–2002–0025 and should be addressed to Kristin Balzano, U.S.

Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023.

FOR FURTHER INFORMATION CONTACT: Cindy Lewis, U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100 (SES), Boston, MA 02114–2023 (Telephone Number: 617–918–1889).

SUPPLEMENTARY INFORMATION: The following is the additional settling party: Gerardi's Amoco.

Dated: September 17, 2002.

Stanley D. Chin,

Acting Director, Office of Site Remediation and Restoration, EPA—Region I.

[FR Doc. 02–24342 Filed 9–24–02; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Proposed Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Farm Credit Administration

AGENCY: Farm Credit Administration.

ACTION: Notice of availability of final guidelines.

SUMMARY: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658; hereafter referred to as section 515) required all agencies to issue guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of the information (including statistical information) that they disseminate. Agencies were required to issue their guidelines within 1 year after the Office of Management and Budget (OMB) issued procedural guidance to them. OMB's guidance required agencies to post their final guidelines on their Web sites by October 1, 2002. The agencies were also required to publish a notice of the availability of their final guidelines in the **Federal Register**. The Farm Credit Administration (FCA) is hereby publishing notice of the availability of its final guidelines on its Web site at *http://www.FCA.gov*.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Cheryl Thomas, Director, Information Management Division, Office of the Chief Information Officer, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4119, TDD (703) 883–4444.

or

Doug Valcour, Chief Information Officer, Office of the Chief Information Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4166, TDD (703) 883–4444.

Dated: September 19, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–24313 Filed 9–24–02; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement Nos.: 011560–006, 011561–006, 011562–007.

Titles: The TransAtlantic Bridge Agreement, The COSCO/KL TransAtlantic Vessel Sharing Agreement, The KL/YM TransAtlantic Vessel Sharing Agreement.

Parties: COSCO Container Lines Company, Ltd., Kawasaki Kisen Kaisha, Ltd., Yangming Marine Transport Corporation.

Synopsis: The proposed amendments update current and anticipated vessels alignments, include revisions to comply with European Commission regulations, and extend the agreements indefinitely.

Agreement No.: 011785–003.

Title: COSCO/KL/YMUK Asia/U.S. East and Gulf Coast/North, Europe and Mediterranean Vessel Sharing Agreement.

Parties: COSCO Container Lines Company, Ltd., Kawasaki Kisen Kaisha, Ltd., Yangming (U.K.) Ltd.

Synopsis: The proposed amendment extends the agreement's geographic scope to include North European ports and includes revisions to comply with European Commission regulations.

Dated: September 20, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–24352 Filed 9–24–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4284F
Name: Cargo, Inc.
Address: 220 Thorndale Avenue, Bensenville, IL 60106
Date Revoked: August 28, 2002
Reason: Failed to maintain a valid bond.

License Number: 1425F
Name: Dart Transit Company
Address: c/o Scott Buchanan, 800 Lone Oak Road, Eagan, MN 55121
Date Revoked: September 4, 2002.
Reason: Failed to maintain a valid bond.

License Number: 1341F
Name: Gatell International, Inc.
Address: 7952 NW 14th Street, Miami, FL 33126
Date Revoked: August 23, 2002.
Reason: Failed to maintain a valid bond.

License Number: 517F
Name: General Shipping Co. Inc.
Address: 473 Broadway, Bayonne, NJ 07002
Date Revoked: August 10, 2002.
Reason: Failed to maintain a valid bond.

License Number: 197F
Name: Import Export Service of NJ, Inc.
Address: 972 Broad Street, Newark, NJ 07102
Date Revoked: August 31, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3779F
Name: L & E International Services, Inc.
Address: 380 West 78th Road, Hialeah, FL 33014
Date Revoked: August 21, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2662NF
Name: La Flor De Mayo Express, Inc.
Address: 311 Bruckner Boulevard, Suite B, Bronx, NY 10454
Date Revoked: July 24, 2002.
Reason: Failed to maintain valid bonds.

License Number: 829F
Name: Leyden Shipping Corporation
Address: 30 Vesey Street, Suite 1000, New York, NY 10007
Date Revoked: September 14, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17088NF
Name: Marist International Group Incorporated dba MIG Cargo Services and Galleon Express Lines

Address: 1212 5th Avenue, Suite K, Monrovia, CA 91016
Date Revoked: July 20, 2002.
Reason: Failed to maintain valid bonds.
License Number: 17384NF
Name: Northern Business Logistics Corporation
Address: 398 West Bagley Road, Suite 216, Berea, OH 44017
Date Revoked: July 18, 2002.
Reason: Failed to maintain valid bonds.
License Number: 3171F
Name: RSB Logistic Services Inc.
Address: 219 Cardinal Crescent, Saskatoon, Canada S7L–7K8
Date Revoked: August 22, 2002.
Reason: Failed to maintain a valid bond.
License Number: 4197F
Name: S.AC. International Forwarding, Inc. dba S.A.C. International Consolidators
Address: 8442 NW 70th Street, Miami, FL 33166
Date Revoked: June 12, 2002.
Reason: Failed to maintain a valid bond.
License Number: 2911F
Name: Yowell International Airlines Inc. dba Yowell International
Address: One Air Cargo Place #3, Melborne, FL 32901
Date Revoked: July 25, 2002.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–24350 Filed 9–24–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicant:

Delta Express Freight Service, Inc., 550 W. Patrice Place, #A, Gardena, CA 90248. Officer: David Y. Kim, President, (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

SeamAir Global Logistics, Inc., 2155 NW. 79th Avenue, Miami, FL 33122. Officers: Jaime A. Rivera, Vice President; (Qualifying Individual); Jaime W. Pozo, President.

UFO International Freight Forwarder Corporation, 9601 Bolsa Avenue, Westminster, CA 92683. Officers: Kim Nguyen Pham, President, (Qualifying Individual); Khanh Qocc Nguyen, Vice President.

Nova Logistics Inc., 10302 NW. So. River Dr., Bay #9, Miami, FL 33178. Officers: Gloria Isel Echegaray, Director, (Qualifying Individual); Luz Divina Moreno, Director.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant:

American Consultative Logistics dba ACL, 806 Cornell Road, Franklin Square, NY 11010. Elizabeth M. Gibson, Sole Proprietor.

Dated: September 20, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–24351 Filed 9–24–02; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Breast and Cervical Cancer Early Detection and Control Advisory Committee, Centers for Disease Control and Prevention, of the Department of Health and Human Services, has been renewed for a 2-year period, extending through September 12, 2004.

For further information, contact Kevin Brady, Executive Secretary, Breast and Cervical Cancer Early Detection and Control Advisory Committee, Centers for Disease Control and Prevention, of the Department of Health and Human Services, 4770 Buford Highway, NE, M/S K–52, Atlanta, Georgia 30341–3724, telephone 770/488–4343 or fax 770/488–4727.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: September 18, 2002.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–24302 Filed 9–24–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Board on Radiation and Worker Health (ABRWH).

Times and Dates: 8 a.m.–4:30 p.m., October 15, 2002; 8 a.m.–5 p.m., October 16, 2002.

Place: Inn at Loretto, 211 Old Santa Fe Trail, Santa Fe, New Mexico 87501, telephone 505/988–5531, fax 505/984–7988.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 65 people.

Background: The Advisory Board on Radiation and Worker Health (''the Board'') was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President, through the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS, advice on methods of dose reconstruction which have also been promulgated as an interim final rule, evaluation of the validity and quality of dose reconstructions conducted by the National Institute for Occupational Safety and Health (NIOSH) for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000, the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and in November 2001, the President completed the appointment of an initial roster of 10 Board members. In April 2002 and August 2002, the President appointed additional members to ensure more balanced representation on the Board. The initial tasks of the Board are to review and provide advice on the proposed and interim rules of HHS.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed: Agenda for this meeting will focus on dose reconstruction contract award information, dose reconstruction examples, site profile development, residual contamination study, Board member interaction with claimants, and the dose reconstruction workgroup report.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/458–7125.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 18, 2002.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–24303 Filed 9–24–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Children's Hospitals Graduate Medical Education (CHGME) Payment Program: Proposed Methodology for Calculating Reconciliation Payment, Calculating Indirect Medical Education Payment, Disseminating CHGME Payment Program Data and Audit and Clarification of Policy on Hospital Eligibility

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: This notice requests comments on proposed methodology for determining payments during the Children's Hospitals Graduate Medical Education (CHGME) Payment Program's reconciliation process, calculating indirect medical education (IME) payment, disseminating CHGME Payment Program data, and audit. The Program is authorized by section 340E of the Public Health Service Act (42 U.S.C. 256e), as amended by Pub. L. 106–310, The Children's Health Act, 2000. The notice also sets forth clarification of policies on hospital eligibility.

DATES: Interested persons are invited to comment by October 25, 2002. All comments received on or before October 25, 2002, will be considered in the development of the final notice concerning the proposed methodology. The Department will address comments individually or by group and publish a final notice on these comments in the **Federal Register**. Comments will also be available for public inspection, beginning October 25, 2002, at the address below from 8:30 a.m.–5 p.m. on weekdays, except for federal holidays.

ADDRESSES: Submit all written comments concerning this notice to Ayah E. Johnson, Ph.D., Chief, Graduate Medical Education Branch, Division of Medicine and Dentistry, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; or by e-mail to *ChildrensHospitalGME@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: Ayah E. Johnson, Ph.D., Chief, Graduate Medical Education Branch, Division of Medicine and Dentistry, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–1058 or e-mail address *ChildrensHospitalGME@hrsa.gov*.

SUPPLEMENTARY INFORMATION: The CHGME Payment Program, as authorized by section 340E of the Public Health Service (PHS) Act (the Act) (42 U.S.C. 256e), provides funds to children's hospitals that operate graduate medical education (GME) programs. Public Law 106–310 amended the CHGME statute to continue the Program through fiscal year (FY) 2005.

Subsequent to the publication of this notice, CHGME policies will be put forth in regulations through the rulemaking procedures in accordance with Title 5 of the United States Code, as required by amendments to the CHGME statute made by Pub. L. 106–310, the Children's Health Act, 2000.

The Department wishes to provide clarification on the policy related to hospital eligibility. This policy was first described in the March 1, 2001 (66 FR 12940), and the July 20, 2001 (66 FR 37980) **Federal Register**.

The Department wishes to clarify the relationship between the list of children's hospitals published in the March 1, 2001 **Federal Register** and those hospitals eligible to participate in the CHGME Payment Program.

The March 1, 2001 **Federal Register** notice list is comprised of hospitals that the CHGME Payment Program believed at that time to be potentially eligible based upon their Medicare provider number. However, all hospitals must meet the eligibility criteria set forth in the CHGME statute and applicable policy notices.

The Department will update the list of hospitals potentially eligible to participate in the CHGME Payment Program on an annual basis. The annual update will be available on the CHGME Web site: *http://bhpr.hrsa.gov/childrenshospitalgme*. The list is not a final determination of eligibility. A hospital omitted from this list, including a new hospital, can obtain an application by downloading it from the CHGME Web site.

Provisions Proposed for Comment

The Department is soliciting comments on the following proposed provisions within these rules: (1) Methodology for determining direct and indirect medical education (DME and IME, respectively) payments during the withholding and reconciliation process stipulated in the CHGME statute—a methodology is proposed for children's teaching hospitals and ''new children's teaching hospitals'' that are eligible to participate in the CHGME Payment Program; (2) methodology for calculating IME payments; (3) dissemination of CHGME Payment Program data.

I. Proposed Methodology for Calculating Reconciliation Payments

The CHGME statute, prior to its amendment, provided for a withholding and reconciliation process designed to increase the accuracy of the DME payments made to hospitals. The amendments revised this provision to include IME payments in the withholding and reconciliation process.

As revised, the CHGME statute requires the Secretary to withhold up to 25 percent from each interim installment payment for both DME and IME as necessary to ensure that a hospital will not be overpaid on an interim basis. In accordance with the CHGME statute, the Department must determine, prior to the end of the

Federal fiscal year (FY), any changes to the number of residents reported by a hospital in its yearly initial application for CHGME Payment Program funding to determine the final amount payable to the hospital for that FY. Funding withheld will be paid to children's hospitals following the determination of changes, if any, to the number of residents initially reported by participating hospitals.

Beginning in FY2002, the Department will implement the Program's withholding process for both DME and IME payments to reduce the likelihood that a hospital is overpaid on an interim basis. The Department proposes the following methodology for the determination of revised resident counts and reconciliation processes beginning in FY2002:

Reporting Revised Resident Counts

During the third quarter of each FY (March 1—June 30) for which payments are being made, CHGME would release a reconciliation application providing hospitals the opportunity to report changes in the resident FTE counts previously reported in their initial applications. The reconciliation application would include forms HRSA–99 (Hospital Demographics), HRSA–99–1 (Reconciliation of FTE counts), HRSA–99–3 (Certification), and HRSA–99–4 (Required Data Reporting for Government Performance and Results Act). This collection of information has been approved under OMB No. 0915–0247. Hospitals would have 30 days to complete and return the reconciliation application. If a hospital fails to complete and return the reconciliation application according to the terms and conditions of the CHGME Payment Program, HHS may suspend the award, pending corrective action or may terminate the award for cause.

Several respondents to the March 1, 2001 **Federal Register** notice requested clarification on whether the reconciliation process would include only adjustments to changes in resident counts or would it include other changes. The CHGME Payment Program currently reconciles resident FTE counts only.

Hospitals that were not eligible to participate or did not apply for funding during the initial application cycle are not eligible to apply for and receive funding during the reconciliation process. These hospitals must wait until the next ''initial'' application cycle to apply.

Determining Revised Resident Counts

Hospitals must use the methodology described in the July 20 **Federal Register** notice to determine and report revised resident counts to the CHGME Payment Program. The revised resident FTE counts must be for the same Medicare cost report (MCR) period(s) identified in the hospital's initial application for CHGME Payment Program funding. For purposes of clarification, an FTE resident is measured in terms of time worked during a residency training year. It is not a measure of individual residents who are working.

Hospitals would report their updated resident counts by completing and submitting a new form HRSA 99–1. Hospitals whose resident counts have not changed are not exempt from completing and submitting a CHGME Payment Program reconciliation application. Revised resident FTE counts reported by hospitals that file a full MCR must be in accordance with CHGME rules. The resident counts reported in the reconciliation application must be consistent and attested to by the hospital's fiscal intermediary (FI) to be accepted by HRSA.

Hospitals which file a low or no-utilization MCR and report changes to the resident FTE counts reported in their initial CHGME Payment Program application must provide a detailed explanation of the revision with supporting documentation in accordance with CHGME requirements. Revised resident FTE counts that are submitted without an explanation and supporting documentation will not be accepted.

Determining Revised Resident Counts for ''New Children's Teaching Hospitals''

''New children's teaching hospitals'' would calculate resident FTE counts for the reconciliation application process in one of two ways:

1. If a hospital has filed an MCR by the CHGME Payment Program reconciliation application deadline, the hospital would report the actual number of resident FTEs trained during that cost reporting period; or

2. If a hospital has not filed an MCR by the CHGME Payment Program reconciliation application deadline, the hospital use the methodology described in the July 20 **Federal Register** notice, with an appropriate adjustment to the timeframe, to determine and report its revised resident counts. The timeframe used to determine revised resident counts for the reconciliation application process is the beginning of the FY for which payments are made up to the reconciliation application deadline date. The revised FTE resident count would equal the average number of FTE residents trained per day during this period multiplied by the total number of days the hospital will be training residents during the FY for which payments are being made. These hospitals would calculate their revised FTE resident count for reconciliation payments as follows:

a. Determine the number of days from the beginning of the FY for which payments are made to the CHGME Payment Program reconciliation application deadline date during which the hospital will be training residents.

b. Count the actual (raw) number of unweighted resident FTEs for allopathic and osteopathic residents trained during the period specified in (a).

c. Divide the total number of unweighted FTEs trained in ''(b)'' by the number of days during the eligibility period specified in ''(a)'' above. This number is the average number of unweighted FTE residents trained per day for the period between the beginning of the FY for which payments are being made and the date the CHGME Payment Program reconciliation application is due.

d. Determine the number of days the hospital will be training residents in the fiscal year for which payments are being made. Although the majority of hospitals will be likely to train residents for a full fiscal year (*i.e.*, 365 days (366 days in leap year)), it is possible that some hospitals may not train residents for an entire year. Those hospitals should determine the number of days they will be training residents and use that number in subsequent calculations.

e. Multiply the average number of unweighted resident FTE count for allopathic and osteopathic residents trained per day ''(c)'' by the number of days that your hospital will be training residents during the fiscal year in which payments are being made ''(d)''.

f. Use the same methodology (steps a through e above) to determine the weighted resident FTE count of allopathic and osteopathic residents.

g. Use the same methodology (steps a through e above) to determine the unweighted and weighted resident FTE count for dental and podiatric residents.

''New children's teaching hospitals'' would report these updated resident counts on form HRSA 99–1 of the reconciliation application.

Although this methodology delineates the method by which partial year residents are counted for ''new children's teaching hospitals'', it is important to note that all counts are subjected to the cap set by the affiliation agreement with any existing approved residency program. Since the CHGME

Payment Program is paying hospitals for training residents during the FY for which payments are being made, the Program would convert a partial training period to reflect the amount of time the hospital will be training residents during the FY for which payments are being made.

Example:

Children's Hospital A (CHA) is a ''new children's teaching hospital'' that submitted an application to the CHGME Payment Program in FY 2002. CHA intends to participate in the CHGME reconciliation process and needs to determine its revised FTE resident count. CHA would not have filed a Medicare cost report prior to the reconciliation application deadline. In order to calculate its revised FTE resident count, CHA would need to complete the following steps:

a. Calculate the number of days from beginning of FY2002 to the reconciliation application deadline (October 1, 2001 to May 1, 2002). The total number of days is 212.

b. Calculate the actual ''raw'' number of unweighted allopathic and osteopathic resident FTEs trained during this period. CHA determined that it trained 55 FTEs.

c. Determine the average number of unweighted allopathic and osteopathic residents trained per day: 55 FTEs/212 days = 0.2594 FTEs/day.

d. Determine the number of days in FY 2002 that CHA will be training residents: 365.

e. Determine the estimated number of unweighted allopathic and osteopathic residents that CHA will be training in FY 2002: 365 days × 0.2594 FTEs/day = 94.69 (rounded from 94.69339).

f. CHA would repeat the above steps to determine the estimated number of weighted allopathic and osteopathic residents as well as the weighted and unweighted dental and podiatric residents.

Determining IME Payments for ''New Children's Teaching Hospitals''

The Department wants to use the most accurate data it can obtain to calculate hospitals' payments. Therefore, the Department proposes that ''new children's teaching hospitals'' participating in the CHGME Payment Program that had not filed an MCR or completed a full Medicare cost reporting period at the time of submission of their initial CHGME Payment Program application, complete and resubmit a revised form HRSA 99–2 as part of the reconciliation application process.

''New children's teaching hospitals'' would calculate the variables initially reported on HRSA 99–2 using the methodology previously described in one of two ways:

1. If a hospital has filed an MCR or completed a full Medicare cost reporting period by the CHGME Payment Program reconciliation application deadline, the hospital would report the data requested from the completed cost reporting period; or

2. If a hospital has not filed an MCR or completed a full Medicare cost reporting period by the CHGME Payment Program reconciliation application deadline, the hospital would use the methodology described in the July 20 **Federal Register** notice, with an appropriate adjustment to the timeframe, to determine and report its revised data. The timeframe to be used for the reconciliation application process is the beginning of the FY for which payments are made until the CHGME reconciliation application deadline date.

Withholding and Reconciliation Payment

The Secretary would determine any balance due or any overpayment made to individual hospitals following the determination of changes, if any, to the number of residents reported by hospitals in their reconciliation applications. Hospitals would be notified, in writing, of the Secretary's final reconciliation payment determination during the fourth quarter (July 1—September 30) of the FY in which payments are being made.

Hospitals that have been notified of an overpayment would have 30 days to return the overpayment to the Department without accrual of interest. Hospitals that fail to return overpayments within the specified timeframe would accrue and be responsible for any interest.

Reconciliation payments would be made to individual hospitals on or before the end of the FY (September 30) in which payments are being made. The Secretary would include in the reconciliation payments funding initially withheld from the hospital as a result of withholding and underpayment based on any increase in FTEs. Also included in the payments would be each hospital's portion of any funds that are returned to the Department during the course of the FY as a result of overpayment or other hospitals' loss of eligibility.

Hospitals that report no changes to their resident FTE counts during the reconciliation process can expect changes to their final payment determination as a result of resident FTE count changes reported by other participating hospitals. This is based upon the payment methodology used to determine CHGME Payment Program funding to individual hospitals. Payments to individual hospitals are based upon the hospital's share of the total amount of DME and IME funding available for a given FY. A hospital's portion of the total IME and DME funding available is calculated based on payment variables in the CHGME Payment Program statute and regulations. This individual hospital portion (the numerator) is then divided by the sum of all hospitals' portion (the denominator) to determine its ''share'' of the available funding. Hence, although an individual hospital's FTE count and subsequent portion (numerator) may not change at the time of the reconciliation application process, the denominator of the payment calculation may change as a result of changes in FTE counts reported by other hospitals.

As provided by statute, a hospital may request a hearing on the Secretary's payment determination by the Provider Reimbursement Review Board under section 1878 of the Social Security Act (42 U.S.C. 1395oo), implemented by regulations at 42 CFR part 405, subpart R.

It should also be noted that the reconciliation process proposed does not take the place of a separate audit process to which the hospitals may be subject. Participating children's hospitals are subject to audit (other than OMB Circular 133) to determine whether the applicant hospital has complied with applicable laws and regulations in its application for funding.

Example: Assume in FY 2001 the total amount of funding available for disbursement to four children's hospitals was $5 million. Based upon this funding level and the data reported by hospitals, the following CHGME DME payments were calculated using the methodology described in the March 1 **Federal Register** notice.

Hospital	Weighted FTE rolling average	Wage index	Relative value	Hospital share of DME	DME payment
Children's Hospital A	92.19	0.9310	87.66725079	0.451948742	$2,259,743.71

Hospital	Weighted FTE rolling average	Wage index	Relative value	Hospital share of DME	DME payment
Children's Hospital B	71.50	1.1969	81.50970685	0.420204913	2,101,024.57
Children's Hospital C	25.50	0.4621	15.74760405	0.081183221	405,916.11
Children's Hospital D	6.50	1.5521	9.05153015	0.046663122	233,315.61
Total Value	195.69	N/A	193.9760918	N/A	5,000,000.00

During the reconciliation application process, Children's Hospitals B, C and D reported no changes to the resident FTE counts reported in their initial applications; however, Children's Hospital ''A'' reported a decrease in its resident count of 8.94. In accordance with CHGME Payment Program statutes, payments were recalculated based upon the changes in resident FTE counts reported by hospitals. Payment variables affected by Children's Hospital A's change in the resident FTE count reported are bolded in the chart below.

Hospital	Weighted FTE rolling average	Wage index	Relative value	Hospital share of DME	DME payment
Children's Hospital A	**83.25**	0.9310	**79.16583825**	**0.426828279**	**$2,134,141.40**
Children's Hospital B	71.50	1.1969	81.50970685	**0.439465414**	**2,197,327.07**
Children's Hospital C	25.50	0.4621	15.74760405	**0.084904333**	**424,521.67**
Children's Hospital D	6.50	1.5521	9.05153015	**0.048801972**	**244,009.86**
Sum, where applicable	**189.19**	N/A	**185.4746793**	N/A	5,000,000.00

II. Proposed Methodology for Calculation of Indirect Medical Education (IME) Payment

For the FY 2000, 2001 and 2002 funding cycles, the CHGME Payment Program used the Centers for Medicare and Medicaid Services (CMS) published wage index (WI) from FY 1999 to calculate the DME and IME payment formulas for children's hospitals. The CHGME statute requires that the FY 1999 WI be used to calculate DME payments, and the Department maintained its use in the IME payment calculations for purposes of consistency.

Beginning with FY 2003, the Department proposes to use the CMS published WI from the most recent fiscal year available for calculating IME payments. Although this would result in two different WIs being used in calculating payments received by children's hospitals, one for DME and another for IME, it would allow a calculation of IME that is more current, fair and equitable, as it would use the WI currently used by CMS in the calculation of IME payments to all Prospective Payment System (PPS) hospitals.

One potential concern in making this decision was the potential impact on funding to children's hospitals given the recent changes in methodology used to determine the WI. Beginning in FY 2000, the derivation of the WI phases out the inclusion of costs associated with teaching faculty at a rate of 20% per year—this ''phase out'' will continue over 5 years. The WI will tend to be most impacted in those areas with high numbers of teaching hospitals.

The CHGME Payment Program evaluated the resulting changes in the WI between FY 1999 and FY 2002 for the children's hospitals participating in the program in FY 2002. The analysis indicates that the majority of hospitals would experience a change in their WI, either an increase or a decrease, of less than five percent, as shown in the table below. Given this relatively small change, the Department determined that it was reasonable to use the WI from the FY for which payments are being made in the calculation of IME payments. In addition, by employing this methodology, the CHGME Payment Program would be consistent with current Medicare policy regarding use of the WI for calculation of IME payments. In the event that the CHGME Payment Program statute is amended regarding the use of WI, the program would implement the statutorily mandated changes.

Percentage change in area wage index values between FY 1999 and FY 2002	Number of and children's hospitals
Increase more than 10 percent	2
Increase more than 5 percent and less than 10 percent	9
Increase or decrease less than 5 percent	45
Decrease more than 5 percent and less than 10 percent	3
Decrease more than 10 percent	0

The Department has received inquiries related to the appropriateness of using the WI calculated by CMS, derived from PPS hospital data, as it is not necessarily well applied to children's hospitals. To determine the WI, data are gathered from non-federal, short-term, acute care hospitals from Worksheet S–3, Parts II and III of the Medicare Cost Report (Form 2552–96). Hospitals provide information on wages, employee hours and benefits including details of total salaries and the amounts for physicians and non-physicians. They must separately report contract and non-contract amounts, as well as teaching and non-teaching amounts for physicians and other employees. CMS totals the gross allowable wages of PPS-eligible hospitals within a defined labor market area and divides them by the total paid hours for the area and thereby develops an hourly wage for the area. The WI is calculated by dividing this average by the national average hourly wage.

CMS WI calculations currently include data from children's hospitals participating in the CHGME Program that file full Medicare cost reports. Given these participating hospitals' data already are captured in calculating the CMS WI, an independent WI calculation would be both administratively and fiscally burdensome. The Department considers the CMS derived WI to be the most appropriate tool for calculating payments.

III. Proposed Dissemination of CHGME Payment Program Data

Currently, any requests for program data or application information must be submitted to Steven Merrill, Freedom of Information Act (FOIA) Officer, Health Resources and Services Administration (HRSA) FOIA Office, 5600 Fishers Lane, Room 14–45, Rockville Maryland 20857.

The Department proposes that all data related to the CHGME Payment Program, including all information submitted in the program application, all information used to calculate DME and IME payments, and hospital-specific payments, be available to the public upon written request to a member of the CHGME Payment Program staff or the HRSA FOIA officer.

This information dissemination policy is similar to the one used by the Medicare program to disseminate Medicare cost report (MCR) information, 42 CFR 401.135. The MCR information is considered to be fully disclosable; that is, its release to the public poses no potential harm to the hospital(s) that originally submitted the MCR.

In addition, the Department proposes that the CHGME Payment Program follow the policies regarding fees and charges associated with release of information as stated in 45 CFR part 5, subpart D.

Other Applicable Laws, Executive Orders, and Policies

IV. Audit

In the March 1 **Federal Register** notice, the Department announced that awards under the CHGME Payment Program must be audited under OMB Circular A–133. The Department is reconsidering its position with respect to this requirement and proposes that this program not be considered Federal awards expended under OMB Circular A–133. The only compliance requirements the Department needs tested for this program are application and reconciliation application reporting. There are no other compliance requirements the Department believes need to be tested for this program under OMB Circular A–133 Audits. Since the Secretary must account for change in the number of residents prior to the close of each fiscal year, it is important to assess the accuracy of counts per the application prior to year end. The Department will establish a process to assess the accuracy of the FTE counts submitted by children's hospitals in their application for funds from the CHGME Payment Program. The process will be based on the current assessment process utilized by CMS in their review of FTE counts included on the Medicare cost reports. The process will be implemented by Department contractors familiar with both CMS procedures and CHGME Payment Program requirements. The Department will publish more details for comment about this common assessment process in the **Federal Register** at a future date. The Department believes this approach is more effective, as it provides up-front assurance on the mandated reconciliation of FTE counts which are the basis for awards. Excluding this program from the definition of Federal awards expended under OMB Circular A–133 will remove a potential duplication of the auditor testing FTE counts that the Department has already verified and in many cases will allow these audit resources to be used to test other Federal programs of higher risk. The Department proposes to make this change effective for Federal fiscal year 2003 awards.

Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). In addition, under the Regulatory Flexibility Act (RFA of 1980), if a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of a rule on small entities and analyze regulatory options that could lessen the impact of the rule.

Executive Order 12866 requires that all regulations reflect consideration of alternatives of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding an unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department has determined that the only burden this action will impose on children's hospitals is the resources required to submit an application to the CHGME Payment Program. Therefore, in accordance with the RFA and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, the Secretary certifies that this action will have a significant impact on a substantial number of small entities in that this action will provide significant funding to eligible children's hospitals. However, since this action will not impose a significant burden on a substantial number of small entities, we have not examined any alternatives for reducing the burden on children's hospitals. The Secretary has also determined that this action does not meet criteria for a major rule as defined by Executive Order 12866 and would have no major effect on the economy of Federal expenditures.

We have determined that the proposed rule is not a ''major rule'' within the meaning of the statute providing for Congressional Review of Agency Rulemaking, 5 U.S.C. 801.

Similarly, the proposed rule will not have effects on State, local and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of 1995.

Further, Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this action under the threshold criteria of Executive Order 13132, Federalism, and, therefore, have determined that this action would not have substantial direct effects on the rights, roles, and responsibilities of States.

Paperwork Reduction Act of 1995

In accordance with section 3507(a) of the Paperwork Reduction Act (PRA) of 1995, the Department is required to solicit public comments, and receive final Office of Management and Budget (OMB) approval, on collections of information. As indicated, in order to implement the CHGME Payment Program, certain information is required as set forth in this notice in order to determine eligibility for payment and amount of payment. In accordance with the PRA, we have received final OMB approval on the collection of information for the reconciliation procedures in the FY02 cycle (OMB No. 0915–0247).

Collection of Information: The Children's Hospitals Graduate Medical Education Payment Program.

Description: Data is collected on the number of full-time equivalent residents in applicant children's hospital training programs to determine the amount of direct and indirect medical education payments to participating children's hospitals. Indirect medical education payments will also be derived from a formula that requires the reporting of discharges, beds, and case mix index information from participating children's hospitals. Hospitals will be requested to submit such information in an annual application. Hospitals will also be requested to submit data on the number of full-time equivalent residents a second time during the fiscal year to participate in the reconciliation payment process.

Description of Respondents: Children's hospitals operating approved

graduate medical residency training programs.

Estimated Annual Reporting: The estimated average annual reporting for this data collection is approximately 150 hours per hospital. The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total burden hours
HRSA–99–1	54	1	99.9	5,395
HRSA 99–1 (Reconciliation of FTE counts)	54	1	8	432
HRSA 99–2	54	1	14	756
HRSA–99–4	54	1	28	1,512
Total	54			8095

National Health Objectives for the Year 2010

The Public Health Service is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, and its successor, Healthy People 2010. These are Department-led efforts to set priorities for national attention. The CHGME Payment Program is related to the priority area 1 (Access to Quality Health Services) in Healthy People 2010, which is available online at *http://www.health.gov/healthypeople.*

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between Department education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Department strongly encourages all award recipients to provide a smoke-free workplace and promote abstinence from all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

This program is not subject to the Public Health Systems Reporting Requirements.

Dated: April 17, 2002.

Elizabeth M. Duke,

Administrator, Health Resources and Services Administration.

Dated: June 5, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–24311 Filed 9–24–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Years (FY) 2003 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Fiscal year (FY) 2003–2006 allotments to States for protection and advocacy for individuals with mental illness.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2003 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, *Fiscal Years (FY 2003–2006 Allotments to States for Protection and Advocacy for Individuals with Mental Illness (SM 03–F1), and* Part II, *General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements*, before preparing and submitting an application.

Activity	Application deadline	Est. Funds FY 2003	Est. number of awards	Project period (years)
FY 2003—2006 Allotments to States for Protection and Advocacy for Individuals with Mental Illness.	October 1, 2002	Formula	Formula	4

The actual amount available for these grants will depend on the amount appropriated for the program. This program is being announced prior to the annual appropriation for FY 2003 for SAMHSA's programs. Applications are invited based on the assumption that sufficient funds will be appropriated to fund the program in FY 2003. This program is being announced at this time in order to allow applicants sufficient time to plan and prepare applications. Solicitation of applications in advance of a final appropriation will also enable the award of appropriated grant funds in an expeditious manner and thus allow prompt implementation and evaluation of promising practices. All applicants are reminded, however, that we cannot guarantee sufficient funds will be appropriated to permit SAMHSA to fund any applications. This program is authorized under the Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. 10801, *et seq.* (as amended in 2000). SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting

applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Mental Health Services Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015. Telephone: 1–800–789–2647.

The PHS 5161–1 application form and the full text of the grant announcement are also available electronically via SAMHSA's World Wide Web home page: *http://www.samhsa.gov,* (Click on ''Grant Opportunities'').

When requesting an application kit, the applicant must specify the particular announcement number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose

The U.S. Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) will award grants to the eligible systems in each State to facilitate the fulfillment of the purpose of the Protection and Advocacy for Individuals with Mental Illness Act of 1986 [42 United States Code (U.S.C.) 10801, *et seq.*], hereafter referred to as the Act. The purpose of the Act is:

- To ensure that the rights of individuals with mental illness are protected; and,
- To assist States to establish and operate a protection and advocacy system for individuals with mental illness which will protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and,
- To investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

Eligibility

Under the terms of the Act, awards are made only to ''eligible systems.'' This means the system established in a State to protect and advocate the rights of persons with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act, Public Law 106–402, as amended on October 30, 2000, hereafter, referred to as the DD Act [42 U.S.C. 6041 *et seq.*].

Availability of Funds

Monetary awards to eligible systems are provided as formula grants. The formula used to determine a PAIMI grant award is prescribed by the Secretary. In anticipation of an annual PAIMI appropriation and for purposes of this announcement, eligible State protection and advocacy systems are to prepare and submit a provisional budget for each fiscal year (FY) 2003–2006 based upon the PAIMI award received in the preceding FY. In FY 2002, the PAIMI awards were as follows: a minimum of $384,900 to each State, the District of Columbia and Puerto Rico; and $206,200 to each territory—the American Indian Consortium, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands. Future PAIMI allotments will depend upon the appropriation of funds.

Period of Support

A PAIMI application submitted on or before October 1 in FYs 2003, 2004, 2005 and 2006, shall be considered a request for a PAIMI Program award for that fiscal year. Each annual PAIMI grant award is available for obligation by a State protection and advocacy system for the Federal fiscal year in which it was awarded. Amounts not obligated by the system at the end of such year shall remain available to such system for the next fiscal year for the purposes for which the award was made. Funds shall not be carried over as additional authorization beyond that time period. For example, PAIMI awards made in FY 2002 (October 1, 2001) must be obligated by September 30, 2003 and expended by September 30, 2004. Each grant award is contingent on Congressional re-authorization of the PAIMI Act and the availability of appropriated funds. In fiscal years 2004, 2005 and 2006, each State protection and advocacy system must submit a continuation application and provide a set of the following documents: annual assurances, certifications, projected program expenditures, an information page and a list of program priorities and objectives for the fiscal year.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criterion.

Catalog of Federal Domestic Assistance Number

93.138.

Program Contact

For questions concerning program issues, contact: Ms. Karen S. Armstrong, M.S., J.D., Senior Public Health Advisor, Protection and Advocacy Program, SAMHSA, Center for Mental Health Services, State Planing and Systems Development Branch, 5600 Fishers Lane, 15C–21, Rockville, MD 20857. Office: (301) 443–3667. Fax: (301) 443–7926. E-mail: *KArmstro@SAMHSA.gov.*

Alternate: Ms. Marie Danforth, M.S.W., Chief, State Planing and Systems Development Branch, Division of State and Community Systems Development, SAMHSA, Center for Mental Health Services, 5600 Fishers Lane, 15C–26, Rockville, MD 20857. Office: (301) 443–3667. Fax: (301) 443–5427. E-mail: *MDanforth@SAMHSA.gov.*

For questions regarding grants management issues, contact: Ms. LouEllen Rice, Grants Management Officer, Division of Grants Management, Office of Program Services, SAMHSA, 5600 Fishers Lane, 13–103, Rockville, Maryland 20857. (301) 443–4456. E-mail: *LRice@SAMHSA.gov.*

Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2003 activity is subject to the Public Health System Reporting Requirements.

PHS Non-Use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2003 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials or on SAMHSA's Web site under ''Assistance with Grant Applications''. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: September 20, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–24365 Filed 9–24–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–47]

Notice of Submission of Proposed Information Collection to OMB: Administration of Ginnie Mae's Pools of Mortgage-Backed Securities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 25, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2503–0017) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Administration of Ginnie Mae's Pools of Mortgage-Backed Securities.

OMB Approval Number: 2503–0017.

Form Numbers: 11708, 11709, 11709A, 11715, and 11720.

Description of the Need for the Information and its Proposed Use: Information provides Ginnie Mae issuers authority to request the release of mortgage documents, initiate ACH debits, provide evidence of a master principal/interest custodial account, and will insure that Ginnie Mae is able to access the mortgage documents which are the collateral backing the mortgage-backed securities.

Respondents: Business or other for-profit.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	297	11		0.2		810

Total Estimated Burden Hours: 810.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 13, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–24272 Filed 9–24–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–48]

Notice of Submission of Proposed Information Collection to OMB: Construction Complaint-Request for Financial Assistance

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 25, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0047) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and the OMB Desk Officer for the Department. This Notice also lists the following information:

Title of Proposal: Construction Complaint-Request for Financial Assistance.

OMB Approval Number: 2502–0947.

Form Number: HUD–92556.

Description of the Need for the Information and its Proposed Use: Information collected will provide homeowners resource in resolving their construction complaints. HUD also uses the information to construct a listing of builders that do not meet their obligations.

Respondents: Individual or households, business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	5,000	1		0.5		2,500

Total Estimated Burden Hours: 2,500.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 25, as amended.

Dated: September 18, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–24273 Filed 9–24–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 25, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–062224

Applicant: Embry W. Williams, Jr., Amarillo, TX

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–062472

Applicant: Roland Christensen, Fayette, UT

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–062473

Applicant: Matthew T. Christensen, Fayette, UT

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of enhancement of the survival of the species.

PRT–677648

Applicant: University of Kansas Natural History Museum & Biodiversity Research Center, Lawrence, KS

The applicant requests a permit to export, re-export, and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant for a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–058039

Applicant: Jordon Pearlman, Reno, NV

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Norwegian Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: September 13, 2002,

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–24314 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax (703) 358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: On June 25, 2002, a notice was published in the **Federal Register** (67 FR 42791), that an application had been filed with the Fish and Wildlife Service by Dietrich Beusse, University of Florida, Gainesville, FL for a permit (PRT–051399) to take for scientific research Florida manatees (*Trichechus manatus)* to record and playback vocalizations in Florida waters.

Notice is hereby given that on August 28, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On June 28, 2002, a notice was published in the **Federal Register** (67 FR 43676), that an application had been filed with the Fish and Wildlife Service by Edwin De Young for a permit (PRT–058028) to import one polar bear (*Ursus maritimus*) taken from the Viscount Melville polar bear population, Canada, for personal use.

Notice is hereby given that on August 28, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On July 5, 2002, a notice was published in the **Federal Register** (67 FR 44873), that an application had been filed with the Fish and Wildlife Service by George R. Harms, Brielle, NJ for a permit (PRT–058893) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound polar bear population, Canada, for personal use.

Notice is hereby given that on September 10, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On July 9, 2002, a notice was published in the **Federal Register** (67 FR 45530), that an application had been filed with the Fish and Wildlife Service by University of South Florida, College of Marine Science, St. Petersburg, FL for a permit (PRT–051709) to take for scientific research Florida manatees (*Trichechus manatus*) to record and playback vocalizations in Florida waters.

Notice is hereby given that on August 28, 2002, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

On July 9, 2002, a notice was published in the **Federal Register** (67 FR 45530), that an application had been filed with the Fish and Wildlife Service by K. James Malady, III, for a permit (PRT–058909) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound polar bear population, Canada, for personal use.

Notice is hereby given that on August 28, 2002, as authorized by the

provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

Dated: September 13, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–24315 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

National Wildlife Refuge System; National Wildlife Refuge System Centennial Commission Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting of National Wildlife Refuge Centennial Commission.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App1, section 10), notice is hereby given that the National Wildlife Refuge System Centennial Commission will hold its second meeting.

DATES: The meeting will be held September 24 and 25, 2002 in Washington, DC. The meeting will convene at 12 noon on September 24 and end at approximately 5:30 p.m., begin again at 8 a.m. on September 25 and conclude at 12 noon.

ADDRESSES: The meeting is scheduled to be held at: Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Laurie Shaffer, 703–358–2035.

SUPPLEMENTARY INFORMATION: The Centennial Commission was established by Title III, Section 303 of the Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000 (H.R. 3671). The purpose of the Commission is to prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003. They are also charged with planning a conference for the Centennial year.

The meeting will be open to the public, however, facilities and space of accommodating members of the public are limited and persons will be accommodated on a first-come first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. We will make attempts to meet any request(s) received after that date, however, the requested auxiliary aid or service may not be available due to insufficient time.

Anyone may file with the Commission a written statement concerning matters to be discussed. The Commission may also permit attendees to address the Commission but may restrict the length of the presentations, as necessary, to allow the Commission to complete its agenda within the allotted time.

Interested persons may file written statements with the Commission prior to the business meeting. Written statements may be sent to the Director, U.S. Fish and Wildlife Service, attention: Centennial Commission Coordinator at least 7 days prior to the meeting. Further information regarding the meeting may be obtained from the Division of Visitor Services and Communications, National Wildlife Refuge System, 4401 N. Fairfax Drive, Arlington, VA 22203. Telephone: 703–358–2035.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting in Room 600, 4401 N. Fairfax Drive, Arlington, VA 22203.

MATTERS TO BE CONSIDERED: Major topics for discussion during this meeting include:

Welcome

Objectives of the meeting

Minutes of the last meeting

Addition and corrections to the agenda

Business:

1. Centennial Events and Plans
2. Conference Proposal
3. Funding opportunities and partnerships

Closing remarks (including summary of accomplishments of the meeting, date of next proposed meeting, assignment of tasks).

The Commission will also discuss organizational and administrative needs.

Dated: August 29, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02–24283 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1990–EX]

Record of Decision; Leeville Project, Eureka Co., NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of record of decision.

SUMMARY: This notice announces the signing of the Record of Decision on the proposed Leeville Project. The decision to approve the mining operation will be in full force and effect, when the Field Office Manager signs the Record of Decision.

EFFECTIVE DATES: The decision to approve the mining operation will be in full force and effect, on September 25, 2002 when the Field Office Manager signs the Record of Decision. A petition for a stay of the decision must be filed in accordance with 43 CFR 4.411 and 4.413. If you believe you are adversely affected by the Record of Decision you have 30 days, from the date of publication of this notice, to file a Notice of Appeal in the Elko Field Office (*See* 43 CFR 4.411 and 4.413).

ADDRESSES: You may obtain a copy of the Record of Decision from: Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada 89801. You must send your notice of Appeal to: Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, NV 89801, and you must also send a copy to: Office of the Regional Solicitor, Salt Lake City Federal Building, 125 South State Street, Salt Lake City, UT 84138.

FOR FURTHER INFORMATION CONTACT: Deb McFarlane, Project Coordinator, Elko Field Office, Bureau of Land Management, 3900 Idaho Street, Elko, Nevada 89801, (775) 753–0200.

SUPPLEMENTARY INFORMATION: As authorized by Section 202 of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), Elko Field Office prepared an Environmental Impact Statement (EIS) under a third party contract, to analyze impacts and alternatives for Newmont Mining Corporation's proposed Leeville Project. The proposed project expansion would result in disturbance of an additional 486 acres of federal and private lands located in Eureka County,

Nevada. The Notice of Availability of the Final EIS was published in the **Federal Register** July 26, 2002 (67 FR 48942).

The Elko Field Office Manager will sign the Record of Decision (ROD) concurrent with this notice approving the project and incorporating mitigating modifications analyzed under the proposed action. The decision to approve the mining operation will be in full force and effect, effective when the Field Office Manager signs the Record of Decision. A petition for a stay of the decision must be filed in accordance with the regulations at 43 CFR part 4.

Copies of the ROD can be obtained from the Elko Field Office at 3900 Idaho Street, Elko, Nevada, or by calling (775) 753–0200 and requesting a copy of the document. You may also download the document from the Elko Field office internet site at *www.nv.blm.gov/elko.* Additionally, we will mail a copy of the ROD to individuals, agencies or companies that commented during the scoping process, or on the Draft and Final EIS.

Helen Hankins,

Elko Field Office Manager.

[FR Doc. 02–24297 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–03000–1430–ER]

Notice of Intent To Consider a Plan Amendment and Prepare an Environmental Analysis for the Grand Staircase-Escalante National Monument Management Plan

AGENCY: Department of the Interior, Bureau of Land Management, Grand Staircase-Escalante National Monument, Utah.

ACTION: Notice of intent to consider a plan amendment and prepare an environmental analysis for the Grand Staircase-Escalante National Monument (GSENM) Management Plan to allow certain road improvements on the Hole-in-the-Rock Road.

SUMMARY: Pursuant to the Bureau of Land Management (BLM) Planning Regulations (43 CFR part 1600) this notice advises the public that the BLM, GSENM is considering amending the GSENM Management Plan in response to a proposal from Kane County to widen and upgrade the travel surface of the road known as the Hole in the Rock Road in Kane County, Utah. In addition, in accordance with the existing Monument Management Plan, consideration will be given to stabilization of washout prone areas, preventing erosion and sediment loading, and improving safety along the road. These proposed actions will be initially addressed through an environmental assessment. The scoping process will be used to help determine the appropriate level of environmental analysis (environmental impact statement (EIS) or environmental assessment.) If an EIS is warranted, the written comments in response to this notice may be used to help determine the scope of alternatives and analysis in the EIS. This notice initiates a 30-day public scoping period.

If you have information, data, or concerns related to the potential impacts of improving the Hole-in-the-Rock-Road, have comments on the planning criteria, or suggestions for alternatives, please submit them to the address below.

The Kane County Road Department has proposed improvements including widening the running surface of the road to a width of 26 feet with cut and fill slopes as needed, installing drainage structures (ditches, culverts etc.) as needed, and applying a gravel surface to the road. The improvements would be on the segment of road starting at the Kane/Garfield County line and south for approximately 18 miles.

DATES: Scoping comments must be received at the address below by October 25, 2002.

ADDRESSES: Written scoping comments should be sent to: Monument Manager, Grand Staircase-Escalante National Monument, 190 East Center Street, Kanab, Utah 84741. Planning documents and letters received, including names and street addresses of respondents, will be available for public review at the GSENM Office in Kanab, Utah during regular business hours (8 a.m. to 5 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

If you are not currently on our mailing list and wish to receive a copy of future planning documents, please send your name and address to the address listed above.

FOR FURTHER INFORMATION CONTACT: Paul Chapman, Grand Staircase-Escalante National Monument, 435–644–4309, or Dave Hunsaker, Acting Monument Manager, 435–644–4330.

SUPPLEMENTARY INFORMATION: The proposed action is a cooperative effort between Kane County, Utah Department of Transportation, Federal Highways Administration, and BLM. BLM is the lead agency for this action. Kane County received a grant from Federal Highways Administration for engineering, design, environmental analysis preparation, and construction of the project. The environmental analysis is being prepared by a third party, EarthTouch of Layton, Utah with guidance from the BLM and Federal Highways Administration.

The BLM has identified the following planning criteria, which will guide development of the amendment:

1. The environmental analysis and any plan amendment will be completed in compliance with the Federal Land Policy and Management Act, the National Environmental Policy Act, and all other applicable laws.

2. The environmental analysis and any plan amendment will be developed using an interdisciplinary approach (*e.g.*, a team approach using a variety of skills and perspectives such as biologists, archaeologists, etc.) with input from interested public, State and local governments, and other Federal agencies.

3. Any action that would affect a Wilderness Study Area will not be permitted.

4. Analysis and decisions in the environmental analysis and any plan amendment apply only to this action and will provide for the balance of long term sustainability with short-term uses.

Dated: August 13, 2002.

Robert A. Bennett,

Associate State Director, Utah.

[FR Doc. 02–24300 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1220–BY]

Notice of Intent To Prepare an Environmental Assessment and To Consider Amending the Green River Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Assessment (EA) to consider amending the Green River Resource Management Plan (RMP) by designating the Pilot Butte/Wild Horse National Back Country Byway, and request for public participation.

SUMMARY: The Bureau of Land Management (BLM) is considering a National Back Country Byway designation for portions of Sweetwater County (Wyoming) Roads 4–14 and 4–53, crossing BLM-administered public lands. The BLM invites the public to participate in the planning effort and to identify management needs and issues associated with the proposed National Back Country Byway designation. If the planning effort results in a decision to designate a National Back Country Byway, the Green River RMP will be amended accordingly.

DATES: The BLM invites the public to identify issues and concerns to be addressed in the EA to be prepared for the potential RMP amendment. Submissions should be in writing or by e-mail (see **ADDRESSES** below) and must be postmarked no later than 30 days following the date of publication of this notice in the **Federal Register**. Future public involvement activities, opportunities, and review/comment periods will be announced at least 15 days in advance through other notices, media releases, or mailings.

ADDRESSES: Comments should be submitted in writing to: Field Manager, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901, or by e-mail to: [rock_springs_wymail@blm.gov]. Comments, including names and street addresses of respondents, will be available for public review at the Rock Springs Field Office during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except legal holidays, and may be published as part of the EA. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Bernie Weynand, Assistant Field Manager, at the above addresses or e-mail, or at telephone number (307) 352–0246. Persons wishing to be placed on the mailing list and to participate in the planning effort should contact Bernie Weynand, Assistant Field Manager, at the address, telephone number or e-mail address above.

SUPPLEMENTARY INFORMATION: Under a cooperative agreement, the BLM, Sweetwater County, and the Cities of Rock Springs and Green River, Wyoming, have established a wild horse viewing and interpretive loop driving tour on portions of County Roads 4–14 and 4–53 crossing BLM-administered public lands. These actions were addressed in an EA before they were implemented. BLM has determined that this interpretive driving loop meets the criteria for designation as a National Back Country Byway.

While the proposed byway designation is in conformance with the general provisions of the Green River RMP decisions, a National Back Country Byway designation requires a specific land use planning decision. Because this particular designation was not one of the decisions previously made in the Green River RMP (1997), to do so now would require amending the RMP. The EA to be prepared will tier from the Environmental Impact Statement prepared for the Green River RMP as well as the EA prepared for the viewing areas and interpretive signs that have been put in place. The analysis will focus on the comparative socio-economic affects, along with any associated affects to other resources and land uses, of either designating or not designating the proposed byway.

The planning effort will include opportunities for public participation. A public review and comment period will be held on the completed EA before a decision is made on the proposed byway designation.

Any proposal to amend the Green River RMP decisions as a result of the planning effort will also be subject to protest by parties who participate in the planning process and who have an interest which is, or may be, adversely affected by the adoption of any RMP decision amendments, as provided by Title 43, Code of Federal Regulations, § 1610.5–2.

Dated: May 6, 2002.

Alan R. Pierson,

State Director.

[FR Doc. 02–24299 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–260–09–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet Monday, October 28, 2002 from 8 a.m. to 5 p.m. local time, and on Tuesday, October 29, 2002 from 8 a.m. to 3 p.m. local time.

ADDRESSES: The Advisory Board will meet at the Best Western Salt Lake Plaza Hotel, 122 West South Temple, Salt Lake City, UT.

Written comments pertaining to the Advisory Board meeting should be sent to: Bureau of Land Management, National Wild Horse and Burro Program, WO260, Attention: Ramona Delorme, 1340 Financial Boulevard, Reno, Nevada, 89502–7147. Submit written comments pertaining to the Advisory Board meeting no later than close of business October 18, 2002. *See* **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Janet Nordin, Wild Horse and Burro Public Outreach Specialist, (775) 861–6583. Individuals who use a telecommunications device for the deaf (TDD) may reach *Ms. Nordin* at any time by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, October 28, 2002 (8 a.m.–5 p.m.)

8:00 Call to Order & Introductions
Co-chairs Comments & Housekeeping: Robin Lohnes/Gary Zakotnik
Welcoming Remarks: (BLM Director

Kathleen Clark), Sally Wisely—Utah State Director, John Fend—WH&B Group Manager
Utah WH&B Program: Utah WH&B Lead (Gus Warr)

8:30 Old Business:
Approval of August 2002 Minutes: Robin Lohnes
BLM Action on August 2002 Recommendations: John Fend
2003 Nominations Update: John Fend

Break (10 a.m.–10:15 a.m.)

10:15 Program Update Report
—Strategic Plan: Tom Pogacnik
—FY '03–'04 Funding & Pipeline: John Fend
—Checks & Balances Implemented: John Fend/Tom Pogacnik

12:00 Lunch

1:30 Old Business (continued):
Update on Pending Litigation: John Fend
Status of Sonora Wild Horse: John Fend
Repatriation Project:

Break (2:30 p.m.–2:45 p.m.)

2:45 Old Business (continued):
Status of WH&B Education Program: Janet Nordin
BLM Policy on Pairs Adoption: Tom Pogacnik
Adoption Fee Discussion: Advisory Board

4:00 Public Comments: Robin Lohnes/Janet Nordin

4:45 Recap/Summary: Robin Lohnes/Pam Cleary

5–6:00 Adjourn; Roundtable to Follow: All

7:00 Dinner with BLM Staff (location TBA)

Tuesday, October 29, 2002 (8 a.m.–3 p.m.)

8:00 New Business:
Langston University Proposal: John Fend/Dr. Holloway
Chickasaw Indian Reservation Proposal: John Fend
Ephemeral HMAs Discussion: Advisory Board

Break (9:30 a.m.)

9:45 Program Update Discussion: Advisory Board
- Strategic Plan
- FY '03–'04 Funding & Pipeline
- Checks & Balances

11:00 Board Recommendations: Robin Lohnes/Pam Cleary

12:00 Lunch

1:00 Board Recommendations (continued): Robin Lohnes/Pam Cleary
Report to Congress: Robin Lohnes/Gary Zakotnik
Next Meeting/Date/Site

3:00 Adjourn

The meeting site is accessible to individuals with disabilities. An individual with a disability needing an auxiliary aid or service to participate in the meeting, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the scheduled meeting date. Although the BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

The Federal advisory committee management regulations [41 CFR 101–6.1015(b),] require BLM to publish, in the **Federal Register**, notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the Advisory Board on October 28, 2002, at the appropriate point in the agenda. This opportunity is anticipated to occur at 4 p.m. local time. Persons wishing to make statements should register with the BLM by noon October 28, 2002, at the meeting location. Depending on the number of speakers, the Advisory Board may limit the length of presentations. At previous meetings, presentations have been limited to three minutes in length. Speakers should address the specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the Advisory Board meeting is not a prerequisite for submission of written comments. The BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, speakers should submit two copies of their written comments where feasible. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, the BLM will make them available in their entirety, including your name and address. However, if you do not want the BLM to release your name and address in response to a FOIA request, you must state this prominently at the beginning of your comment. BLM will honor your request to the extent allowed by law. BLM will release all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, in their entirety, including names and addresses.

Electronic Access and Filing Address

Speakers may transmit comments electronically via the Internet to: *Janet_Nordin@blm.gov.* Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: September 19, 2002.

Sharon L. Kipping,

Acting Group Manager, Wild Horse and Burro Group.

[FR Doc. 02–24301 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–940–01–5410–EQ–B162; CACA 43157]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 76.64 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination.The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office,

Federal Office Building, 2800 Cottage Way, Room W–1834, Sacramento, California 95825, (916) 978–4677.

Serial No. CACA 43157

T. 8 S., R. 20 E., Mount Diablo Meridian
Sec. 8, Lots 1 & 2
County—Madera.
Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Howard K. Stark,
Chief, Branch of Land Management.
[FR Doc. 02–24298 Filed 9–24–02; 8:45 am]
BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–02–1420–BJ]

Notice of Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on August 15, 2002.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management, and are necessary for the management of resources. The lands surveyed are:

The plat representing the dependent resurvey of Lots 37 and 38, and Tract 39, portions of the eat and north boundaries and the subdivisional lines, and the subdivision of sections 1 and 2, Township 14 North, Range 107 West, Sixth Principal Meridian, Wyoming, was accepted July 26, 2002.

The plat representing the dependent resurvey of portions of the Sixth Standard Parallel North, through Range 118 West, and the metes and bounds survey of Lot 9, section 35, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, was accepted July 26, 2002.

Copies of the preceding described plats are available to the public.

Dated: September 17, 2002.

John P. Lee,
Chief Cadastral Surveyor, Division of Support Services.
[FR Doc. 02–24279 Filed 9–24–02; 8:45 am]
BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities Under OMB Review

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of data collection submission.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before October 25, 2002.

ADDRESSES: Comments on this information collection should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, NW., Washington DC 20503. A copy of your comments should also be directed to the Bureau of Reclamation, Northern California Area Office, Attention: Donald A. Bultema, PO Box 988, Willows, California 95988.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information form, contact Rita F. Hoofard at (530) 934–1359.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of Reclamation's functions, including whether the information will have practical use; (b) the accuracy of Reclamation's estimated time and cost burdens of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, use, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including increased use of automated collection techniques or other forms of information technology.

Title: Summary of Water Requirements for Crops Grown on Eligible Land.

Abstract: Reclamation developed Form LS–924, Summary of Water Requirements for Crops Grown on Eligible Land, to facilitate and standardize the submission of data from the Sacramento River settlement contractors that divert water from Sacramento River sources. The information requested is required to ensure the proper implementation of 43 CFR 426.15 and the commingling provisions in the Sacramento River settlement contracts.

Description of respondents: There are approximately 44 Sacramento River settlement (individuals/districts) that are required to file Form LS–924 for the purpose of contract administration.

Frequency: Annually.

Estimated completion time: An average of 60 minutes per respondent.

Annual responses: 44 respondents.

Annual burden hours: 44.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the form.

A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on July 3, 2002 (67 FR 44617). Reclamation did not receive any comments on this collection of information during the comment period.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public

disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Gary Palmeter,

Manager, Property and Office Services Division.

[FR Doc. 02–24305 Filed 9–24–02; 8:45 am]

BILLING CODE 4310–-MN–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–430 and 731–TA–1019 (Preliminary)]

Durum and Hard Red Spring Wheat From Canada

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–430 (Preliminary) and antidumping investigation No. 731–TA–1019 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of durum and hard red spring wheat, provided for in subheadings 1001.10.00, 1001.90.10, and 1001.90.20 of the Harmonized Tariff Schedule of the United States that are allegedly subsidized by the Government of Canada and the Canadian Wheat Board and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) and 1673a(c)(1)(B)), the Commission must reach preliminary determinations in countervailing duty and antidumping investigations in 45 days, or in this case by October 28, 2002. The Commission's views are due at Commerce within five business days thereafter, or by November 4, 2002.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: September 13, 2002.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on September 13, 2002, by counsel for the North Dakota Wheat Commission, Bismarck, ND and the U.S. Durum Growers Association, Bismarck, ND.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 4, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact D.J. Na (202–708–4727) not later than October 1, 2002, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 9, 2002, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by

either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 20, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–24335 Filed 9–24–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02–34]

Raphael Arwas, D.D.S., Revocation of Registration

On February 21, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Raphael Arwas, D.D.S. (Respondent), proposing to revoke his DEA Certificate of Registration, BA3513050, pursuant to 21 U.S.C. 824(a)(3) and deny any pending applications for renewal or modification of such registration under 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that the Respondent is not currently authorized to practice dentistry or handle controlled substances in Florida, the state in which he practices.

By letter dated March 20, 2002, the Respondent, through counsel, requested a hearing in this matter. On March 27, 2002, the Government filed Government's Motion for Summary Disposition. On March 28, 2002, the presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued a Memorandum to Counsel providing Respondent until April 18, 2002, to respond to the Government's Motion. However, the Respondent did not file a response.

On April 29, 2002, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision) in which she granted the Government's motion for summary disposition and found that the Respondent lacks authorization to handle controlled substances in the State of Florida. In granting the Government's motion, Judge Bittner also recommended that the Respondent's DEA registration be revoked and any pending applications for modification or renewal be denied. Neither party filed exceptions to her Opinion and Recommended Decision, and on May 29, 2002, Judge Bittner transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision to the Administrative Law Judge.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration BA3513050, issued to him at an address in Aventura, Florida. The Deputy Administrator further finds that on December 12, 2001, the State of Florida Department of Health (Department of Health) issued an Order of Emergency Suspension of License suspending the Respondent's license to practice dentistry. In addition, a Continuing Education Providers Information document provided by the Government with its Motion for Summary Disposition reveals that the Respondent's dental license remained suspended as of January 29, 2002. There is no evidence before the Deputy Administrator that the suspension has been stayed or lifted. In her Opinion and Recommended Decision, Judge Bittner found that the Respondent is without state authority to handle controlled substances.

Therefore, the Deputy Administrator finds that the Respondent is not currently authorized to practice dentistry in the State of Florida and as a result, it is reasonable to infer that he is also without authorization to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.,* 66 FR 52936 (2001); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988).

Here, it is clear that Respondent is not licensed to handle controlled substances in Florida. Since Respondent lacks such authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. The parties do not dispute the fact that Respondent is currently without authorization to handle controlled substances in Florida. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. *See Gilbert Ross, M.D.,* 61 FR 8664 (1996); *Philip E. Kirk, M.D.,* 48 FR 32,887 (1983), *aff'd sub nom Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BA3513050, issued to Raphael Arwas, D.D.S. be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective October 25, 2002.

Dated: September 18, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–24275 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2001, and published in the **Federal Register** on April 17, 2001, (66 FR 19796), Gateway Specialty Chemicals Company, 4170 Industrial Drive, St. Peters, Missouri 63376, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of phenylacetone (8501), a basic class of controlled substance listed Schedule II.

The firm plans to manufacture the controlled substance for its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Gateway Specialty Chemicals Company to manufacture is consistent with the public interest at this time. DEA has investigated Gateway Specialty Chemicals Company to ensure that the company's continued registration is consistent with the public

interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: September 19, 2002.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 02–24345 Filed 9–24–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02–37]

James Greene Hamilton, M.D., Revocation of Registration

On February 27, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James Greene Hamilton, M.D. (Respondent), proposing to revoke his DEA Certificate of Registration, BH5401550, and deny any pending applications for renewal or modification of that registration under 21 U.S.C. 823(f) for reason that such registration would be inconsistent with the public interest. The Order to Show Cause further proposed the revocation of the Respondent's DEA registration pursuant to 21 U.S.C. 824(a)(3) based on the suspension of his North Carolina medical license.

By letter dated April 22, 2002, along with supporting documents, the Respondent acting *pro se* requested a hearing in this matter. On May 17, 2002, the Government filed Government's Request for Stay of Proceedings and Motion for Summary Judgment (Motion). On May 21, 2002, the presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued an Order Granting Stay (Order) in which the Government's motion for stay of the proceedings was granted. The Order further provided the Respondent until June 5, 2002, to respond to the Government's Motion. However, the Respondent did not file a response.

On July 9, 2002, Judge Randall issued her Opinion and Recommended Ruling of the Administrative Law Judge (Opinion and Recommended Ruling) in which she granted the Government's motion for summary disposition and found that the Respondent lacks authorization to handle controlled substances in the State of North Carolina. In granting the Government's motion, Judge Randall further recommended that the Respondent's DEA registration be revoked. Neither party filed exceptions to her Opinion and Recommended Decision, and on August 8, 2002, Judge Randall transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration BH5401550, issued to him at an address in Durham, North Carolina. The Respondent also previously held medical license number 29583, issued to him on May 25, 1996 by the North Carolina Medical Board (Board). The Deputy Administrator further finds that by Order of the Board dated November 21, 2000, the Respondent's medical license was summarily suspended. On February 21, 2001, the Respondent entered into a Consent Order with the Board whereby agreed to voluntarily surrender his medical license.

There is no evidence before the Deputy Administrator that the Respondent's medical license has been reinstated. In her Opinion and Recommended Ruling, Judge Randall found that the Respondent lacks state authorization to handle controlled substances. Therefore, the Deputy Administrator finds that the Respondent is not currently authorized to practice medicine in the State of North Carolina. As a result, it is reasonable to infer that he is also without authorization to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.,* 66 FR 52936 (2001); *Dominick A. Ricci, M.D.* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 63 FR 11919 (1988).

Here, it is clear that Respondent is not licensed to handle controlled substances in North Carolina. Since Respondent lacks such authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Randall properly granted the Government's Motion for Summary Disposition. The parties do not dispute the fact that Respondent is currently without authorization to handle controlled substances in North Carolina. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. *See Gilbert Ross, M.D.,* 61 FR 8664 (1996); *Philip E. Kirk, M.D.,* 48 FR 32,887 (1983), *aff'd sub nom Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certification of Registration BH5401550, issued to James Greene Hamilton, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective October 25, 2002.

Dated: September 18, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–24274 Filed 9–24–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02–17]

Philip Washburn, M.D., Denial of Application

On November 8, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Philip Washburn, M.D. (Respondent), proposing to deny his pending application for DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(3). As a basis for the denial of his pending application, the Order to Show Cause alleged that the Respondent is not currently authorized to handle controlled substances in the State of Utah.

By letter dated December 8, 2001, the Respondent acting *pro se,* requested a hearing in this matter. On January 31, 2002, the Government filed Government's Motion for Summary Disposition, and further requested a stay of the proceedings pending a ruling on

its summary disposition motion. On February 4, 2002, the presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued an Order allowing the Respondent to file a response to the Government's Motion no later than February 22, 2002. Subsequently, the Respondent was granted an extension of time until April 8, 2002, to file a response to the Government's Motion. Despite the extension afforded by Judge Randall, the Respondent again did not file a response to the Government's motion.

On April 25, 2002, Judge Randall issued her Ruling, Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision) in which she granted the Government's Motion for Summary Disposition and found that the Respondent lacks authorization to handle controlled substances in the State of Utah. Neither party filed exceptions to her Opinion and Recommended Decision, and of June 4, 2002, Judge Randall transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Ruling, Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that on June 18, 1996, the Respondent entered into a Stipulation and Order with the Division of Occupational & Professional Licensing, Department of Commerce for the State of Utah (DOPL). Among the terms and conditions entered into by the parties, the Respondent agreed to the surrender of his state controlled substance license. The Respondent further agreed that he would not reapply for a controlled substance license in the future. On August 3, 2001, DEA received from the Respondent an application for DEA Certificate of Registration as a practitioner.

There is no evidence before the Deputy Administrator that the Respondent's state controlled substance license has been restored. In her Opinion and Recommended Decision, Judge Randall found that the Respondent lacks state authority in Utah to handle controlled substances, and is not entitled to a DEA registration for that state. Therefore, the Deputy Administrator similarly finds that the Respondent is not currently authorized to handle controlled substances in the State of Utah.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Carla Johnson, M.D.,* 66 FR 52939 (2001); *Graham Travers Schuler, M.D.,* 65 FR 50570 (2000); *Demetris A. Green, M.D.,* 61 FR 60,728 (1996).

In the instant case, the Deputy Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to handle controlled substances in the state in which he seeks a DEA registration. The Deputy Administrator also finds that Judge Randall provided the Respondent ample opportunity to refute the Government's contentions, however, the Respondent has provided no evidence or assertions to the contrary. Here, it is clear that the Respondent is not authorized to handle controlled substances in Utah. Since Respondent lacks such authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Randall properly granted the Government's Motion for Summary Disposition. The parties do not dispute the fact that Respondent is currently without authorization to handle controlled substances in Utah. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. *See Gilbert Ross, M.D.,* 61 FR 8664 (1996); *Philip E. Kirk, M.D.,* 48 FR 32,887 (1983), *aff'd sub nom Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for DEA Certificate of Registration submitted by Philip Washburn, M.D. be, and it hereby is, denied. This order is effective October 25, 2002.

Dated: September 12, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02–24276 Filed 9–24–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: New, Mental Health and Juvenile Justice: Building a Model for Effective Service Delivery.

The Department of Justice (DOJ), Office of Justice Programs has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register,** Volume 67, Number 120, page 42283 on June 21, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 25, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* Mental Health and Juvenile Justice: Building a Model for Effective Service Delivery.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: OJP Form 1121 Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households; State and Local Government. This study is designed to examine: (1) The mental health status of youth in selected facilities and programs; (2) the availability of mental health and related substance abuse services for these youth; (3) the extent to which needed services are services are received by the youth; and (4) the level of youth and family satisfaction with services received.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that approximately 2,700 youth will complete the Massachusetts Youth Screening Instrument—Second Version (MAYSI–2) which takes 6–10 minutes to administer. In addition, a brief youth survey on service utilization and satisfaction, including some demographic items, will be administered to all study participants with the MAYSI. This survey will take no more than 15 minutes to administer. The Voice Diagnostic Interview Schedule for Children Version 4 (V–DISC 4) will be administered to 50% of those completing the MAYSI–2 interview. The V–DISC 4 takes about 1 hour to administer. We anticipate a total of 24 participants in the family focus groups and 45 key staff interviews. It is anticipated that the focus groups will take approximately 2 hours each, and the key staff interviews will take 45 minutes each.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total burden to complete all data collection activities is estimated to be 2,556.75 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: September 19, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–24312 Filed 9–24–02; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL INSTITUTE FOR LITERACY

Notice of Partially Closed Meeting

AGENCY: National Institute for Literacy (NIFL)

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act (FACA). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE AND TIME: October 2, 2002 from 9 a.m. to 4:30 p.m. Closed session from 1:30–3:30 p.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, email: *scoles@nifl.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Public Law 105–220, Sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Advisory Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on October 2, 2002, will focus on future and current NIFL program activities, and other relevant literacy activities and issues.

On October 2, 2002 from 1:30–3:30 p.m., the meeting will be closed to the public to discuss personnel issues of a sensitive nature relating to the internal personnel rules and practices of an agency and are likely to disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy if conducted in open session. Such matters are protected by exemption under the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). A summary of the activities at the closed session and related matters which are informative to the public and consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting. Furthermore, due to the sensitive nature of this request, this meeting notice will not meet the fifteen-day requirement under FACA.

Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: September 19, 2002.

Sharyn Abbott,

Executive Officer.

[FR Doc. 02–24277 Filed 9–24–02; 8:45 am]

BILLING CODE 6055–01–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold a meeting to hear and discuss ocean-related issues of concern in the development of recommendations for a coordinated national ocean policy. This will be the twelfth public Commission meeting.

DATES: The public meeting will be held Wednesday, October 30, 2002 from 8:30 a.m. to 6:00 p.m.

ADDRESSES: The meeting location is the Jefferson Auditorium, Department of Agriculture, South Building, 14th and Independence Ave, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW., Washington, DC, 20036, 202–418–3442, *schaff@oceancommission.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Pub. L. 106–256, Section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing federal government agencies, international interests and historical perspectives, comments from the public, and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by Tuesday, October 22, 2002 to the meeting Point of Contact. A public comment period is scheduled for Wednesday, October 30, 2002. The meeting agenda, including the specific time for the public comment period, and guidelines for making public comments will be posted on the Commission's Web site at *http://www.oceancommission.gov* prior to the meeting.

Dated: September 18, 2002.

James D. Watkins,

Chairman, U.S. Commission on Ocean Policy.

[FR Doc. 02–24278 Filed 9–24–02; 8:45 am]

BILLING CODE 6820–WM–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17f–2(c), SEC File No. 270–35

OMB Control No. 3235–0029

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension of Rule 17f–2(c).

Rule 17f–2(c) allows persons required to be fingerprinted pursuant to section 17(f)(2) of the Securities Exchange Act of 1934 to submit their fingerprints through a national securities exchange or a national securities association in accordance with a plan submitted to and approved by the Commission. Plans have been approved for the American, Boston, Chicago, New York, Pacific, and Philadelphia stock exchanges and for the National Association of Securities Dealers and the Chicago Board Options Exchange.

It is estimated that 85,000 registered broker-dealers submit approximately 275,000 fingerprint cards to exchanges or a registered security association on an annual basis. It is approximated that it should take 15 minutes to comply with Rule 17f–2(c). The total reporting burden is estimated to be 68,750 hours.

Because the Federal Bureau of Investigation will not accept fingerprint cards directly from submitting organizations, Commission approval of plans from certain exchanges and national securities associations is essential to the Congressional goal of fingerprint personnel in the security industry. The filing of these plans for review assures users and their personnel that fingerprint cards will be handled responsibly and with due care for confidentiality.

Submission of fingerprint plans under Rule 17f–2(c) is mandatory for self-regulatory organizations. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 18, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24353 Filed 9–24–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25738 ; 812–12787]

UBS Global Asset Management (US) Inc. and FRESCO Index Share Funds; Notice of Application

September 18, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 29a)(32), 5(a)(1), 22(d), 24(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) series of an open-end management investment company, whose portfolios will consist of the component securities of certain domestic or foreign equity securities indexes, to issue shares of limited redeemability; (b) secondary market transactions in the shares of the series to occur at negotiated prices on the New York Stock Exchange (''NYSE'') or other national securities exchange; (c) dealers to sell shares of the series of the Trust to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933 (the ''Securities Act''); (d) affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of aggregations of the series' shares; and (e) under certain circumstances, certain series that consist of the component securities of foreign equity securities indexes to pay redemption proceeds more than seven days after the tender of shares of the series for redemption.

APPLICANTS: UBS Global Asset Management (US) Inc., (the ''Adviser'') and FRESCO Index Shares Funds (the ''Trust'').

FILING DATES: The application was filed on February 19, 2002, and amended on August 6, 2002. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request,

personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 10, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Applicants, 51 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 942–0634, or Michael W. Mundt, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Massachusetts business trust. The Trust intends to offer eight series (each a ''Fund,'' which term includes ''Future Funds,'' ''Domestic Funds,'' and ''Foreign Funds,'' as defined below). The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and will serve as the investment adviser to each Fund. The Adviser is also registered as a broker-dealer under the Securities Exchange act of 1934 (''Exchange Act'') and will serve as principal underwriter and distributor for the Funds. The Adviser may in the future retain one or more sub-advisers for managing one or more of the Funds for which it will act as the investment adviser.

2. Each Fund will invest in a portfolio of equity securities (''Portfolio Securities'') generally consisting of the component securities of a specified domestic equity securities index (''Domestic Index'') or foreign equity securities index (''Foreign Index,'' together with Domestic Indexes, the ''Underlying Indexes'').[1] There are eight initial Funds, six based on Domestic Indexes (together with Future Funds based on Domestic Indexes, the ''Domestic Funds'')[2] and two based on Foreign Indexes (together with Future Funds based on Foreign Indexes, the ''Foreign Funds'').[3] In the future, applicants may offer additional Funds based on either Domestic or Foreign Indexes (''Future Funds''). Any Future Fund will (a) be advised by the Adviser or an entity controlled by or under common control with the Adviser and (b) comply with the terms and conditions of the order. No entity that creates, compiles, sponsors or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, the investment adviser, any sub-adviser to a Fund, the principal underwriter of a Fund, or a promoter of a Fund.

3. The investment objective of each Fund will be to provide investment results that generally correspond, before fees and expenses, to the total return of the relevant Underlying Index. Intra-day values of each Underlying Index will be disseminated every 15 seconds throughout the trading day. A Fund may not hold all of the underlying securities that comprise an Underlying Index in certain instances. When a potential component security is illiquid or when there are substantial costs involved in matching an Underlying Index with hundreds of component securities, a Fund may hold a representative sample of the component securities of the Underlying Index using a technique known as ''portfolio optimization.''[4] Applicants anticipate that a Fund that utilizes the portfolio optimization technique will not track its Underlying Index with the same degree of accuracy as an investment vehicle that invested in every component security of the Underlying Index with the same weighting as the Underlying Index. Applicants state that over time the Adviser will be able to employ the portfolio optimization technique so that the expected tracking error of a Fund relative to the performance of its Underlying Index will be less than 5 percent.

4. Shares of the Funds (''Shares'') will be issued in aggregations of at least 50,000 Shares (''Creation Units''). The price of a Creation Unit will be approximately $335,000 to $1,333,000 (based on the values of the Underlying Indexes as of August 1, 2002). Creation Units may be purchased only by or through a party that has entered into an agreement with the Adviser regarding creations and redemptions of Creation Units (an ''Authorized Participant''). An Authorized Participant must be either (a) a broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency that is registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC'') system. Creation Units generally will be issued in exchange for an in-kind deposit of securities and cash. A Fund also sell Creation Units on a cash-only basis in limited circumstances. An investor wishing to purchase a Creation Unit from a Fund will have to transfer to the Fund a ''Fund Deposit'' consisting of: (a) A portfolio of securities that has been selected by the Adviser to correspond to the returns on the relevant Underlying Index (''Deposit Securities''), and (b) a cash payment to equalize any differences between the market value per Creation Unit of the Deposit Securities and the net asset value (''NAV'') per Creation Unit (''Cash Component'').[5] An investor purchasing a Creation Unit from a Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from the Fund incurring costs in connection with the purchase of the

[1] A Fund will invest at least 90% of its assets in the component securities of its Underlying Index. A Fund may invest up to 10% of its assets in securities, options and futures not included in the Underlying Index but which the Adviser believes will help the Fund track the Underlying Index.

[2] Morningstar US Large Cap Growth Index, Morningstar US Large Cap Value Fund Index, Morningstar US Mid Cap Growth Index, Morningstar US Mid Cap Value Index, Morningstar US Small Cap Growth Index, Morningstar US Small Cap Value Index are the Underlying Indexes for the initial Domestic Funds.

[3] Dow Jones STOXX 50 and Dow Jones EURO Stoxx 50 are the Underlying Indexes for the initial Foreign Funds.

[4] The Adviser will consider each component security in an Underlying Index for inclusion in a Fund based on the security's contribution to certain capitalization, industry, and fundamental investment characteristics. The Adviser will seek to construct the portfolio of an Index Fund so that, in the aggregate, its capitalization, industry, and fundamental investment characteristics perform like those in the Underlying Index.

[5] On each business day, prior to the opening of trading on the Stock Exchange (as defined below), the custodian for each Fund will make available a list of the names and the required number of shares of each Deposit Security required for the Fund Deposit for each Fund. That Fund Deposit will apply to all purchases of Creation Units until a new Fund Deposit for a Fund is announced. The custodian also makes available the previous day's Cash Component, as well as the estimated Cash Component for the current day. Each Fund may permit or require the substitution of an amount of cash in lieu of depositing some or all of the Deposit Securities in certain circumstances. The Stock Exchange will disseminate every 15 seconds throughout the trading day via the facilities of the Consolidated Tape Association an amount representing on a per share basis the sum of the current value of the Deposit Securities and the estimated Cash Component.

Creation Units.[6] Each Fund will disclose the Transaction Fees charged by the Fund in its prospectus and the method of calculating the Transaction Fees in its statement of additional information (''SAI'').

5. Orders to purchase Creation Units of a Fund will be placed with the Adviser, in its role as principal underwriter and distributor to the Trust. The Adviser will issue, and maintain records of, confirmations of acceptance to purchasers of Creation Units and will also be responsible for delivering prospectuses to purchasers of Creation Units.

6. Persons purchasing Creation Units from a Fund may hold the Shares or sell some or all of them in the secondary market. Shares of the Funds will be listed on the NYSE or other U.S. national securities exchange, as defined in section 2(a)(26) of the Act (each, including NYSE, a ''Stock Exchange'') and traded in the secondary market in the same manner as other equity securities. A Stock Exchange specialist will be assigned to make a market in Shares. The price of Shares traded on a Stock Exchange will be based on a current bid/offer market. Each Share is currently expected to have a market value of between $6.70 and $26.66. Transactions involving the sale of Shares in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). The Stock Exchange specialist, in providing for a fair and orderly secondary market for Shares, also may purchase Creation Units for use in its market-making activities. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[7] Applicants expect that the price at which the Shares trade will be discipline by arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV, which should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

8. Shares will not be individually redeemable. Shares will only be redeemable in Creation Units through a Fund. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. An investor redeeming a Creation Unit generally will receive a portfolio of securities (''Fund Securities'') plus a ''Cash Redemption Amount.'' The Cash Redemption Amount is cash in an amount equal to the difference between the NAV of the Shares being redeemed and the market value of the Fund Securities. A redeeming investor will pay a Transaction Fee calculated in the same manner as a Transaction Fee payable in connection with the purchase of a Creation Unit. An investor may receive the cash equivalent of a Fund Security upon its request if, for example, the investor were constrained from effecting transactions in the Fund Security by regulation or policy, or with certain Foreign Funds, if it is not possible to effect transactions in-kind in an applicable jurisdiction.[8]

9. Because each Fund will redeem Creation Units in-kind, a Fund will not have to maintain cash reserves for redemptions. This will allow the assets of each Fund to be committed as fully as possible to tracking its Underlying Index. Accordingly, applicants state that each Fund will be able to track its Underlying Index more closely than certain other investment products that must allocate a greater portion of their assets for cash redemptions.

10. Applicants state that neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund.'' Rather, applicants state that each Fund will be marketed as an ''exchange-traded fund.'' No Fund marketing materials (other than as required in the prospectus) will refer to a Fund as an ''open-end'' or ''mutual fund,'' except to contrast a Fund with a conventional open-end management investment company. In all marketing materials where the method of obtaining, buying, or selling Shares is described, applicants will include a statement to the effect that Shares are not redeemable through a Fund except in Creation Units. The same type of disclosure will be provided in each Fund's prospectus, SAI, advertising materials, and all reports to shareholders. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of Shares.

Applicant's Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exception from sections 2(a)(32), 5(a)(1), 22(d), 22(e) and 24(d) of the Act and rule 22c–1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Trust to register as an open-end management investment company and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units. Applicants further state that because the market prices of Shares will be disciplined by arbitrate opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the

[6] When a Fund permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed an additional fee to offset the brokerage and other transaction costs associated with using cash to purchase the requisite Deposit Securities.

[7] Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. DTC or its participants will maintain records reflecting the beneficial owners of Shares.

[8] Applicants note that certain holders of Shares of a Foreign Fund may be subject to unfavorable tax treatment if they are entitled to receive in-kind redemption proceeds. The Trust may adopt a policy with respect to such Foreign Funds that such holders of Shares may redeem Creation Units solely for cash.

prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants asset that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand, not as a result of unjust or discriminatory manipulation. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by an open-end investment company. Applicants request an exemption from section 24(d) to permit dealers selling Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[9]

8. Applicants state that Shares will be listed on a Stock Exchange and will be traded in a manner similar to other equity securities, including the shares of closed-end investment companies. Applicants note that dealers selling shares of closed-end investment companies in the secondary market generally are not required to deliver a prospectus to the purchaser.

9. Applicants contend that Shares, as a listed security, merit a reduction in the compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because Shares will be exchange-listed, prospective investors will have access to several types of market information about Shares. Applicants state that information regarding market price and volume will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and volume information for Shares also will be published daily in the financial section of newspapers. In addition, the Trust's website includes quantitative information updated on a daily basis, including, for each, Fund, daily trading volume, the previous business day's NAV and the reported closing price. The website will also include, for each Fund, a calculation of the premium or discount of the mid-point of the bid-ask spread at the time of calculation of the NAV (the ''Bid/Ask Price'') against NAV, and data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.[10] The Trust's website also contains information with respect to the portfolio securities of each Fund, including their names, numbers of shares held by the Fund and the percentages of the Fund's portfolio, and reported closing prices of such securities.

10. Investors also will receive a Product Description describing a Fund and its Shares. Applicants state that, while not intended as a substitute for a Prospectus, the Product Description will contain information about Shares that is tailored to meet the needs of investors purchasing Shares in the secondary market.

Sections 17(a)(1) and (2) of the Act

11. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns 25% or more of another person's voting securities. Applicants state that because the definition of ''affiliated person'' includes any person owning 5% or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit will be affiliated with the Fund so long as fewer than twenty Creation Units are in existence, and any purchaser that owns 25% or more of a Fund's outstanding Shares will be affiliated with a Fund. Applicants request an exemption from section 17(a) under section 6(c) and 17(b), to permit persons that are affiliated persons of the Funds solely by virtue of a 5% or 25% ownership interest (or affiliated persons of such affiliated persons that are not otherwise affiliated with the Funds) to purchase and redeem Creation Units through ''in-kind'' transactions.

12. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the

[9] Applicants do not seek relief from the prospectus delivery requirement for non-secondary market transactions, including purchases of Creation Units or those involving an underwriter. Applicants stat that persons purchasing Creation Units will be cautioned in a Fund's prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Adviser, breaks them down into the constituent Shares, and sells Shares directly to its customers, or if it chooses to couple the purchase of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. A Fund's prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. A Fund's prospectus also will state that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary market trading transactions), and thus dealing with Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

[10] The Bid/Ask Price per Share of a Fund is determined using the highest bid and the lowest offer on the Stock Exchange at the time of calculation of such Fund's NAV.

consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting the affiliated persons of a Fund described above from purchasing or redeeming Creation Units through ''in-kind'' transactions. The composition of a Fund Deposit made by a purchaser or the Fund Securities and Cash Redemption Amount given to a redeeming investor will be the same regardless of the investor's identity, and will be valued under the same objective standards applied to valuing the Portfolio Securities. Therefore, applicants state that ''in-kind'' purchases and redemptions will afford no opportunity for the affiliated persons described above to effect a transaction detrimental to the other holders of its Shares. Applicants also believe that ''in-kind'' purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Funds.

Section 22(e) of the Act

13. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that local market delivery cycles for transferring Fund Securities to redeeming investors, together with local market holiday schedules, will require a delivery process in excess of seven calendar days for Foreign Funds in certain circumstances during the calendar year. Applicants request relief under section 6(c) from section 22(e) so that Foreign Funds may pay redemption proceeds up to 10 calendar days after the tender of Shares for redemption.[11] At all other times, and except as disclosed in the prospectus, Product Description or SAI for a Foreign Fund, applicants expect that the Funds will be able to deliver redemption proceeds within seven days.[12] With respect to future Foreign Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances similar to those described herein exist.

14. The principal reason for the requested exemption is that settlement of redemptions for the Foreign Funds is contingent not only on the settlement cycle of the United States market, but also on currently practicable delivery cycles in local markets for underlying foreign securities held by the Foreign Funds. Applicants believe that the Foreign Funds will be able to comply with the delivery requirements of section 22(e), expect where the holiday schedule applicable to the specific foreign market will not permit delivery of redemption proceeds within seven calendar days.

15. Applicants state that section 22(e) of the Act was designed to prevent unreasonable, undisclosed and unforeseen delays in the payment of redemption proceeds. Applicants assert that their requested relief will not lead to the problems section 22(e) was designed to prevent. Applicants state that the local holidays relevant to each Foreign Fund, as in effect in a given year, will be listed in the relevant Foreign Fund's prospectus, Product Description, and/or SAI. Applicants further state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and state the maximum number of days needed to deliver the proceeds for each Foreign Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject on the following conditions:

1. Applicants will not register any Future Fund by means of filing a post-effective amendment to a Trust's registration statement or by any other means, unless (a) applicant have requested and received with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission; or (b) the Future Fund will be listed on a Stock Exchange without the need for a filing pursuant to rule 19b–4 under the Exchange Act.

2. Each Fund's prospectus and Product Description will clearly disclose that, for purposes of the Act, Shares are issued by the Fund and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as the Trust operates in reliance on the requested order, the Shares will be listed on a Stock Exchange.

4. Neither the Trust nor any Fund will be advertised or marketed as an open-end fund or a mutual fund. Each Fund's prospectus will prominently disclose that the Shares are not individually redeemable shares and will disclose that the owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

5. The website for the Trust, which is and will publicly accessible at no charge, will contain the following information, on a per Share basis, for each Fund: (a) The prior business day's NAV and the Bid/Ask Price, and a calculation of the premium or discount of the Bid/Ask Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for each Fund will state that the website for the Fund has information about the premiums and discounts at which the Fund's Shares have traded.

6. The prospectus and annual report for each Fund will also include: (a) the information listed in condition 5(b), (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the Funds), (i) the cumulative total return and the average annual total return based on NAV and Bid/Ask Price, and (ii) the cumulative total return of the relevant Underlying Index.

7. Before a Fund may rely on the order, the Commission will have approved, pursuant to rule 19b–4 under the Exchange Act, a Stock Exchange rule requiring Stock Exchange members and member organizations effecting transactions in Shares in deliver a Product Description to purchasers of Shares.

[11] Specifically, applicants request that both the Fresco Dow Jones STOXX 50 Fund and the Fresco Dow Jones Euro Stoxx 50 Fund be permitted to make redemption payments up to 10 calendar days after the tender of a Creation Unit for redemption.

[12] Rule 15c6–1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6–1.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46507; File No. SR–CBOE–2002–54]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Proposing To Allow the Listing of Options on Exchange Traded Funds at $1 Strike Price Intervals

September 17, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to list options at $1 strike price intervals on securities (''Units'') that represent interests in registered investment companies (or series thereof) organized as open-ended management investment companies, unit investment trusts, or similar entities that are principally traded on a national securities exchange or through the facilities of a national securities association, and that meet all criteria of Interpretation and Policy .06 to CBOE Rule 5.3., commonly referred to as ''Exchange Traded Funds'' or ''ETFs.'' The text of the proposed rule change appears below. New text is in italics.

CBOE Rule 5.5: Series of Option Contracts Open for Trading

(a)–(c) No Change.

* * * Interpretations and Policies

.01–.07 No change.

.08 Notwithstanding Interpretation and Policy .01 above, and except for options on Units covered under Interpretation and Policies .06 and .07 above, the interval between strike prices of series of options on Units, as defined under Interpretation and Policy .06 to Rule 5.3, will be $1 or greater where the strike price is $200 or less.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

CBOE proposes to amend CBOE Rule 5.5 by adding Interpretation and Policy .08, which would provide for $1 strike price intervals for options traded on ETFs. Additionally, the interval of strike prices for options on ETFs can be $1 only where the strike price is at $200 or less.

CBOE contends that this proposed amendment is consistent with the strike price intervals established for options on ETFs on the American Stock Exchange LLC (''Amex''), the Philadelphia Stock Exchange, Inc. (''Phlx''), and the International Securities Exchange, Inc. (''ISE'').[3] Furthermore, the CBOE currently trades options on certain ETFs at $1 strike price intervals.[4] Specifically, that proposed rule change allowed for $1 strike price intervals for options on Nasdaq-100 Index ETFs (''QQQ'') and was based on similar Amex rules relating to strike price intervals for options on ETFs.

Lastly, CBOE affirms that it has the necessary systems capacity to support any additional series of options that may be added pursuant to the proposed rule change. Further, CBOE has been advised by Options Price Reporting Authority (''OPRA'') that is has the capacity to support any additional series of options that may be added pursuant to the proposed rule change.[5]

(2) Statutory Basis

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4[9] thereunder because the Exchange has designated the proposed rule change as one that does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 40157 (July 1, 1998), 63 FR 37426 (Amex approval order); 44037 (March 2, 2001), 66 FR 14613 (March 13, 2001) (ISE approval order); and 44055 (March 8, 2001), 66 FR 15310 (March 16, 2001) (Phlx). Although the Phlx proposal granted $1 strike price intervals for trading on the general term ''ETFs,'' CBOE believes that it would be more accurate, under CBOE rules, to clarify the specific definition of an ETF by granting the $1 strike price intervals to those Units provided for under Interpretation and Policy .06 to CBOE Rule 5.3.

[4] *See* Securities Exchange Act Release No. 44147 (April 3, 2001), 66 FR 18676 (April 10, 2001).

[5] *See* letter from Joseph P. Corrigan, Executive Director, OPRA, to William Speth, Director of Research, CBOE, dated September 11, 2002.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Under Rule 19b–4(f)(6)(iii) of the Act,[10] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest and the Exchange is required to give the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. The Exchange has requested that the Commission waive the 30-day operative date and the five-day pre-filing notice requirement in order for it to implement the proposed rule change as quickly as possible. The CBOE contends that the proposed rule is substantially similar to comparable rules of the Amex, ISE, and Phlx. The Commission, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative period as well as the five-day pre-filing notice requirement,[11] and, therefore, the proposal is effective and operative upon filing with the Commission.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2002–54 and should be submitted by October 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24294 Filed 9–24–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the five-day pre-filing notice requirement and the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46514; File No. SR–ISE–2001–19]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change by the International Securities Exchange LLC Relating to Facilitation of Customer Orders

September 18, 2002.

I. Introduction

On May 30, 2001, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reduce the exposure time required for the facilitation of customer orders through the Exchange's Facilitation Mechanism from 30 seconds to five seconds. Notice of the proposed rule change was published for comment in the **Federal Register** on August 6, 2001.[3] The Commission received thirteen comment letters regarding the proposal[4] and two letters from the ISE responding to the assertions of commenters who opposed its proposal.[5] On January 3, 2002, the ISE filed Amendment No. 1 to the proposed rule change, amending the proposal to provide for an exposure period of 10 seconds.[6] This order approves the proposed rule change, as amended, grants accelerated approval of Amendment No. 1, and solicits comments from interested persons on that amendment.

II. Description of the Proposal

ISE rules provide that an Electronic Access Member (''EAM'') generally may not trade as principal against an order of a customer that it is representing as an agent unless the EAM: (1) Enters the customer order into the market and waits at least 30 seconds before entering its counter proprietary order; (2) has been bidding or offering on the Exchange on behalf of its proprietary account at least 30 seconds prior to receiving the customer order; or (3) makes use of the Exchange's ''Facilitation Mechanism.''[7]

When an EAM enters a customer order into this Facilitation Mechanism, a broadcast message alerts members of the Exchange's electronic ''crowd''—market makers and other members with proprietary orders in the relevant series at the inside bid or offer on the ISE trading system—to the size and price of the proposed facilitation. Crowd participants may indicate within a given time period (currently 30 seconds) whether they want to participate in the facilitation of the customer order at the proposed facilitation price. Crowd participants may also indicate that they are willing to participate in the facilitation of the customer order at a price better than the proposed facilitation price. If, however, this better

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44612 (July 27, 2001), 66 FR 41074 (''Notice'').

[4] *See* letters to Jonathan G. Katz, Secretary, Commission, from: Joel Greenberg, Managing Director, Susquehanna International Group, LLP, dated August 16, 2001 (''Susquehanna Letter I''); Arthur Duquette, Senior Managing Director, Bear, Stearns & Co. Inc., dated August 24, 2001 (Bear Stearns Letter); Edward J. Joyce, President and Chief Operating Officer, Chicago Board Options Exchange, Incorporated (''CBOE''), dated August 27, 2001 (''CBOE Letter I''); Thomas N. McManus, Executive Director and Counsel, Morgan Stanley & Co. Incorporated, dated August 27, 2001 (''Morgan Stanley Letter''); Juan Carlos Pinilla, Managing Director, Equity Derivatives Group, J.P. Morgan Securities Inc., dated August 27, 2001 (''J.P. Morgan Letter''); Arthur S. Margulis, Jr., Managing Principal, Hull Trading Company, LLC, dated August 30, 2001 (''Hull Letter''); Michael J. Ryan, Executive Vice President and General Counsel, American Stock Exchange LLC (''Amex''), dated August 29, 2001 (''Amex Letter I''); Matthew D. Wayne, Chief Legal Officer, Knight Financial Products, LLC, dated September 14, 2001 (''Knight Letter''); Thomas A. Bond, Chief Operating Officer, Lee E. Tenzer Trading Company, dated November 9, 2001 (''Letco Letter''); Edward J. Joyce, President and Chief Operating Officer, CBOE, dated November 14, 2001 (''CBOE Letter II''); Edward J. Joyce, President and Chief Operating Officer, CBOE, dated February 25, 2002 (''CBOE Letter III''); Gerald D. O'Connell, Associate Director, Susquehanna International Group, LLP, dated March 6, 2002 (''Susquehanna Letter II''); and Michael J. Ryan, Executive Vice President and General Counsel, Amex, dated April 17, 2002 (''Amex Letter II'').

[5] *See* letters from Michael Simon, Senior Vice President and Secretary, ISE, to Jonathan G. Katz, Secretary, Commission, dated September 25, 2001, and October 5, 2001 (''ISE Letter I'' and ''ISE Letter II,'' respectively).

[6] *See* letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Commission, dated January 2, 2002.

[7] ISE Rule 717(d). To use the Facilitation Mechanism, an EAM must be willing to facilitate the entire size of the customer order. *See* ISE Rule 716(d).

price is equal to or better than the ISE best bid or offer, the crowd participant must indicate its willingness to participate in the facilitation of the customer order by entering an order or changing its quote on the Exchange's trading system, not through the Facilitation Mechanism.

Public customer orders that have been entered on the Exchange's trading system that are priced equal to or better than the facilitation price have priority, and are given the right to trade against the customer order being facilitated at the facilitation price. After any such public customer orders have been satisfied, the EAM is entitled to trade against 40% of the original size of the customer order being facilitated. Any responses at the facilitation price entered by crowd participants through the Facilitation Mechanism, or other orders and quotes at the facilitation price entered on the Exchange's trading system by crowd participants or other ISE members, share in the remainder of the order being facilitated proportionally according to the size they have indicated.

If, however, any crowd participants have indicated a willingness to participate at a price that improves upon the facilitation price—through the Facilitation Mechanism where appropriate, or by entering orders or changing their quotes on the Exchange—they take priority over the EAM. In addition, any other ISE members that have entered orders on the Exchange that are superior to the facilitation price similarly take priority over the EAM.[8]

Under the ISE's current rules, the electronic crowd is given 30 seconds to respond. Moreover, to indicate a willingness to facilitate an order at an improved price that is equal to or better than the best bid or offer on the Exchange, a crowd participant must change its quote or order at least 10 seconds before the end of this exposure period. The ISE now proposes to amend its rules to reduce the exposure period from 30 seconds to 10 seconds. The proposed rule change would also eliminate as unnecessary the requirement that, to improve the facilitation price at a price equal to or better than the ISE best bid or offer, a member must change its quotation or enter an order at least 10 seconds prior to the expiration of the exposure period.

In explaining the purpose of its proposal, the ISE states that the Facilitation Mechanism has failed to capture significant facilitation order flow. The ISE further states that its members explain that the current 30-second exposure requirement is a primary reason why they do not use this mechanism. The Exchange maintains that the rules of other, floor-based options exchanges permit a member to facilitate a customer order by taking it to the floor, exposing it for an instant by announcing it to the trading crowd, and then immediately trading against a guaranteed percentage of the order.[9] Thus, the ISE argues, a reduction of the exposure period on its own Facilitation Mechanism is necessary to allow it to compete on an equal footing with other exchanges to attract facilitation order flow.

The ISE believes that this shortened exposure period would be fully consistent with the electronic nature of its trading system. According to the Exchange, ISE members have implemented, or have the ability to implement, systems that monitor the Facilitation Mechanism broadcast messages and can automatically respond based upon pre-set parameters. In this electronic environment, the Exchange states, it is not necessary to provide an exposure time sufficiently long to permit a person, in all cases, to manually respond to a facilitation broadcast in order to provide the opportunity for crowd interaction. Thus, the Exchange believes that an exposure period of ten seconds would permit exposure of orders on the ISE in a manner consistent with its electronic market while addressing the Exchange's competitive concerns.

III. Summary of Comments

In the Notice, the Commission solicited views generally from interested persons on any aspect of the proposed rule change. In addition, the Commission requested that commenters express their views on: (1) Whether electronic programs or systems are available that would enable ISE members to monitor the Facilitation Mechanism broadcast messages and automatically respond based upon pre-set parameters, such that a five-second exposure period[10] would provide adequate time for crowd members to interact with an order before it is executed by the EAM; and (2) whether the manner in which orders are exposed and executed through the Facilitation Mechanism under the proposed rule change would be comparable to the manner in which orders subject to facilitation are exposed and executed on floor-based exchanges.

The Commission received thirteen comment letters concerning the ISE proposal, expressing the views of five commenters opposed to,[11] and four commenters supportive of,[12] the proposed rule change. Many of the commenters addressed specifically the questions noted above. In addition, the ISE submitted two letters responding to the arguments of those who opposed the proposal.[13]

A. Comments Opposing the Proposal

In general, five commenters believed that a shortened response period would not allow enough time for members of the electronic trading crowd to respond to a facilitation broadcast and thus would defeat the notion of an auction market.[14]

These commenters argued that specialists and market makers could not possibly respond with informed and careful judgment within such a shortened exposure period. They noted that crowd participants need time to assess their positions, market conditions, pricing analytics, and risk to be able to react to an order appropriately.[15] Some further noted that the EAM that submitted the facilitation broadcast, with whom these crowd participants must compete, likely has had knowledge of the order for a considerable amount of time—particularly in the case of an institutional customer order.[16]

Because these commenters contend that the trading crowd would be unable to respond to facilitation broadcasts within the proposed time frame, they conclude that EAMs would be able to trade with a significant share of their customers' orders. In the words of one commenter, the ISE would become a

[8] When orders and quotes improve upon the proposed facilitation price but cannot fill the entire order being facilitated, customers participate at the facilitation price, while non-customers trade at the improved price to which they committed.

[9] *See* Commentary .02 to Rule 950(d) of the American Stock Exchange (''Amex''), Rule 6.74(d) of the CBOE, and Rule 6.47(b)(4) of the Pacific Exchange (''PCX''), which, under certain conditions, guarantee a firm sending a customer's order to the exchange floor a participation right of 20% in that order (25% on the PCX) when the firm matches the best price given by the crowd in response to the floor broker's initial request for a market, and 40% when it improves upon the crowd's price. As detailed below, commenters opposed to the ISE proposal dispute the ISE's description of the exposure period and facilitation process on these exchanges. *See infra* notes 30–33 and accompanying text.

[10] The question in the Notice referred to the five-second exposure period proposed in the original version of the proposed rule change.

[11] *See* Amex Letters I and II; CBOE Letters I, II, and III; Knight Letter; Letco Letter; and Susquehanna Letters I and II.

[12] *See* Bear Stearns Letter; Hull Letter; J.P. Morgan Letter; Morgan Stanley Letter.

[13] *See supra* note .

[14] *See supra* note .

[15] *See, e.g.*, Susquehanna Letters I and II; CBOE Letter II.

[16] Knight Letter; Letco Letter.

''crossing exchange'' providing EAMs with ''unfettered rights for internalization,'' enabling them to trade against up to 100% of a customer order.[17] Customers would be harmed, because their orders would not receive opportunity for price improvement.[18] Liquidity providers—specialists and market makers—would also be highly disadvantaged.[19]

Moreover, one commenter argued that the marketplace as a whole would be impaired because the proposed rule change would result in EAMs taking an increasingly large share of orders, particularly the large institutional orders that represent a substantial percentage of the market.[20] This commenter believed that, as a result, no purpose would remain for market participants to act as liquidity providers, and ''the order flow providers [would] become the market and the pricing process [would be] determined in a non-competitive manner by the order flow providers.''[21]

Some commenters also took issue with the ISE's argument that, in its electronic environment, members have implemented, or have the ability to implement, systems that monitor the Facilitation Mechanism and can automatically respond to broadcasts based upon pre-set parameters.[22] One commenter drew the conclusion that most ISE members in fact do not currently have automatic response systems in place,[23] and stated that its own ''informal discussions with market participants confirm that developing such systems is a complex, expensive undertaking that many ISE members have not begun and indeed may not begin for quite some time.''[24]

Several commenters contended that reducing the exposure period as proposed would exclude persons who do not have this kind of response capacity or whose systems prove to be inadequate.[25] One commenter declared that the proposal would ''unfairly discriminate against the many market participants who are unable to automatically reply to ISE broadcast messages.''[26]

Some opponents of the proposal added that pre-set parameter systems are ''unlikely to offer price improvement, as they would inevitably be conservative due to the large amount of risk associated with block size orders and the fact that market and hedging conditions are different for each trade.''[27] Computer-generated responses, they believe, ''are far less likely to offer price improvement than if sufficient time is allowed for the human beings who did the programming to be able to take a ''fresh look'' and have a chance to revise their opinions about the options and/or underlying stock.''[28] Moreover, one commenter maintained, even those ISE members who confirm that they can implement their systems to respond within a reduced exposure period cannot confirm that they will.[29]

Commenters also challenged as ''erroneous and overly simplistic'' the ISE's contention that the rules of floor-based exchanges permit a member to facilitate a customer order by taking it to the floor, exposing it for an instant, and then immediately trading against a guaranteed portion of the order.[30] These commenters maintain that the rules of floor-based exchanges, which require that crowd members be given adequate opportunity to react to an order that a floor broker hopes to facilitate—and the assessment, analysis, and human interactive process that is necessary for them to exercise that opportunity—often demand that a facilitation transaction take at least 30 seconds [31] and can sometimes take as long as a minute [32] or more [33] to conclude.

One commenter further contended that the rules of the ISE should not always mirror the rules of floor-based exchanges, in any case.[34] An electronic market, it argued, does not include the physical proximity that enables all members of a trading crowd to see each other, communicate through open outcry, and participate in the market instantaneously, and thus holds greater risks that any particular order will not be exposed to a large enough group of other market participants to realize price improvement.

Some commenters added that a shortened exposure period would exacerbate the effect of another provision in ISE's rules, which restricts the composition of the electronic crowd that receives Facilitation Mechanism broadcasts to market makers and EAMs with proprietary quotations at the ISE's inside bid or offer.[35] In their view, this provision also limits price competition and encourages internalization.

One commenter argued that the proposed rule change would undermine the goal of greater linkage among options markets because traders on other exchanges would not even learn of pending trades at the ISE, much less have the chance to offer price improvement, before the exposure period would elapse.[36]

Three commenters provided additional comments after the filing of Amendment No. 1 to the proposal to provide for an exposure period of 10 seconds rather than five seconds.[37] Two of these commenters maintained that the amendment did not in any way alleviate the concerns they voiced with respect to the initial proposal.[38] The third commenter viewed the amendment as an admission that five seconds was too short an exposure period, and continued to maintain that a reduction from 30 seconds was unwarranted.[39] All three commenters reiterated the contention that the proposal would allow the ISE to become a vehicle for internalization. Two of these commenters elaborated on the argument that neither five nor 10 seconds would suffice for crowd members to respond to a facilitation broadcast in view of the assessment of conditions and risk they must make to be able to do so.[40] These commenters

[17] Knight Letter.

[18] Amex Letters I and II; CBOE Letters I, II, and III; Knight Letter; Susquehanna Letters I and II.

[19] Knight Letter. Some commenters add that even existing ISE rules governing the Facilitation Mechanism are ''not sufficient to provide facilitated orders with meaningful opportunities for order interaction and price improvement,'' *see* CBOE Letter II, and ''facilitate the transformation of the ISE to an internalization and crossing exchange.'' Susquehanna Letter I.

[20] Knight Letter. According to the Knight Letter, ''Although it is difficult to state with certainty what percentage of national options order flow is represented by institutions, [Knight Financial Products] estimates that the figure may very well be approximately 50%.'' *Id.*

[21] *Id.*

[22] CBOE Letters I and II; Susquehanna Letter I.

[23] CBOE Letter I.

[24] CBOE Letter II.

[25] CBOE Letters I and II; Letco Letter; Susquehanna Letter I.

[26] CBOE Letter I.

[27] Susquehanna Letter I, also quoted in CBOE Letter II.

[28] CBOE Letter II.

[29] *Id.*

[30] Susquehanna Letter I. *See also* CBOE Letters I and II; Amex Letters I and II; Knight Letter; Letco Letter.

[31] Knight Letter.

[32] CBOE Letter II. *See also* Amex Letter II, stating that the facilitation process ''typically, will take a minute or more to complete.''

[33] *See* Amex Letter I, stating that more complex facilitation orders in some cases can take several minutes.

[34] CBOE Letter I.

[35] *See, e.g.,* Susquehanna Letter I. Susquehanna Letter I also included a request that the Commission reconsider its approval of the ISE provision governing composition of the trading crowd.

[36] CBOE Letter I. *See also* Amex Letter II.

[37] Amex Letter II; CBOE Letter III; and Susquehanna Letter II.

[38] CBOE Letter III and Susquehanna Letter II.

[39] Amex Letter II.

[40] For instance, one commenter maintained that when the ISE adopted, in 2001, its rule that bars anticipatory hedging by a firm before it discloses a facilitation order to the crowd, the Exchange ''stated that crowd participants be able (sic) to participate in the execution of orders at equally favorable terms

Continued

further argued that, because the Commission has not approved proposals by other, floor-based exchanges to permit participation rights in more than 40% of an order to any market participant, Commission approval of the ISE proposal would result in disparate treatment of the ISE and the floor-based exchanges, and, in the words of one commenter, ''unequal regulation.''[41]

One of these commenters further expanded on the reasons why, in its view, a 10-second exposure period is inadequate to allow for price improvement of orders that a firm proposes to facilitate.[42] This commenter identified a ''probe phase'' that is part of the process of crossing an order on a floor-based exchange, during which time, in the commenter's description, the broker ''works'' the order for a considerable period before the cross order is bid and offered and can obtain significant price improvement for the customer.[43] Absent the equivalent of this probe phase to ''work'' the order prior to the 10-second bid-offer process, this commenter argues, the ISE proposal would allow an increased number of facilitation crosses to be transacted on the Exchange at biased prices, to the detriment of customers.

One commenter raised the issue of best execution, stating that, absent a step-up requirement of the options linkage plan, if a significant portion of options order flow is internalized, firms would need to address how they would comply with their best execution duties.[44]

B. Comments Supporting the Proposal

The four commenters supporting the proposal, all member firms of the ISE,[45] believe that, contrary to the opinion of opponents, the shortened exposure period would still leave ample time for electronic crowd participants on the ISE to respond to facilitation broadcasts.

These commenters responded affirmatively to the question of whether electronic systems are available that would enable ISE members to monitor facilitation broadcasts and automatically respond based upon pre-set parameters.[46] One commenter stated that, although it does not currently have a system that responds automatically, five seconds is more than adequate for its traders to react to facilitation broadcasts, which are highlighted by its custom software.[47] This commenter added that automation is possible in the near future, and remarked that while it would likely develop a response functionality on its own, it is certain that such functionality could also be made available by software providers. Another commenter stated that it already employs an electronic system in its market making capacity that responds to facilitation broadcasts based on pre-set parameters, in an average of less than one second.[48] It added that it understands anecdotally that other ISE market makers utilize similar systems. A third commenter stated that it understands that ISE members have, or are capable of building, electronic vehicles to respond with pre-programmed instructions.[49] The fourth commenter stated that its systems can easily be adapted to monitor broadcasts and respond within five seconds, and that it believes that other ISE members have similar capabilities.[50]

Supporters of the proposal further expressed the view that an electronic market should not be limited by the kinds of time considerations that may apply on floor-based exchanges. ''In the Internet age,'' wrote one commenter, ''time is no longer measured in seconds. Our proprietary systems are programmed to perform critical functions within a fraction of a second. Ability to respond manually is not the relevant benchmark in an all-electronic marketplace, where five seconds does give the crowd a meaningful opportunity to interact and price improve.''[51]

Three of the supporters of the proposal wrote that use of the Facilitation Mechanism on the ISE, with its current 30-second response period, is not a viable alternative for them on this electronic exchange, because its duration—in the words of one, an ''eternity'' in today's marketplace[52]—exposes them to significant risk that the market will have significantly moved by the time the facilitation transaction is executed.[53] These commenters maintained—in contrast to the assertion of some opponents of the proposal—that because there is by rule no minimum exposure time on floor-based exchanges, facilitation on those exchanges often takes substantially less than 30 seconds,[54] and, in the words of one, is typically a ''nearly instantaneous'' process.[55] This is a primary reason, these firms indicated, that ISE members take their facilitation trades to other options exchanges. All three commenters believe that the proposed rule change would enable the ISE to compete on a more equal footing with the floor-based exchanges to attract order flow.

Some commenters indicated that the proposed rule change would increase the opportunities for market making firms to respond to proposed facilitations and interact with customer orders, thus benefiting investors. As one explained, it does not currently reply to proposed facilitation crosses on floor-based exchanges because it is not physically present at every trading post where it makes markets electronically.[56] In general, supportive commenters wrote, the proposed rule change would benefit customers by allowing for more

as the member representing the order,'' and thereby acknowledged that members of the electronic crowd need time to assess the availability of hedging stock before they can act on a facilitation broadcast. *See* Susquehanna Letter II. *See also* Securities Act Exchange Release No. 44208 (April 20, 2001), 66 FR 21423 (April 30, 2001) (Order approving Supplementary Material .02 to ISE Rule 400 (Just and Equitable Principals of Trade)).

[41] Susquehanna Letter II.

[42] *Id.*

[43] According to this commenter, a broker who proposes a ''biased cross''—that is, a cross at a price that is away from the midpoint of the bid-ask spread or attempted during a volatile market—will usually encounter significant trading interest from the crowd and a high potential for price improvement for the customer's order, and will invariably need to grant additional time to the crowd to assess conditions and give improved prices. Therefore, this commenter argues, ''a broker will generally not even attempt to execute biased crosses without first probing the market by asking for a size market before attempting to bid and offer the cross,'' so that all sources of liquidity in the crowd are aware that liquidity is being sought, and ''everyone will have an opportunity to make a competitive quote at the onset.''

[44] *See* Amex Letter II.

[45] *See supra* note 12.

[46] Bear Stearns Letter; Hull Letter; J.P. Morgan Letter; Morgan Stanley Letter.

[47] Bear Stearns Letter.

[48] Morgan Stanley Letter.

[49] J.P. Morgan Letter.

[50] Hull Letter.

[51] Hull Letter. *See also* J.P. Morgan Letter, arguing that the proposal would limit risk, and that ISE members have or can build electronic systems to read and respond to facilitation broadcasts with pre-programmed instructions. In sum, the J.P. Morgan Letter declares: ''This is the essence of an electronic market[.]''

[52] J.P. Morgan Letter.

[53] Hull Letter; J.P. Morgan Letter; Morgan Stanley Letter. The Morgan Stanley Letter also cited risk to the client. *See*, on the other hand, CBOE Letter II, which questioned the risk to the EAM, ''particularly in light of the fact that, as several of the comment letters confirmed, floor-based exchanges typically take 30 seconds or more to complete a facilitation order,'' and maintained that any market risk to the client is more than offset by the potential price improvement that may occur in a 30-second period.

[54] Hull Letter.

[55] *See* Morgan Stanley Letter, which expressly factors in the time it takes for crowd members to respond to the announcement of the facilitation. *See also* J.P. Morgan Letter, describing the execution of the order as ''instantaneous'' after the announcement of the proposed facilitation at the floor post.

[56] Bear Stearns Letter. *See also* Morgan Stanley Letter.

flexibility and efficiency in the handling of customer orders, and acting as an incentive for crowd participants to compete based on price and to commit additional liquidity.[57]

C. ISE's Responses

The ISE submitted two letters responding to various arguments and factual assertions of commenters opposing the proposal.[58] In its first letter, the ISE insisted that any comparison of the exposure period for facilitated orders on floor-based exchanges and on electronic markets should focus solely on the time that it takes to execute an order once it is exposed to the crowd, not the time it takes to bring it to the floor.[59] On a floor-based exchange, the ISE maintained again, the execution can be instantaneous, while on its own electronic market, the mandatory exposure period is currently 30 seconds, putting the Exchange at a competitive disadvantage.

The purpose of the exposure period, the ISE argued, is to allow customer orders the opportunity to receive price improvement, as well as to give liquidity providers the opportunity to participate in facilitation trades. The Exchange maintained that the comments of ISE market makers in support of the proposed rule change demonstrate that crowd participants will, in fact, be able to respond within a shortened period and that the proposal will enhance competition for customer orders.

The ISE further responded to the objection that not all ISE members are included in the trading crowd that receives facilitation broadcasts, and that, hence, competition is already hampered. The ISE argued that it should not be obligated to provide competing market makers from other exchanges unrestricted opportunity to participate in its trading crowds. It further maintained that, in fact, the Exchange's members have more opportunity to participate in a crowd than at a floor-based exchange, where a member must be physically at the post to participate.[60]

In its second letter, the ISE responded to the contention of a commenter that the discussions generated in a floor-based auction forum generally require a longer time period to complete the price discovery process than the ISE's proposed exposure period, and do not allow for instant facilitation as the ISE claims.[61] The ISE countered that because its own exchange is an electronic marketplace, it includes no such discussions, and because participants instead rely on sophisticated technology, they can respond within a shortened period to interact with order flow.[62]

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the provisions of the Act applicable to a national securities exchange, particularly those of Section 6(b)(5)[63] and Section 6(b)(8)[64] of the Act, and the rules and regulations thereunder.[65] Specifically, the Commission believes that, in the ISE's fully automated market, a 10-second response period will afford electronic crowds sufficient time to compete for customer orders submitted by an EAM into the Exchange's Facilitation Mechanism, thereby promoting just and equitable principles of trade, protecting investors and the public interest, and not imposing any burden on competition.

In assessing the ISE proposal, the Commission concurs with the view of one commenter, who stated that the Commission ''should apply the same standard to the ISE's Facilitation Mechanism (including the length of the exposure period) as it applies to the floor-based exchanges' rules—specifically, does the trading crowd have a meaningful opportunity to interact with the facilitation order and to provide price improvement.''[66]

Although several commenters emphasized that on floor-based exchanges, trading crowds are given at least 30 seconds, if they so require—and sometimes longer—to respond to a customer order subject to facilitation, the Commission believes that this comparison is irrelevant in considering the ISE proposal. Instead, the critical issue in determining whether to approve the ISE's proposed rule change is this: Does an exposure period of ten seconds, within the ISE's own model, give an electronic crowd sufficient time to respond to a facilitation broadcast to compete with the EAM and provide price improvement for customer orders?

In responding to this inquiry, the Commission believes that the timeframes necessary for exposure and execution of orders be adjudged in light of that marketplace's model. For this reason, the Commission does not believe that a fully automated market such as the ISE should be tied to timeframes relevant to the procedures of a floor-based exchange, notwithstanding that the procedures and the nature of the human interactive process on a floor-based exchange may have advantages of their own. Unlike floor-based exchanges, where there is significant human interaction in each trading crowd with respect to the handling of orders, the ISE is a wholly automated marketplace where crowd members interact by electronic means. Thus, the Commission must consider whether electronic systems are readily available to ISE members that would allow them to respond to facilitation broadcasts in a meaningful way within the proposed timeframe.

The comment letters from four ISE member firms, as well as the Commission's own inquiry into available technology, indicating that such systems are indeed available, if not already in place—and that they can be obtained from vendors, if not developed by a firm on its own—persuade the Commission that a ten-second exposure period will provide adequate opportunity for crowd participants in an electronic environment to compete with an EAM for its customer orders. Because all ISE members will have the opportunity to develop or avail themselves of such systems, the Commission does not agree that the proposal would constitute unfair discrimination against market participants who are presently unable to

[57] Hull Letter; J.P. Morgan Letter.

[58] *See supra* note 5.

[59] ISE Letter I. The ISE was taking issue with the point made by one opposing commenter, who argued that even just the preliminary processing of a facilitation cross on a floor-based exchange—in which a customer order is first related by telephone to a floor brokerage booth together with a contra-side facilitation order, the order tickets are next prepared, and then the orders are walked over to the trading crowd—may often take more than 30 seconds.

[60] In this regard, the ISE noted that it provides access to EAMs in its order routing and execution systems and includes them in an electronic crowd when they are quoting for their proprietary accounts at the Exchange's best bid or offer.

[61] ISE Letter II.

[62] The ISE also noted the statement by this same commenter that in the discussions in floor-based auction forums, many order flow provider firms place undue pressure on trading crowds to permit them to effect facilitation crosses, notwithstanding rules that prohibit intimidation in the marketplace. This statement, the ISE maintained, confirms that it is at a competitive disadvantage, because its own electronic system assures compliance with the participation rules.

[63] 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of a national securities exchange be designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. It also requires that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[64] 15 U.S.C. 78f(b)(8). Section 6(b)(8) requires that the rules of the exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[65] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[66] Hull Letter.

reply to ISE broadcast messages automatically.[67]

In addition, some commenters have argued that even if electronic monitoring and response systems are available, market makers would not necessarily use them. Some commenters further believe that automatic, pre-programmed competition, even when used, would result in more conservative responses than the competition of trading crowd participants reacting live on a floor-based exchange. The Commission believes that, given the competitive capabilities and built-in efficiencies that an automatic system could afford, and, in general, considering the nature of pricing in a derivative marketplace, such predictions are at best speculative. Many of the factors that govern options pricing are objective, keyed off of and limited by the price of the underlying security. In the areas where parameters can be adjusted to anticipate or create pricing differentials, areas that require human input, estimation, and anticipation, a firm may be tempted to be conservative. However, as in any market, a firm that is conservative in its pre-programmed responses runs the risk of being shut out completely from the trading by the quotes of more aggressive competitors.

Moreover, in considering the various proposals by the options exchanges to permit greater internalization of orders, the Commission believes the relevant inquiry is whether market makers have a fair opportunity and incentive to compete on an equal basis to trade with orders brought to the exchange, not whether—given that opportunity—they choose to avail themselves of it.[68]

Several commenters correctly noted that the Commission is keenly concerned about the issues raised by internalization in the options markets, and has been particularly vigilant with respect to proposed rule changes that would permit broker-dealers to internalize their customers' orders in a manner that could interfere with order interaction and discourage the display of aggressively-priced quotations. Indeed, the Commission is disinclined to approve not only those proposals by options exchanges that would guarantee broker-dealers the ability to internalize a significant portion of their own customers' orders, but also those proposed rule changes that would guarantee a large percentage of each customer order to any market participant. The Commission's concern with such proposals is that they may lock away so much of each order that crowd members will no longer have an incentive to compete.

The Commission believes, however, that the ability of market makers on the ISE to electronically monitor for facilitation broadcasts, and to program competitive responses based on pre-set parameters, undermines the assertion by these commenters that the proposed rule change would enable EAMs on the ISE to internalize up to 100% of their orders. Accordingly, the Commission does not agree that the ISE's proposed rule change is analogous to other proposals that would guarantee to certain market participants large percentages of each order.[69] Moreover, the Commission believes that one important difference between the ISE's market and, in particular, its Facilitation Mechanism, and floor-based markets is that the ISE's trading crowd does not know the identity of the EAM seeking to facilitate its customer's order. Accordingly, the automated, non-personal nature of ISE's market provides no opportunity for agreements between the facilitating firm and the trading crowd whereby, for example, the trading crowd agrees not to break up a firm's proposed facilitations in exchange for that firm's agreement to bring order flow to the exchange.

When an EAM on the ISE broadcasts its intention to facilitate a customer order and crowd members respond at a price that matches the EAM's price, an EAM is guaranteed only 40% of the order, a participation percentage the Commission found to be consistent with the Act in its initial approval of the ISE as a national securities exchange.[70] Moreover, if crowd members improve upon the facilitation price for the entire size of the order, the EAM will receive nothing. Thus, approval of the ISE proposal will in no way signify ''disparate treatment'' or ''unequal regulation'' of exchanges.

Further, the Commission notes that, although it agrees with the assertion of commenters that market makers must compete with an EAM who may have had knowledge of the order for a considerable amount of time before submitting the facilitation broadcast,[71] this potential advantage to the facilitating firm exists in all facilitation transactions, including those executed on floor-based exchanges.[72]

[67] As discussed at *supra* note 35 and accompanying text, some commenters have argued that the ISE unnecessarily restricts the universe of crowd participants who can respond to a facilitation broadcast to ISE market makers and EAMs at the inside bid or offer. The Commission has previously found that the composition of trading crowds as defined in the ISE's rules is consistent with the Act, and believes it unnecessary to revisit this issue at this time. *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

[68] One commenter argued that the ISE's proposal would undermine linkage among the options markets because traders on *other* exchanges would not be able to participate in trades by offering price improvement within the 10-second exposure period. *See supra* note and accompanying text. The Commission notes, however, that the goal of linkage is to preclude the execution of a customer order on one exchange at price inferior to the best price currently disseminated by another exchange. Linkage will not allow non-members of an exchange to participate in the auction process of the exchange where the customer order is brought for execution.

[69] Further, the Commission does not accept the contention of some commenters that even under existing rules, the ISE's Facilitation Mechanism does not allow meaningful opportunities for order interaction and price improvement and facilitates the transformation of the ISE to an internalization and crossing exchange. *See supra* note 19. The Commission has examined data provided by the ISE that, in its view, substantially refute this contention. One set of these data indicates that, over the six-month period from April through September 2001, facilitation trades represented only 3.12% of the volume on the Exchange. Another set of these data, compiled for the period from August through November 2001, indicates that market makers on the ISE are participating in trades submitted by EAMs through the Facilitation Mechanism. These data show that market makers traded with 33.4%, 43.4%, 24.0%, and 37.2% of the facilitation volume on the ISE, respectively, in each of the four months in this period.

[70] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

[71] *See supra* note and accompanying text.

[72] *See supra* note . The Commission notes that the ISE rule against anticipatory hedging, *see supra* note 40, is similar to longstanding rules of this kind on all the other options exchanges, and was adopted by the Exchange at the Commission staff's urging after a market participant raised the concern that the ISE's rules, too, should contain such a provision. *See generally* Amex Rule 950(d), Commentary .04; CBOE Rule 6.9(e); Philadelphia Stock Exchange Rule 1064(d); and PCX Rule 6.49(b). These rules against anticipatory hedging generally state that it may be considered conduct inconsistent with just and equitable principles of trade for any member or associated person who has knowledge of all material terms and conditions of orders being crossed, an order being facilitated, or an order and a solicited order—the execution of which are imminent—to enter an order to buy or sell an option for the same underlying security or a related instrument until the terms of the order of which the member or associated person has knowledge have been disclosed to the trading crowd or the trade can no longer be considered imminent. These provisions were originally developed in the context of similar rules designed to prevent frontrunning of block transactions, and were conceived to preclude a member or associated person from using undisclosed information about an imminent cross, facilitation, or solicitation transactions in one option from trading a relevant option or other related instrument in advance of persons represented in the relevant option crowd. *See* Securities Exchange Release Act No. 34959 (November 9, 1994), 59 FR 59446 (November 17, 1994) (concerning the CBOE rule), also cited in Securities Exchange Release Act Nos. 42894 (June 2, 2000), 65 FR 36850 (June 12, 2000) (concerning approval of the Amex rule), and 44150 (April 4, 2001), 66 FR 19271 (April 13, 2001) (concerning the PCX rule). While the rule against anticipatory hedging may also result in giving crowd members time to assess the availability of hedging stock, as understood by the commenter cited at *supra* note 37 to be the ISE's intent, the Commission does not believe that this was the primary purpose of the

The sole issue, then, is whether in the instant proposal the crowd members in fact have a reasonable time and opportunity to respond to the broadcast message and compete for the order. As discussed above, the Commission believes that an exposure period of ten seconds on an electronic exchange such as the ISE affords an adequate opportunity for crowd members to respond in such a venue. Therefore, the Commission does not agree with the view of some commenters that an electronic exchange must accommodate manual responses by market makers.

With regard to the comment that floor-based exchanges allow for a ''probe phase'' before a facilitation cross is bid and offered, which may serve to decrease the possibility of ''biased crosses'' on those exchanges, the Commission believes that the need for this process on exchange floors may reflect a weakness of incentives on these floors to maintain or respond with quality quotes in the first place.

Accordingly, the Commission believes that it is appropriate for the Exchange to reduce the length of the Facilitation Mechanism's exposure period to 10 seconds. The Commission, however, intends to monitor closely the impact of this reduced exposure period. Therefore, the Commission has requested from the ISE, and the ISE has agreed to provide, statistics reflecting, for each month, the contract and trade volume of transactions executed through the Facilitation Mechanism as compared to total contract and trade volume executed on the Exchange; the extent to which crowd participants traded with orders submitted through the Facilitation Mechanism; and the extent to which EAMs submitting orders through the Facilitation Mechanism traded as principal with such orders.

The Commission also notes its agreement with the comment that an EAM that trades against part or all of a customer's order must satisfy its fiduciary duty to that customer of best execution. The Commission's approval of the proposed rule change in no way relieves a firm from best execution analysis of trades it executes through the ISE's Facilitation Mechanism. For example, if a firm believes it can obtain better terms for its customer by exposing that customer's order to the auction on the floor of another exchange, it may be obligated to do so, depending on the totality of facts and circumstances surrounding the facilitation and the customer's best interests. Moreover, if a firm cancels a customer order after it has been submitted into the Facilitation Mechanism, an investigation into the reason the order was canceled, and whether the customer received a better price elsewhere, may be warranted.

The Commission finds good cause for approving Amendment No. 1 to the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 revised the proposed rule change to provide an exposure period of 10 seconds, affording more time for the ISE crowd to respond to facilitation broadcasts than under the original proposal. Thus, the amendment should alleviate somewhat concerns about shortening the Facilitation Mechanism's exposure time, and does not raise any other regulatory issues. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) [73] and 19(b)(2) [74] of the Act to accelerate approval of Amendment No. 1 to the proposed rule change.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether the amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2001–19 and should be submitted by October 16, 2002.

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–ISE–2001–19), as amended, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[75]

Margaret H. McFarland,

Deputy Secretary.

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rule. The Commission further does not believe that this result is significant to market makers, except in the case of orders of unusual size. Moreover, a large institutional customer with an order of unusual size may turn to another venue for facilitation if it is concerned that it will not see price improvement because of this dynamic.

[73] 15 U.S.C. 78f(b)(5).

[74] 15 U.S.C. 78s(b)(2).

[75] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46505; File No. SR–Phlx–2001–104]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Clerks on the Exchange's Options Floor

September 17, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On June 27, 2002, the Phlx submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt Exchange Rule 1090, Clerks, which would define and set forth permitted and prohibited activities of Clerks on the Exchange's Options Floor.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated June 26, 2002 (''Amendment No. 1''). In Amendment No. 1, the Phlx: (1) Made technical and clarifying changes to the proposed rule text; (2) added proposed Commentaries .01 and .02 to proposed Phlx Rule 1090 to define and set forth additional requirements for Stock Execution Clerks and Specialist Clerks; and (3) provided additional clarifying explanations with respect to the proposed rule change.

Below is the text of the proposed rule change. Proposed new language is italicized.

* * * * *

Rule 1090. The term ''Clerk'' means any registered on-floor person employed by or associated with a member, member organization, participant, or participant organization who is not a member and is not eligible to effect transactions on the Options Floor as a Specialist, Registered Options Trader, or Floor Broker. For purposes of this Rule, an Inactive Nominee shall be deemed a Clerk.

(a) Badges. While on the trading floor, Clerks shall display prominently at all times the badge(s) supplied to them by the Exchange.

(b) Conduct on the Trading Floor. Clerks shall be primarily located at a post assigned to their employer or assigned to their employer's clearing firm unless such Clerk is:

(i) entering or leaving the trading floor;

(ii) transmitting, correcting, or checking the status of an order or reporting or correcting an executed trade;

(iii) supervising other Clerks of his member organization if he is identified as a supervisor on the registration form submitted to the Exchange's Membership Services Department.

(c) Registration Requirements. A member or member organization who employs a Clerk that performs any function other than a solely clerical or ministerial function shall, prior to the time such Clerk performs any function as a Clerk, (i) comply with the registration requirement(s) set forth in Exchange Rule 604, where applicable; (ii) disclose in detail to the Exchange, on an annual basis, the specific nature of such additional function(s); and (iii) submit to the Exchange written supervisory procedures relating to such Clerk's activities in accordance with Exchange Rule 748.

(d) Clerks' Use of Vendor Quote Terminals, DOT, and Other Order-Entry Devices. A Clerk may enter an order under the direction of a member by way of a vendor quote terminal, DOT machine, or any other order entry device.

Commentary

.01 Stock Execution Clerks

(a) Definition. A Stock Execution Clerk is any person other than a Specialist Clerk on the Exchange Floor who functions as an intermediary in a transaction (A) consummated on the Exchange; (B) entered verbally for execution other than on the Exchange; or (C) entered into a third party system designed to execute transactions other than on the Exchange.

(b) Registration Requirements. Any member or member organization engaged as a Stock Execution Clerk shall register as such with the Exchange's Membership Services Department. A Stock Execution Clerk that performs any function other than a solely clerical or ministerial function shall, prior to performing any function as a Stock Execution Clerk, (i) comply with the registration requirement(s) set forth in Exchange Rule 604, where applicable; (ii) disclose in detail to the Exchange, on an annual basis, the specific nature of such additional function(s); and (iii) in accordance with Exchange Rule 748, submit to the Exchange written supervisory procedures relating to such member or member organization's activities as a Stock Execution Clerk.

(c) Clearing. All transactions by Stock Execution Clerks shall be carried by an NASD member firm. Members and member organizations that function as Stock Execution Clerks shall determine whether their activities as Stock Execution Clerks require them to be registered as NASD members as provided in the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

(d) Limitations. No Stock Execution Clerk shall: (i) act as an intermediary in any transaction other than under the direct supervision of a member; (ii) enter into any clearing transaction or participate in any clearing process; (iii) have discretion or independent authority over any account or transaction.

.02 Specialist Clerks

(a) Definition. A Specialist Clerk is any on-floor person, not a member of the Exchange, employed by or associated with a member or member organization registered as a specialist.

(b) Registration Requirements. Any member or member organization that employs a Specialist Clerk shall register such Specialist Clerk with the Exchange's Membership Services Department. A Specialist Clerk that performs any function other than a solely clerical or ministerial function shall, prior to performing any function as a Specialist Clerk, (i) comply with the registration requirement(s) set forth in Exchange Rule 604, where applicable; (ii) disclose in detail to the Exchange, on an annual basis, the specific nature of such additional function(s); and (iii) in accordance with Exchange Rule 748, submit to the Exchange written supervisory procedures relating to such Specialist Clerk's activities.

(c) Conduct on the trading floor. A Specialist Clerk is permitted to communicate verbal market information (i.e., bid, offer, and size) in response to requests for such information, provided that such information is communicated under the direct supervision of his or her member employer. A Specialist Clerk may consummate electronic transactions under the express direction of his or her member employer by matching bids and offers. Such bids and offers and transactions effected under the supervision of a member employer are binding as if made by the member employer.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to define and set forth permitted and prohibited activities of Clerks on the Exchange's Options Floor.

a. Definition

Proposed Phlx Rule 1090 would define a Clerk as any registered on-floor person employed by or associated with a member, member organization, participant, or participant organization who is not a member and is not eligible to effect transactions on the Options Floor as a Specialist, Registered Options Trader, or Floor Broker. The purpose of this definition is to identify a category of all persons that are not members of the Exchange and who are not eligible to effect transactions, but are located on the Exchange's Options Floor.[4] Under proposed Phlx Rule 1090, Clerks would not be eligible to effect transactions on

[4] The Exchange notes that only Exchange members may bid for and offer securities in the open market on the Exchange Floor. *See* Exchange Rule 104.

the Exchange Options Floor, except in the specific circumstances set forth in proposed Commentary .02 (c) to proposed Phlx Rule 1090 relating to the matching of electronic bids and offers by a Specialist Clerk under the express direction of his or her employer.

Finally, the Exchange proposes that in order for the proposed rule to apply to all categories of registered persons located on the Exchange's Options Floor that are generally not eligible to effect transactions, Inactive Nominees would be deemed to be Clerks for purposes of the proposed rule.[5]

b. Badges

The Exchange proposes to require that Clerks, while on the trading floor, display prominently at all times the badge(s) supplied to them by the Exchange. The purpose of this provision is to ensure that Exchange members are made aware of the identity of all Clerks on the Options Floor, and that Exchange members seeking to effect transactions with other members are able to ascertain the status of those other members with whom they may enter into on-floor transactions.[6]

With respect to Inactive Nominees, the Phlx notes that the Exchange's Membership Services Department currently issues nonmember badges to Inactive Nominees, who are ineligible to effect transactions on the Options Floor. The Exchange's Membership Services Department also issues member badges to activated persons who are eligible to effect transactions on the Options Floor. All badges are issued on a daily basis. The Phlx believes that a further purpose of the badge requirement is to facilitate the Exchange's Market Surveillance Department in ascertaining the function of on-floor persons, and to surveil for violations of Exchange rules accordingly. [7]

c. Conduct on the Trading Floor

The Exchange proposes that a Specialist Clerk [8] would be permitted to consummate electronic transactions under the express direction of his or her member employer by matching electronic bids and offers. The purpose of this provision is to enable Clerks employed by specialists on the Options Floor to assist in matching electronic bids and offers once electronic orders become due for execution. According to the Exchange, such activity, generally administrative in nature, does not involve actual bidding or offering of securities, and could only be carried out by a Specialist Clerk under the direct supervision of his or her employer member. In no circumstance would any Clerk be allowed to consummate a face-to-face transaction with an Exchange member.[9] In order to ensure that transactions effected by Specialist Clerks matching electronic bids and offers are binding on members, the Exchange proposes to require that bids and offers and transactions effected by Specialist Clerks under the supervision of a member are binding as if made by the member employer.

The Exchange also proposes to require that Clerks be primarily located at a post assigned to their employer or assigned to their employer's clearing firm unless a Clerk is entering or leaving the trading floor; transmitting, correcting, or checking the status of an order or reporting or correcting an executed trade; and/or supervising other Clerks of his member organization if he or she is identified as a supervisor on the registration form submitted to the Exchange's Membership Services Department. The Exchange believes that this provision should facilitate the Exchange's Market Surveillance Department in ascertaining the function of Clerks on the Options Floor and ensure that Clerks are not in a position on the Options Floor to enter into transactions in securities with Exchange members without appropriate member employer supervision.

With respect to appropriate member employer supervision, the Exchange proposes to allow a Clerk to enter an order under the direction of a member via a vendor quote terminal, Designated Order Turnaround (''DOT'') System machine, or any other order entry device. Such a Clerk would not have discretion over orders entered, nor be permitted to bid and/or offer through the use of an order entry device without the express direction of a member.[10]

d. Stock Execution Clerks

The proposed rule change would define a Stock Execution Clerk would be defined as any person, other than a Specialist Clerk on the Exchange Floor, who functions as an intermediary in a transaction (i) consummated on the Exchange; (ii) entered verbally for execution other than on the Exchange; or (iii) entered into a third party system designed to execute transactions other than on the Exchange.

According to the Exchange, a Stock Execution Clerk provides a service to Exchange members on the Options Floor by accepting orders for the purchase and sale of securities underlying options transactions. Once such orders are accepted, the Stock Execution Clerk forwards such orders to the appropriate marketplace for execution. The transactions executed are typically hedging transactions in underlying stocks for Exchange specialists and ROTs. The Exchange believes that the proposed rule would assist the Exchange in regulating the business activities of its members and member organizations that function as Stock Execution Clerks.

The Exchange proposes to require any member or member organization engaged as a Stock Execution Clerk to register as such with the Exchange's Membership Services Department. A Stock Execution Clerk that performs any function other than a solely clerical or ministerial function shall, prior to

[5] *See* Exchange Rule 21, which provides that the term ''Inactive Nominee'' shall mean a natural person associated with and designated by a member organization whom has applied for and been approved by the Admissions Committee for such status and is registered as such with the Office of the Secretary. An Inactive Nominee shall have no rights or privileges of membership unless and until the Inactive Nominee becomes a member of the Exchange pursuant to the By-Laws and Rules of the Exchange. An Inactive Nominee merely stands ready to assume legal title to a membership upon notice by the member organization to the Office of the Secretary to be transferred intra-firm on an expedited basis.

[6] Regulation 3 under Exchange Rule 60 requires persons on the Exchange's Options Floor to wear identification badges chest high in full view, and the badges must accurately reflect the respective person's associations and dual affiliations.

[7] The Exchange represents that it currently does not provide badges to Clerks based on the type of Clerk (*i.e.*, Specialist Clerks, Stock Execution Clerk). The Exchange does, however, provide different badges for Clerks and for members permitted to trade on the Phlx floor. The ''member'' badge includes a red square symbol that identifies such member as eligible to enter into transactions on the Exchange floor. Clerk badges do not include such a symbol. Inactive Nominees on the options trading floor are required to wear and display badges identifying them as nonmembers. *See* Amendment No. 1, note 3, *supra.*

[8] A Specialist Clerk is any on-floor person, not a member of the Exchange, employed by or associated with a member or member organization registered as a specialist. *See* proposed Phlx Rule 1090, Commentary .02(a).

[9] Exchange Option Floor Procedure Advice (''OFPA'') F–23 provides that Clerks, other than Specialist Clerks, are prohibited from maintaining a sustained presence in the trading crowd. In addition, Clerks are prohibited from requesting market quotations from a Specialist or ROT, except that a Specialist Clerk, under the supervision of a Specialist, may request the crowd's market in order to update disseminated markets or ascertain parity/priority splits in relation to the execution of an order. A sustained presence is defined as a period of time beyond such time that, under the prevailing circumstances, is needed by the Clerk to complete the allowable business function which brought the Clerk to that crowd in the first place.

[10] For example, a Registered Options Trader (''ROT'') that instructs a Clerk to enter an order via an electronic order entry device would be required to specify whether the order is a buy or sell order; the number of contracts; whether it is a day good till canceled order; whether it is a market or limit order; and the account number. A member employer instructing his or her employee Clerk would be required to provide the same express direction.

performing any function as a Stock Execution Clerk, comply with the registration requirement(s) set forth in Exchange Rule 604, where applicable, disclose in detail to the Exchange, on an annual basis, the specific nature of such additional function(s), and submit to the Exchange written supervisory procedures relating to such activities as a Stock Execution Clerk in accordance with Exchange Rule 748. The Exchange believes that this provision would serve to assist the Exchange in regulating Stock Execution Clerks, and would subject Exchange members and member organizations to possible disciplinary action for failure to supervise their employee Stock Execution Clerks.

The Exchange proposes to require that Stock Execution Clerks clear transactions through an NASD member firm, and determine whether their activities as Stock Execution Clerks require them to be registered as NASD members.[11] The purpose of this provision is to ensure that the activities of Stock Execution Clerks are conducted consistently with the Act and the rules and regulations thereunder. According to the Exchange, the ability of the Exchange's Market Surveillance Department to surveil the activities of Stock Execution Clerks on an exchange floor other than its own is limited. The Exchange believes that this is the primary reason for the Commission's rule requiring NASD membership (and compliance with NASD rules, subject to NASD disciplinary jurisdiction), except in limited circumstances.

Finally, the Exchange proposes to provide that no Stock Execution Clerk may act as an intermediary in any transaction other than under the direct supervision of a member; enter into any clearing transaction or participate in any clearing process; nor have discretion or independent authority over any account or transaction. The purpose of this provision is to ensure that Stock Execution Clerks would not perform duties customarily performed by a Registered Representative (necessitating NASD Series 7 qualification)[12] and to ensure that Stock Execution Clerks comply with applicable federal securities laws.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[14] in general, and furthers the objectives of section 6(b)(5) of the Act,[15] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect the investors and the public interest, and to promote just and equitable principles of trade by regulating the conduct of Clerks on the Exchange's Options Floor.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR–Phlx–2001–104 and should be submitted by October 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24292 Filed 9–24–02; 8:45 am]

BILLING CODE 8010–01–P

[11] Section 15(b)(8) of the Act requires every broker-dealer registered with the Commission to become a member of the NASD unless the broker-dealer effects transactions in securities solely on a national securities exchange of which it is a member. 15 U.S.C. 78o(b)(8). Section 15(b)(9) of the Act provides the Commission with authority to exempt any class of broker-dealers from the requirement to become a member of the NASD. 15 U.S.C. 78o(b)(9). Rule 15b9–1 under the Act exempts members of a national securities exchange from becoming a member of the NASD if the entity (i) carries no customer accounts; and (ii) earns no more than $1,000 annual gross income from securities transactions carried out otherwise than on an exchange of which it is a member. The gross income limitation does not apply to income derived from transactions (A) for the dealer's own account with or through another registered broker or dealer; or (B) through the Intermarket Trading System. 17 CFR 240.15b9–1.

[12] Exchange Rule 604(a) provides that no member organization shall permit any natural persons to conduct a public business or duties customarily performed by a registered representative unless such person is registered and qualified as a Registered Representative. Exchange Rule 604(a)(ii) provides that a person is deemed to be a qualified Registered Representative if he or she maintains an effective Series 7 ''Full Registration/General Securities Representative'' registration or an equivalent predecessor of this examination/registration.

[13] Telephone conversation between Richard S. Rudolph, Director and Counsel, Phlx, and Frank N. Genco, Attorney, Division, Commission.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46513; File No. SR–SCCP–2002–03]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees for Remote Competing Specialists

September 18, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 6, 2002, the Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by SCCP. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends SCCP's fee schedule to adopt new fees relating to remote competing specialists on the Philadelphia Stock Exchange (''Phlx'') and to provide that certain existing fees and discounts applicable to Phlx specialists will not apply to remote competing specialists.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On December 21, 2001, the Commission approved a Phlx proposed rule change to adopt rules designed to facilitate the establishment of Phlx's remote competing specialist program.[4] The new rules provide for the approval by Phlx's Equity Allocation, Evaluation, and Securities Committee of applications by qualified specialist units to act as competing specialists in one or more equity securities from locations other than Phlx's physical trading floor.[5] SCCP is revising its schedule of dues, fees, and charges in anticipation of the commencement of trading by remote competing specialists.

Under the revised fee schedule, the existing trade recording fees and value fees will not apply to trades by Phlx remote competing specialists. The specialist discounts for trades cleared through a SCCP margin account will not apply to trades by remote competing specialists. The PACE specialist credit will not apply to remote competing specialists unless and until the PACE specialist charge (a fee assessed by Phlx) is effective with respect to remote competing specialists.

In place of the trade recording fees and value fees, SCCP proposes to apply a new fee, the SCCP transaction charge, applicable only to transactions involving Phlx remote competing specialists. The SCCP transaction charge of $.30 per remote competing specialist trade will apply to SCCP participants which are, or which clear for, Phlx remote competing specialists. This fee will be capped at $100,000 per month per remote competing specialist.

Except as described herein, all other SCCP fees, dues, discounts, credits, and charges applicable to Phlx floor-based competing specialists (including the PACE specialist credit and account fees, including suffix charges) will also apply to Phlx remote competing specialists.

SCCP believes that the proposed rule change is consistent with 17A(b)(3)(D) of the Act[6] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants because the fee structure proposed herein applies equally to all SCCP participants with remote competing specialist operations or which clear for remote competing specialists.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2) thereunder.[8] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to the File No. SR–SCCP–2002–03 and should be submitted by October 16, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–24354 Filed 9–24–02; 8:45 am]

BILLING CODE 8010–01–P

[2] *See also* Securities Exchange Act Release No. 46392 (August 21, 2002), 67 FR 55294 (August 28, 2002) (amending Phlx fees to be charged in connection with the commencement of the remote competing specialist program.)

[3] The Commission has modified parts of these statements.

[4] Securities Exchange Act Release No. 45184 (December 21, 2001), 67 FR 622 (January 4, 2002).

[5] Phlx notes that for most purposes under its rules a remote competing specialist is considered to be transacting business on the floor. For example, Exchange Rule 461(f) provides, ''All rule, by-law and certificate of incorporation references pertaining to the trading floor of the Exchange shall be deemed to include any bids, offers, orders and trading done remotely, and all such bids, offers, orders and trades shall be deemed to be Phlx bids, offers, orders and executions on the Exchange.'' Additionally, the proposed rule change proposing Phlx Rule 461 states that remote specialists would be subject to the jurisdiction of the Floor Procedure Committee in the same manner they would if their operations were conducted on the physical trading floor and that remote specialists would be eligible to serve on the Board of Governors and in committee positions reserved for persons associated with member organizations primarily engaged in business on Phlx's equity floor. Securities Exchange Act Release No. 45014 (November 2, 2001), 66 FR 56888 (November 13, 2001), footnote 6. Telephone conversation between Carla Behnfeldt, Director, Legal Department new Product Development Group, Phlx, and Lori Bucci, Special Counsel, Division of Market Regulation, Commission (August 30, 2002).

[6] 15 U.S.C. 78q–1(b)(3)(D).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4137]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Jan Miense Molenaer: Painter of the Dutch Golden Age''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the object to be included in the exhibition ''Jan Miense Molenaer: Painter of the Dutch Golden Age,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the North Carolina Museum of Art, Raleigh, North Carolina from on or about October 13, 2002 to on or about January 5, 2003, the Indianapolis Museum of Art—Columbus Gallery, Columbus, Indiana from on or about January 25, 2003 to on or about March 16, 2003, and the Currier Gallery of Art, Manchester, New Hampshire from on or about March 30, 2003 to on or about June 17, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 16, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02–24367 Filed 9–24–02; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4135]

Office of the Coordinator for Counterterrorism; Designation of Foreign Terrorist Organizations

Pursuant to section 219 of the Immigration and Nationality Act (''INA''), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–132, section 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009 (1996), and by the Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107–56 (2001), the Secretary of State hereby redesignates, effective September 25, 2002, the following organization as a foreign terrorist organization:

The Islamic Movement of Uzbekistan also known as the IMU.

Dated: September 18, 2002.

Francis X. Taylor,

Coordinator for Counterterrorism, Department of State.

[FR Doc. 02–24366 Filed 9–24–02; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 4129]

Privacy Act of 1974; System of Records:

AGENCY: Office of Inspector General, Department of State.

ACTION: Public Notice.

SUMMARY: Notice is hereby given that the Department of State proposes to establish a new system of records, titled ''Office of Inspector General Timesheet System.'' The records contained in this system will consist of documentation of employee time spent on daily activities. The system description is set forth below.

ADDRESSES: Office of Inspector General (OIG), U.S. Department of State, 2201 C Street, NW., Washington, DC 20520 and SA–39 1700 N. Lynn Street, Rosslyn, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Harrell K. Fuller, Director of Administration, U.S. Department of State, Office of Inspector General, (703) 284–2708.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of State proposes to establish a new system of records pursuant to the provisions of the Privacy Act of 1974, as amended, and the Office of Management and Budget Circular A–108, Transmittal Memorandum No. 1, dated September 30, 1975 (40 FR 45877, October 3, 1975). The new system of records is titled ''Office of Inspector General Timesheet System.'' The records contained in this system will consist of documentation of employee time spent on daily activities. The records in this system will consist of the employee's name, salary, leave, and timesheets. The system will be used by the OIG as an online tool by management to generate reports on the cost of time spent on projects, training, and management. The system also may be used by the Office of Inspector General's Project Tracking System (PTS) for projects tracked by PTS.

The new system description, ''Office of Inspector General Timesheet System, STATE–67,'' will read as set forth below.

STATE–67

SYSTEM NAME:

Office of Inspector General (OIG) Timesheet System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Inspector General (OIG), U.S. Department of State, 2201 C Street, NW., Washington, DC 20520, SA–39 1700 N. Lynn Street, Rosslyn, Virginia 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All OIG employees of the Department of State, including the Inspector General and Deputy Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name; annual salary; hourly rate; leave use; employee timesheets; employment tenure; employee grade and series; occupational series.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C. App. 3; Foreign Service Act of 1980, as amended (22 U.S.C. 3901).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in the OIG Timesheet System may be used: (a) By the subject of the record to review time spent by the subject on projects, training, and other activities; (b) By OIG management to generate reports and analysis of the time and costs spent on projects, training, and management. Also see the ''Routine Uses'' paragraph of the Prefatory

Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic Media.

RETRIEVABILITY:

By individual name or by project, as well as by each of the data items listed as a category of record in this description.

SAFEGUARDS:

All employees of the Department of State have undergone background investigations. Access to the Department and its annexes is controlled and limited to those individuals possessing a valid identity card or individuals with a proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password protected under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive at which time they will be retired or destroyed in accordance with published records schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to Director, Office of IRM Programs and Services; A/RPS/IPS; U.S. Department of State, SA–2; Washington, DC 20522–6001.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, U.S. Department of State, Office of Inspector General, 1700 North Moore St., Suite # 720, Rosslyn, VA 22209.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the OIG Timesheet System might contain records pertaining to them should write to the Information and Privacy Coordinator, Office of Inspector General, Department of State, Room 6817, 2201 C Street, NW., Washington, DC, 20520. The individual must specify that he/she wishes the records of the OIG Timesheet System to be checked. At a minimum, the individual must include: date and place of birth; approximate dates of employment with Department of State's OIG; current mailing address and zip code; signature; and, preferably, his/her social security number.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Information and Privacy Coordinator, Office of Inspector General, Department of State (address above).

RECORD SOURCE CATEGORIES:

These records contain employee information obtained directly from the individual who is the subject of these records. The records also contain grade, position, and salary information from the OIG's Office of Human Resources that is generated using the employee's identification number from the Global Employee Management System (GEMS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: September 13, 2002.

Clark Kent Ervin,

Inspector General, Department of State.

[FR Doc. 02–23981 Filed 9–24–02; 8:45 am]

BILLING CODE 4710–42–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST–02–12358]

Application of M&N Aviation, Inc. for Commuter Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 2002–9–17).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that M&N Aviation, Inc., is fit, willing, and able under 49 U.S.C. 41738 to provide scheduled passenger service as a commuter air carrier and issue to it a Commuter Air Carrier Authorization.

DATES: Persons wishing to file objections should do so no later than October 4, 2002.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–02–12358 and addressed to the Department of Transportation Dockets (SVC–124, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Serig, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4822.

Dated: September 19, 2002.

Read C. Van De Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02–24364 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2002–13395]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before November 25, 2002.

FOR FURTHER INFORMATION CONTACT: Jean McKeever, Associate Administrator for Shipbuilding, Maritime Administration, 400 7th St., SW., Washington, DC 20590. Telephone 202–366–5737, FAX 202–366–7901.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Capital Construction Fund and Exhibits.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0027.

Form Numbers: None.

Expiration Date of Approval: February 28, 2003.

Summary of Collection of Information: This information collection consists of application for a Capital Construction Fund (CCF) agreement under section 607 of the Merchant Marine Act, 1936 as amended, and annual submissions of appropriate schedules and exhibits. The Capital Construction Fund is a tax-deferred ship construction fund that was created to assist owners and operators of U.S.-flag vessels in accumulating the large amount of capital necessary for the modernization and expansion of the U.S. merchant marine. The program encourages construction, reconstruction, or acquisition of vessels through the

deferment of Federal income taxes on certain deposits of money or other property placed into a CCF.

Need and Use of the Information: The collected information is necessary for MARAD to determine an applicant's eligibility to enter into a CCF Agreement.

Description of Respondents: U.S. citizens who own or lease one or more eligible vessels and who have a program to provide for the acquisition, construction or reconstruction of a qualified vessel.

Annual Responses: 140.

Annual Burden: 2130 hours total.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. Dot Dockets, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: September 19, 2002.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 02–24295 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 5)(2002–4)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, Transportation.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the fourth quarter 2002 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter 2002 RCAF (Unadjusted) is 1.108. The fourth quarter 2002 RCAF (Adjusted) is 0.575. The fourth quarter 2002 RCAF–5 is 0.556.

EFFECTIVE DATE: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Services (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Ḏa-To-Ḏa Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: Decided: September 19, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–24431 Filed 9–24–02; 11:43 am]

BILLING CODE 4915–00–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 30142 (Sub–No. 5)]

Norfolk Southern Railway Company—Extension of Lease Exemption—Virginia and Southwestern Railway Company

Norfolk Southern Railway Company (NSR),[1] a Class I rail carrier, has leased and operated the properties of its wholly owned subsidiary, Virginia and Southern Railway Company (VSW), consisting of approximately 100 miles of rail line in Tennessee and Virginia, under a lease originally authorized by the Board's predecessor, the Interstate Commerce Commission, in 1958. The lease, which has been extended five times, is scheduled to expire on March 14, 2003. The railroads have agreed to extend the lease until March 14, 2023.

This verified notice is filed under 49 CFR 1180.2(d)(3), which exempts transactions within a corporate family and do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family; and 49 CFR 1180.2(d)(4), which exempts renewals of leases and other matters where the Board has previously authorized the transactions, and only an extension in time is involved.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Any employee affected by the subject transaction will be protected by the labor conditions imposed in *Mendocino Coast Ry., Inc.—Lease and Operate,* 354 I.C.C. 732 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980), *aff'd sub nom. RLEA* v. *ICC,* 675 F.2d 1248 (D.C. Cir. 1982).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 30142 (Sub–No. 5), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on David A. Shelton, Three Commercial Place, Norfolk, VA 23510–9241.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 17, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–24216 Filed 9–24–02; 8:45 am]

BILLING CODE 4915–00–P

[1] NSR, formerly known as Southern Railway Company, is controlled through stock ownership by Norfolk Southern Corporation, a noncarrier holding company.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0028]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Information and Technology, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Information and Technology, Department of Veterans Affairs, has submitted the collection of information abstracted

below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 25, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0028''.

Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0028''.

SUPPLEMENTARY INFORMATION:

Titles:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215.

b. Request to Correspondent for Identifying Information, VA Form Letter 70–2.

c. Request for and Consent to Release of Information from Claimant's Records, VA Form 3288.

d. 38 CFR(A) 1.519 Lists of Names and Addresses.

OMB Control Number: 2900–0028.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA operates an outreach services program to ensure veterans and beneficiaries have information about benefits and services to which they may be entitled. To support the program, VA distributes copies of publications to veterans service organizations' representatives to use in rendering services and representation of veterans, their spouses and dependents. The information collected on VA Form 3215 is used to process a request from a service organization to be placed on the mailing list for specific VA publications.

b. VA Form Letter 70–2 is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a veteran. VA personnel use the information to identify the veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as; process a benefit claim or file material in the individual's claims folder. Completion of the form is voluntary and failure to furnish the requested information has no adverse effect on either the veteran or the correspondent.

c. VA Form 3288 is completed by veterans or beneficiaries to provide VA with a written consent to release records or information to third parties such as insurance companies, physicians and other individuals.

d. Title 38, U.S.C., 5701(f)(1) authorizes VA to disclose mailing lists of veterans and their dependents to nonprofit organizations, but only for certain specific and narrow purposes. Criminal penalties are provided for improper use of the list by the organization in violation of subsection (f) limitations. The information collection in this regulation ensures that any disclosure of a list under this subsection is authorized by law. VA must ascertain that the applicant is a nonprofit organization and intends to use the list for a proper purpose; if not, Title 38, U.S.C., 5701(a) prohibits disclosure.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 13, 2002, at pages 40770–40771.

Affected Public: Individuals or households, not for profit institutions, and State, local or tribal government.

Estimated Annual Burden: 22,700 hours.

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—25 hours.

b. Request to Correspondent for Identifying Information, VA Form Letter 70–2—3,750 hours.

c. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—18,875 hours.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—50 hours.

Estimated Average Burden Per Respondent:

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—10 minutes.

b. Request to Correspondent for Identifying Information, VA Form Letter 70–2—5 minutes.

c. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—7.5 minutes.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 196,200.

a. Application of Service Representative for Placement on Mailing List, VA Form 3215—150.

b. Request to Correspondent for Identifying Information, VA Form Letter 70–2—45,000.

c. Request for and Consent to Release of Information From Claimant's Records, VA Form 3288—151,000.

d. 38 CFR(A) 1.519 Lists of Names and Addresses—50.

Dated: September 5, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–23911 Filed 9–24–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 186

Wednesday, September 25, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 990723201–1208–02]

RIN 0605–AA14

Public Information, Freedom of Information and Privacy

Correction

In rule document 01–31131 beginning on page 65631 in the issue of Thursday, December 20, 2001 make the following correction:

§4.30 [Corrected]

On page 65645, in §4.30, in the second column, in the footnote, in the first line, ''5 U.S.C. 552b(b)(4)'' should read ''5 U.S.C. 552a(b)(4)''.

[FR Doc. C1–31131 Filed 9–24–02; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46474; File No. 4–208]

Intermarket Trading System; Order Granting Approval of the Nineteenth Amendment to the ITS Plan Relating to the Philadelphia Stock Exchange, Inc.'s Implementation of a Remote Specialist Program

September 9, 2002.

Correction

In notice document 02–23605 appearing on page 58654 in the issue of Tuesday, September 17, 2002 make the following correction:

On page 58654, in the first column, after the subject line, the date is added to read as set forth above.

[FR Doc. C2–23605 Filed 9–24–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
September 25, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1, 60, 61, 63, 141, and 142
Flight Simulation Device Initial and Continuing Qualification and Use; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 60, 61, 63, 141, and 142

[Docket No. FAA–2002–12461; Notice No. 02–11]

RIN 2120–AH07

Flight Simulation Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the regulations to establish flight simulation device qualification requirements for all certificate holders in a new part. The basis of these requirements currently exists in different parts of the FAA's regulations and in advisory circulars, and the proposed changes would consolidate and update flight simulation device requirements. In addition, the FAA is proposing to require a Quality Assurance program. Currently, sponsors of flight simulation devices may elect to have, but are not required to have, a Quality Assurance program. The intended effect of these proposed changes is to ensure that users of flight simulation devices receive the best possible training in devices that closely match the performance and handling characteristics of the airplanes being simulated.

DATES: Send your comments on or before December 24, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–12461 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Edward Cook, National Simulator Program Staff (AFS–205), Flight Standards Service, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6100.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

For many years the flightcrew training regulations in 14 CFR part 121 subparts N and O allowed simulator training as an enhancement to training and testing in the airplane, but not as a complete replacement for training in the airplane. Due to improvements in flight simulator performance, appendix H was added to part 121 in 1980. Appendix H permitted and expanded use of simulators by air carriers that took advantage of the new simulator performance through an "Advanced Simulation Training Program." Appendix H permits simulators to be used for varying amounts (up to 100%) of the training, testing, and checking required by the FAA. The amount of training permitted depends on the simulator's qualification level.

As the state-of-the-art in simulator technology has advanced, more effective use has been made of the airplane simulator in training, checking, and certification of flightcrew members. Using flight simulators rather than airplanes in training allows for more in-depth training, including the practice of critical emergency procedures, in a safer environment. Not only do simulators provide improvements in safety and in safer training operations, they also provide such benefits as reducing noise, air pollution, and air traffic congestion, and conserving petroleum resources.

Appendix H of 14 CFR part 121 provides an Advanced Simulation plan outlining the steps towards optimum use of flight simulators. The plan consists of several phases of simulation devices and the training allowed in each simulation device level. The intent of including a phased simulation approach was to provide for certificate holders to transition to using the most technically advanced simulation training in order to achieve the maximum benefits of simulation training. Most major air

carriers have taken advantage of appendix H and conduct most or all of their training and checking in simulators.

The FAA originally placed simulator technical requirements in appendix H because part 121 air carriers were the primary users of airplane simulators. As the larger aviation community became interested in using simulators, the FAA in 1980 provided guidance in an advisory circular, AC 121–14C, Aircraft Simulator and Visual System Evaluation and Approval. The AC more fully described what the technical capabilities of simulators should be, how those capabilities might be verified, and how all these capabilities might be incorporated into training programs.

Over the next several years, the FAA in consultation with the aviation industry, refined and republished its guidance material several times. Because the regulations regarding advanced simulators remained in part 121, appendix H, certificate holders who operated under parts other than 121 (such as parts 125 and 135) had to obtain exemptions in order to use simulators as provided in part 121, appendix H. The number of these operators continued to grow.

The ability to manage the increasing number of exemptions, each one with slightly different provisions, conditions, and limitations, became increasingly difficult. The development of 14 CFR part 142, Certification of Training Centers, was seen to be a logical and necessary way to deal with those operators who wished to conduct training for flightcrew members but who did not and would not operate under any of the part 119, 121 125, or 135 passenger carrying rules. However, the regulatory requirements for the technical criteria for a majority of the simulators coming into the U.S. aviation inventory has remained in the part 121 operating rule.

As a result of the above, the FAA is proposing to remove the technical requirements for flight simulation devices (flight simulators and flight training devices) from part 121 and place them in a new part 60, titled ''Flight Simulation Device Qualification.'' The proposed new part 60 would establish flight simulation device (FSD) requirements that could be used by anyone who conducts flightcrew member training, evaluation, and flight experience under any of the Federal Aviation Regulations. The term FSD includes aircraft simulators and aircraft flight training devices (FTD). In short, a flight simulator is a full size replica of a specific type aircraft cockpit, including controls, a visual system, and a motion system; a flight training device is a full size replica of aircraft instruments, equipment, panels, and controls, but does not require a visual system or a motion system. (See proposed § 1.1 for complete definitions of these terms.) Under current 14 CFR Chapter I, there is no general term for these two types of devices.

General Discussion of Proposed Part 60

Proposed new part 60 would contain the requirements for the evaluation, qualification, and maintenance of FSD's. The proposed requirements are based on the current requirements on how to build and use simulators in appendix H of part 121 and in current § 121.407. In a separate rulemaking project that will follow this proposal, other portions of appendix H would be moved to a new subpart of part 121, and appendix H would be deleted.

Part 60 would also contain items (such as frequency, content, and method of evaluation) currently found in the advisory material in AC 120–40B, Airplane Flight Simulator Qualification, in AC 120–45A, Airplane Flight Training Device Qualification, and in AC 120–63, Helicopter Simulator Qualification. Standards from this advisory material and specific items that are subject to change through technological advancements would be placed into one of four appendices to part 60:

- Appendix A, ''Airplane Flight Simulators Qualification Performance Standards.''
- Appendix B, ''Helicopter Flight Simulators Qualification Performance Standards.''
- Appendix C, ''Airplane Flight Training Devices Qualification Performance Standards.''
- Appendix D, ''Helicopter Flight Training Devices Qualification Performance Standards.''

The Standards in these QPS documents are regulatory. Changes and additions to those standards would be subject to notice and comment procedures under the Administrative Procedures Act unless ''good cause'' {see 5 U.S.C.} exists to justify proceeding without notice and comment.

The current and proposed allowable and required uses of flight simulation devices would be in applicable operating, certification, and training center regulations in parts 61, 63, 121, 135, 141, and 142 and in the four QPS documents. The tasks approved for each qualification level would also be provided in the four QPS documents.

For a further discussion of the QPSs, see the preamble discussion on ''Delegation of Authority for Standards Documents.'' The remainder of this discussion of proposed part 60 explains how the proposed rules would be applied. The process described below for obtaining and maintaining FSD qualification is similar to current practice.

Obtaining and Maintaining FSD Qualification under the Proposed Rule

If a certificate holder intends to use an FSD in its training program in order for people to obtain credit toward FAA training, checking or testing requirements, the FSD must be evaluated and qualified by the FAA's National Simulator Program Manager (NSPM) or a person approved by the NSPM. The certificate holder may be the ''sponsor'' of the FSD. An FSD ''sponsor'' seeks qualification and subsequent approval for use of the FSD and agrees to assume responsibility for maintaining the FSD according to prescribed standards. The sponsor may contract with another person for services of document preparation and presentation, as well as FSD inspection, maintenance, repair, servicing, etc., but the sponsor retains ultimate responsibility for the qualification of the FSD. Other certificate holders may seek approval to use the same FSD for credit under an approved training program, but such certificate holders would not be sponsors of the FSD. ''Credit'' means use to meet initial and recurrent training, flight experience requirements or evaluation, such as checking and testing, etc. Although FSD's can be used for ''credit'' to meet certain flight experience requirements (*e.g.*, re-establishing lost recency of experience in landings), time spent in FSD's may not be ''credited'' toward ''operating experience'' requirements (*e.g.*, § 121.434).

Typically, a manufacturer produces an FSD that accurately represents the characteristics of an airplane type, model, and, if applicable, series, such as a Boeing 777–232. The sponsor buys, leases, or otherwise arranges for the use of the FSD in a specific training program, such as its Boeing 777 pilot training program for initial, upgrade, or transition training. First, the sponsor must successfully complete the required objective and subjective tests of the FSD as specified in the appropriate QPS. The findings of these tests indicate whether or not the FSD adequately represents the characteristics of the aircraft in the following areas: cockpit configuration, airplane systems and sub-systems, and performance and flying qualities. These findings also indicate whether or not the FSD adequately represents the

environment in which the aircraft actually operates.

The sponsor then applies for the NSPM evaluation. For the initial NSPM evaluation, the sponsor must allow the NSPM to test the FSD by conducting and comparing objective tests, subjective tests, and performance demonstrations with a series of specific tests conducted the same way in the aircraft. The comparison must show that the performance and flying qualities of the aircraft and FSD are the same, within established tolerances, and that the FSD functions correctly and adequately to perform its planned functions. A successful initial evaluation means that the NSPM agrees with the sponsor's findings that the FSD is an adequate representation of the aircraft.

Once the initial evaluation is successfully completed, the FAA issues a Statement of Qualification (statement). This statement indicates that the FSD is either a flight simulator or an FTD. The statement also indicates the level of qualification assigned to the FSD. Each FSD can be qualified as either a flight simulator (Level A, B, C, or D) or a flight training device (FTD) (Level 2, 3, 4, 5, or 6). The FAA is reserving the term ''Level 1 FTD'' for potential future use. For a further discussion of this issue, see the preamble discussion for ''Conforming changes to other parts.'' The statement also includes a list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the FSD has not been subjectively tested and for which the FSD is not qualified (*e.g.*, circling approaches, windshear training, etc.). Issuance of the statement means that the FSD: (1) Has been qualified as representative of the aircraft, or set of aircraft, as appropriate; and (2) has been qualified at a level authorized in the QPS.

A qualified FSD still cannot be used for training until it is approved for use in a certificate holder's training program in accordance with the training program regulations in parts 121, 135, 141, and 142. A certificate holder must obtain this approval from the FAA through the training program approval authority. Once the FSD has been approved for use in a training program (and the operator has been approved as the FSD sponsor), the FSD may also be approved for use in a non-sponsor's training program.

If the FSD has been evaluated and qualified and if it has been approved for use in the training program, then it may be used for credit as long as its qualification is maintained. To maintain a qualified FSD, the sponsor must comply with the following continuing qualification requirements. The sponsor must complete performance demonstrations and objective, quarterly checks of the simulator's performance and handling qualities. These quarterly checks are to be evenly spaced throughout the year and include approximately one-fourth of the performance demonstrations and validation tests in the Master Qualification Test Guide (MQTG). All of the MQTG demonstrations and tests would have to be completed annually. The sponsor must maintain the results of these quarterly checks for review by the NSPM. This review may be accomplished at any time, but regularly occurs during scheduled recurrent evaluations. The sponsor must also coordinate with the NSPM to ensure that recurrent evaluations are completed within the required interval. The NSPM conducts recurrent evaluations that consist of performance demonstrations and objective tests in the MQTG and subjective tests.

If an FSD is removed from service for moving, storage, or other purpose, the sponsor must take the additional steps proposed in the rule. In addition if the aircraft is modified to change cockpit configuration, if the certificate holder changes relevant flightcrew member duties, or if new data is developed on relevant performance characteristics, the FSD must be modified to comply with the aircraft changes and incorporate the appropriate information in order for time spent in the FSD to be credited toward meeting training, checking, testing, or experience requirements under Title 14 of the Code of Federal Regulations.

All of these requirements are explained in more detail in the section-by-section discussion below.

Section-by-Section Discussion of Proposed Part 60 and Conforming Changes to Other Parts

Part 1 Amendments

Several proposed definitions would be added to current § 1.1, including, ''Flight simulation device,'' ''Flight simulator,'' and ''Flight training device.'' The abbreviations ''FSD'' and ''FTD,'' for ''flight simulation device'' and ''flight training device,'' respectively, would be added to § 1.2. These terms are being added to the definitions and abbreviations in part 1 because they are used in several parts, including new proposed part 60 as well as current parts 61, 63, 121, 135, 141, and 142.

Section 60.1 Applicability

The proposed section outlines the subjects addressed in proposed part 60. Proposed paragraph (a) is based on language from the first introductory paragraph in the ''Advanced Simulation'' section of existing Appendix H. The proposed language states that part 60 contains requirements governing the initial and continuing qualification and use of all aircraft flight simulation devices (FSD) used for training, evaluation, or obtaining any flight experience (but not operating experience under part 121, 125, or 135) for meeting flightcrew member certification or qualification requirements.

Proposed paragraph (b) clarifies that part 60 applies to anyone who uses an FSD for flightcrew member training, qualification, or experience requirements of 14 CFR chapter I. This includes not only sponsors or owners of FSD's, but also each person who uses an FSD for training, evaluation, or obtaining flight experience required for flightcrew member certification or qualification.

Proposed paragraph (c) clarifies that the rules in proposed § 60.31 regarding falsification of applications, records, or reports apply not only to sponsors or owners of FSD's, but also to each person who uses an FSD for training, evaluation, or obtaining flight experience required for flightcrew member certification or qualification.

Section 60.2 Applicability of Sponsor Rules to Persons Who Are Not Sponsors and Who Are Engaged in Certain Unauthorized Activities

Proposed paragraph (a) proposes that the rules of this part that are addressed to FSD sponsors are also applicable to nonsponsors who inappropriately use or cause the use of an FSD. Proposed rules that are specifically addressed to sponsors included §§ 60.5(a), 60.19(a), 60.23(d), and 60.31. The purpose of § 60.2(a) would be to give the FAA a legal means by which it could charge a nonsponsor, who inappropriately uses or causes the use of an FSD, with violations of the safety rules that are directed to persons who have already become sponsors of FSDs. Because the word ''person'' is already defined in Part 1 of the regulations, this proposed section and all other proposed sections that refer to ''person'' or ''persons'' would apply to individuals and legal entities, including corporations, companies, and partnerships. Therefore, for example, if ''Company A'' made its FSD available to ''Company B'' with representations that the FSD was fully

qualified under Part 60, including a false representation that ''Company A'' was the FAA-approved sponsor for the FSD (see § 60.7(b)), then ''Company A'' could be charged with violating § 60.19(a). Even though § 60.19(a) directs a *sponsor* not to use or allow the use of an FSD to meet any of the requirements of the Federal Aviation Regulations unless certain requirements are met (*e.g.*, a functional ''preflight'' check each calendar day before the FSD is first used), ''Company A'' (a nonsponsor of the FSD) could also be charged with a violation of § 60.19(a) because its actions would meet the elements under proposed § 60.2(a). Meeting the elements under § 60.2(a) would make proposed § 60.19(a) applicable to Company A.

Proposed § 60.2(b) provides an example in which proposed § 60.2(a) would not apply. If an FSD manufacturer sold a FSD to an air carrier and merely made representations that the FSD was in a condition such that it should be able to obtain FAA approval and qualify as an FSD under proposed part 60, that manufacturer would not be subject to a possible violation of any proposed section directed to FSD sponsors as long as the other conditions of proposed paragraph (b) were also met. Thus, an FSD manufacturer that did not falsely claim to be the FSD's FAA-approved sponsor and did not make false representations that someone else was already FAA-approved as the FSD's sponsor and did not claim the FSD was already fully qualified under part 60 (in a case where it really was not qualified pursuant to part 60), would not be subject to § 60.2(a). Not being the FSD's sponsor and not being subject to § 60.2(a) would mean that the manufacturer would not be subject to proposed part 60 rules addressed to ''sponsors.''

Section 60.3 Definitions

This proposed section contains definitions used throughout proposed part 60. The following definitions are included: ''Certificate holder,'' ''Evaluation,'' ''Flight experience,'' ''Flight test data,'' ''FSD Directive,'' ''Master Qualification Test Guide (MQTG),'' ''National Simulator Program Manager (NSPM),'' ''Objective test,'' ''Predicted data,'' ''Qualification level,'' ''Qualification Performance Standard (QPS),'' ''Qualification Test Guide (QTG),'' ''Set of aircraft,'' ''Sponsor,'' ''Subjective test,'' ''Training Program Approval Authority (TPAA),'' and ''Upgrade.''

For purposes of proposed part 60 ''certificate holder'' refers to a person issued an operating certificate under part 119 to conduct operations under part 121 or 135, a person issued a pilot school certificate under part 141, a person issued a training center certificate under part 142, or a person that has FAA approval for a course of training for flight engineers under part 63.

For purposes of proposed part 60, flight experience means only that flight experience used to meet landing recency requirements.

As defined, an FSD Directive is a document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD. There are several types of situations that might occur that would lead the FAA to issue an FSD Directive. If an aircraft manufacturer develops new data on an aircraft and the FAA decides that the new data might affect aircraft performance or handling qualities, then the FAA may issue an FSD Directive to require each sponsor of that type FSD to make a corresponding change to the FSD. Similarly, the FAA may issue an FSD Directive if a manufacturer or the FAA discovers that the existing data for an aircraft is not accurate. Also, if the FAA issues an Airworthiness Directive on a particular aircraft and the FAA determines that the change required for the aircraft would also affect aircraft performance or handling qualities, the FAA may issue an FSD Directive requiring that a change be made to each affected FSD. Each FSD Directive would be published in the **Federal Register** as an amendment to the Record of FSD Directives appendix for the appropriate QPS. In addition, each sponsor would maintain a list of FSD Directives applicable to each FSD in the Master Qualification Test Guide (MQTG) for that FSD. The list would include a record of the completion of the modification to the FSD.

As defined, an MQTG is approved individually for each FSD, not for each type of aircraft being simulated.

A definition is proposed for ''set of aircraft'' because traditionally an FSD has been qualified for aircraft that share similar handling and operating characteristics, share similar operating envelopes, and have the same number and type of engines or powerplants. Aircraft that meet these criteria are usually referred to as a ''set of aircraft,'' although the term has not previously been defined.

The term ''Training Program Approval Authority'' would be defined to mean a person authorized by the Administrator to approve the aircraft flight training program in which the FSD would be used. This would normally be the Principal Operations Inspector (POI), the Training Center Program Manager (TCPM), or the assigned operations inspector in the local Flight Standards District Office (FSDO).

The proposed definition for ''upgrade'' is ''the improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.'' It is not considered an upgrade when a sponsor chooses to modernize some aspect of the FSD (*e.g.*, visual system, host computer, instructor operating station, etc.) without affecting the qualification level of the device.

Section 60.4 Qualification Performance Standards

Proposed § 60.4 would describe that Appendices A, B, C, and D would contain the Qualification Performance Standards for each family of flight simulation device (Airplane Flight Simulators, Helicopter Flight Simulators, Airplane Flight Training Devices, and Helicopter Flight Training Devices) and describe which appendix contains which QPS: *i.e.*, Appendix A, contains the QPS for Airplane Flight Simulators; Appendix B contains the QPS for Airplane Flight Training Devices; Appendix C contains the QPS for Helicopter Flight Simulators; and Appendix D contains the QPS for Helicopter Flight Training Devices.

Section 60.5 Quality Assurance Program

The basic precept of the quality assurance (QA) program described in this section is for the sponsor ''to say what it does; to do what it says; and to keep good records.'' The proposed requirement for a QA program would require each sponsor to develop a working knowledge of the requirements of part 60 and the relevant QPS document. This knowledge would be demonstrated to the NSPM through a written description of how, how often, when, where, and with what resources the sponsor's organization plans to comply with the requirements of part 60.

By having this written description, the NSPM and the sponsor would be able to compare what is actually done with what the sponsor agreed to do regarding FSD repair, modification, regular maintenance, and daily readiness. The standardization required for such satisfactory comparisons would add to the efficiency and effectiveness of the FSD. Through the reliability of the maintenance and the daily readiness provided by a sound QA program, flightcrew member training, evaluation, and flight experience would be obtained more reliably, on a planned schedule

with less interruption. Additionally, the students would more easily retain the knowledge and skills learned through such standardized, uninterrupted training.

The proposed QA Program would help provide consistent training and repetitive practice in the desirable environment of accurate and realistic simulation. Flightcrew members would be able to more readily, more directly, and more completely transfer and use in the airplane the skills and procedures learned, practiced, and reinforced in reliable FSDs. This process would yield a safer operating flightcrew and, therefore, a higher degree of safety for the traveling public.

Proposed paragraph (a) would state that a sponsor must establish and follow a quality assurance program before the sponsor can use or allow the use of an FSD for flightcrew member training or evaluation, or to obtain flight experience for a flightcrew member. Specific requirements for the quality assurance program are found in the appropriate QPS. The purpose of the quality assurance program is to ensure that the sponsor is capable of addressing their own ability to provide FSDs that continually meet the training, testing, checking, and experience requirements of their respective FAA-approved flight training program(s) and the regulatory requirements of part 60. The quality assurance program would include a complete written description of all of the procedures that the sponsor has developed for complying with all of the requirements of part 60. In addition the quality assurance program would include a regular assessment by the sponsor of the effectiveness of the sponsor's program for complying with part 60. See the ''information'' section of paragraph 5 in each of the QPS documents, published later in this document.

Proposed paragraph (b) would state that the sponsor is responsible for the program regardless of where the FSD is located and regardless of who the sponsor may contract with for inspection, maintenance, repair, servicing, testing, or document preparation and presentation.

Proposed paragraph (c) would state that the program must provide a means for correcting any deficiency in the program; provide a mechanism to incorporate any required or desired modification to the program; and include a means for documenting each such change or modification.

Proposed paragraph (d) would state that when the NSPM finds that the program does not contain adequate procedures and standards to meet the requirements described in this section of the rule, the NSPM may require the sponsor to make an appropriate modification to the program to correct those deficiencies. This paragraph would also state that the sponsor would have the right to appeal to the Administrator such a notification from the NSPM to modify the program. When such an appeal is filed within 30 days of the NSPM notification, the requirement to make the modification would be delayed pending a decision by the Administrator, unless an emergency involving safety of flight requires the immediate modification.

Proposed paragraph (e) would state that each sponsor of an FSD must designate one individual as the management representative (MR) for quality assurance program purposes. The individual would have to be employed by the sponsor and identified by name to the NSPM and TPAA. The MR would be the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that FSD. This individual would be ultimately responsible for the initial and day-to-day qualification of the assigned FSD, although he or she may delegate certain duties associated with FSD qualification, such as maintenance, inspection, and conduct of tests. The FAA assumes that any current FSD sponsor would already have such an individual on staff.

Section 60.7 Sponsor Qualification Requirements

Proposed paragraph (a) would state that eligibility to become a sponsor is based on whether the person holds or is an applicant for a certificate under parts 119, 141, or 142 or whether the person holds or is an applicant for an approved flight engineer course under part 63. This paragraph would also require that the FSD will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the aircraft being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA. The primary concern of the FAA regarding an FSD is whether or not the FSD will provide the proper performance and handling qualities to those who are to use it for training, evaluation, or flight experience. The FSD must provide an environment in which flightcrew members can learn, practice, and exhibit the same behavior patterns, the same control input strategies, and the same responses to input stimuli (*i.e.*, the motion, visual, sound, and instrument cueing) as they would expect to exhibit in the real environment. Pilots, instructors, and check airmen are critical in ensuring the FSD is providing what it is intended to provide. It is this group that really has ''control'' of the simulator and is most motivated to ensure it continues to be the appropriate tool for critical training, evaluation, and flight experience tasks. The people in this group are the first to know and in the best position to know when this is being accomplished and when it is not. In short the sponsor must be very motivated regarding the proper function of the FSD. The sponsor must be dependent on the FSD's use for its training program, with the most to lose or gain regarding the proper functioning of the FSD. It is the sponsor with whom the FAA's operational interest is most direct. Therefore, the FAA is proposing that the FSD will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the aircraft being simulated. The FAA specifically requests comments on the proposal regarding the FSD being used or offered for use in the sponsor's FAA-approved training program for the aircraft being simulated.

Under proposed paragraph (b) a person is a sponsor if the conditions under paragraph (a) continue and if the person has operations specifications for the aircraft type or set being simulated, or if the person has training specifications or a course of training authorizing the use of an FSD for that aircraft type or set. Also, the person would be required to have an approved quality assurance program in accordance with proposed § 60.5. Finally, the NSPM would have had to approve the person as a sponsor and not have withdrawn that approval.

Under proposed paragraph (c), a person would continue to be a sponsor of an FSD if (1) beginning 12 calendar months after the initial qualification and every 12 calendar months thereafter, the FSD is used in the sponsor's FAA-approved flight training program for the aircraft type or set of aircraft for a minimum of 600 hours annually and (2) the use of the FSD meets the requirements of parts 61, 63, 91, 121, or 135. The annual minimum number of hours is proposed to ensure that the sponsor retains the high level of interest needed when using and maintaining each FSD under the requirements of this part. In addition, this minimum number of hours also ensures that the time, effort, and expense incurred by the Administrator for initially and recurrently evaluating the FSD is appropriately incurred. In using the term ''calendar month'' the FAA is allowing flexibility in calculating these hours. For example, if an FSD was initially qualified on March 5, the

sponsor would have until March 31 of the following year to accumulate the minimum 600 hours of use for that FSD. This 600 requirement represents between 5 and 10 percent of the time the FSD could be used throughout the calendar year. For example, 24 hours in a day and 365 days in a year = 8760 hours in a year.

Proposed paragraph (c)(3) would state that if the use requirements in paragraphs (c)(1) and (c)(2) are not met, the person could continue to sponsor the FSD on a provisional basis for an additional 12 calendar months. If, during this additional 12-calendar-month period, the FSD is used as described in paragraphs (c)(1) and (c)(2), the provisional status would be removed and regular sponsorship resumed. If, during this additional 12-calendar-month period, the FSD is not used as described in paragraphs (c)(1) and (c)(2), the FSD would not be qualified and the sponsor could not apply to sponsor the FSD for at least 12 calendar months. This 12 month period in which a person could not sponsor an FSD is necessary to prevent a person from seeking repeated sponsorship of an FSD even though that person has no intention of using the FSD in accordance with the minimum use requirements in § 60.7. Such repeated applications would require the NSPM to expend fiscal and human resources unnecessarily.

Section 60.9 Additional Responsibilities of the Sponsor

Proposed paragraph (a) would state that the sponsor of each FSD used for flightcrew member training or evaluation under this chapter must allow the NSPM to inspect the FSD immediately, including all records and documents relating to the FSD in order to determine its compliance with proposed part 60. The proposed paragraph is similar to the second paragraph in existing Appendix H, ''Advanced Simulation.'' In most cases the inspection would be scheduled at a convenient time for the sponsor; however, the FAA proposes to add the word ''immediately'' to the regulatory language in order to provide authority for an immediate inspection, if warranted.

Proposed paragraph (b) would require each sponsor to develop a method for personnel using or performing work on the FSD (flightcrew members, instructors, check airmen, simulator technicians, and maintenance personnel) to provide comments on the FSD and its operation. The proposed paragraph would require the sponsor to examine each comment for content and importance and to take appropriate action. For example, a comment that indicates a potential malfunction or maintenance issue for the FSD would need to have follow-up action, whereas a comment on the carpet color inside the FSD would have a lower priority because it does not affect FSD performance. This requirement is intended to work in concert with the quality assurance program. It is intended as a mechanism to ensure that the sponsor knows how the FSD is operating and what must be done to maintain its usefulness.

Proposed paragraph (b) would also require that the sponsor maintain a liaison with the manufacturer of the aircraft being simulated by the FSD to facilitate compliance with § 60.13(f) when necessary.

Finally, proposed paragraph (b) would require that the sponsor post in or adjacent to the FSD the Statement of Qualification issued by the NSPM. This posting would alert users that they may not use the FSD for any specific function for which the FSD has not been qualified. For example, if the Statement of Qualification lists windshear training as a function for which the FSD has not been qualified, then the FSD may not be used for credit for windshear training.

Section 60.11 FSD Use

The introductory text of proposed § 60.11 contains language that assigns responsibility for complying with part 60 to any person who ''uses,'' ''allows the use of,'' or ''offers the use of'' an FSD for meeting training, evaluation, or flight experience requirements. Examples of people who ''use'' an FSD would be a certificate holder or an employee of the certificate holder, a flight instructor, or an individual flightcrew member. The person who ''allows'' or ''offers'' the use of an FSD would be an FSD sponsor who allows other certificate holders to use the FSD. Each flight instructor, check airman, or other evaluator is expected to be knowledgeable and aware of whether the equipment they are using is qualified for the task they are doing at that moment. This provision does not prohibit a person from using an FSD for other than meeting training, evaluation, or flight experience requirements. For example, an FSD that is not currently qualified under part 60 could be used for meeting foreign training requirements or the FSD could be demonstrated for a prospective customer.

Proposed paragraph (a) is similar to existing § 121.407(a)(1)(i). While the existing requirement states that each FSD be specifically approved for the certificate holder, the proposed paragraph would require that each FSD have a sponsor, and not more than one sponsor, who may be any person who meets the definition of ''sponsor'' and who is authorized under this chapter to use a qualified and approved FSD. This clarification is necessary because the current rule is not explicit regarding who the certificate holder must be. The proposed rule requires a specifically-identified certificate holder as the sponsor and sets out specific duties and responsibilities for that sponsor.

Proposed paragraph (a) is also based on existing § 121.407(b), which states that a particular airplane simulator or training device may be approved for use by more than one certificate holder. The proposed paragraph would state that other persons or certificate holders may arrange to use a sponsor's FSD that is already qualified and approved for use within an approved flight training program without an additional qualification process. (See proposed § 60.16 for specific requirements for certificate holders or other persons who wish to use a sponsor's FSD for purposes beyond what the FSD is already qualified for.) However, the sponsor would still remain responsible for ensuring that the FSD continually meets the requirements of proposed part 60 and the FSD would have to be approved separately for use in each approved training program.

Proposed paragraph (b) would state that the FSD must be qualified for the make, model, and series of aircraft or set of aircraft and for all tasks and configurations, as described in the posted Statement of Qualification required by proposed § 60.9(b)(4).

Proposed paragraph (c) would state that the FSD must remain qualified through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with proposed part 60 and the appropriate QPS.

Proposed paragraph (d) would require the sponsor to ensure that the software and active programming used during regular flightcrew member training, evaluation, or flight experience is the same as that which is used during FSD evaluations. For example, it would not be acceptable to narrow the range of motion of a simulator or alter the programming, such that in actual training the range of motion or a handling characteristic such as pitch sensitivity is not the same as it was during the initial evaluation of the simulator by the NSPM. The purpose of this requirement is to ensure that people using the FSD receive the best possible training in a device that closely matches

the performance and handling characteristics of the aircraft being simulated.

Section 60.13 FSD Objective Data Requirements

Proposed paragraph (a) would require the sponsor to submit the aircraft manufacturer's flight test data to the NSPM for validating FSD performance and handling qualities during evaluation for qualification. This flight test data must come from the original certification flight tests and must include any data developed after the type certificate was issued (*e.g.*, data developed in response to an Airworthiness Directive) that incorporates a change in performance, handling qualities, functions, or other characteristics of the aircraft that must be considered during flightcrew member training, testing, or checking, or when meeting flightcrew member experience requirements. Also, this requirement would apply not only for initial qualification of an FSD, but also for subsequent recurrent evaluations of the FSD, and evaluations following any modifications to the FSD, including those made in response to an Airworthiness Directive or an FSD Directive. This is to help ensure that the FSD accurately simulates the aircraft being simulated.

Proposed paragraph (b) would state that the sponsor may submit flight test data to the NSPM from a source in addition to or independent of the aircraft manufacturer's data submitted in support of a FSD qualification. This data would have to be gathered and developed by that source in accordance with the flight test methods, including a flight test plan, as described in the appropriate QPS.

Proposed paragraph (c) would state that the sponsor may submit alternative data (such as engineering simulation or calculated or extrapolated data, etc.) acceptable to the NSPM for consideration, approval and possible use in particular applications for FSD qualification.

Proposed paragraph (d) would require that data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

Proposed paragraph (e) would state that the NSPM may require additional flight testing to support certain FSD qualification requirements.

Proposed paragraph (f) would require that, when an FSD sponsor learns or is advised by an aircraft manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate an FSD used in the sponsor's training program is available, the sponsor must immediately notify the NSPM. This would provide an opportunity for the NSPM to decide if action is needed to incorporate the data into that sponsor's or any other sponsor's FSD.

Section 60.14 Special Equipment and Personnel Requirements for Qualification of the FSD

The proposed new section would require that, when notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish tests during initial or recurrent evaluations.

The NSPM would notify the sponsor at least 24 hours in advance of the evaluation if special equipment or personnel would be required to conduct the evaluation. Examples of special equipment include spot photometers, flight control measurement devices, sound analyzer, etc. Examples of special personnel would be those specifically qualified to install or use any special equipment when its use is required. The purpose of this section is to ensure that the NSPM can conduct a meaningful and useful evaluation.

Section 60.15 Initial Qualification Requirements

Proposed paragraph (a) would require that a sponsor seeking an evaluation for an initial FSD qualification must submit a request to the NSPM through the training program approval authority (TPAA), who is defined in proposed § 60.3 as a person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used (normally the FAA's assigned POI or TCPM for the sponsor). The request would have to be submitted in a form and manner described in the appropriate QPS. An application for qualification under proposed part 60 would have to be submitted through the TPAA because the design of proposed part 60 is that an FSD evaluation is closely tied to its planned use in an FAA approved training program.

Proposed paragraph (b) outlines what must be included in the sponsor's request for an evaluation. Proposed paragraph (b)(1) would state that the request must include a statement that the FSD meets all of the applicable provisions of proposed part 60. Proposed paragraph (b)(2) would state that the request must include a statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification is maintained except where modified as authorized in proposed § 60.23. The statement must include a description of the procedure. Proposed paragraph (b)(3) would state that the request must include a statement signed by at least one pilot who meets the requirements of paragraph (c) asserting that each pilot so approved has determined that: (i) The FSD systems and sub-systems function in a manner that is equivalent to those in the aircraft or set of aircraft, (ii) the performance and flying qualities of the FSD are equivalent to those of the aircraft or set of aircraft, and (iii) for type specific FSD's, the cockpit configuration conforms to the configuration of the aircraft make, model, and series being simulated. These statements are necessary to ensure that the FSD has been thoroughly and competently assessed by the sponsor and that the assessment was done by someone who is competent to make that determination.

Proposed paragraph (b)(4) would require that the sponsor's request include a list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the FSD has not been subjectively tested (*e.g.*, circling approaches, windshear training, etc.) and for which qualification is not sought. This list would be required so that future or prospective users would be alerted if a particular FSD is not qualified for a particular task.

Proposed paragraph (b)(5) would require that the sponsor's request must include a qualification test guide (QTG) that includes: (i) Objective data from aircraft testing, or another approved source; (ii) correlating objective test results obtained from the performance of the FSD as prescribed in the appropriate QPS; (iii) the general FSD performance or demonstration results prescribed in the appropriate QPS; and (iv) a description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification. The QTG is necessary to provide documentation of the results of the initial evaluation. The data will be used for comparison purposes in future recurrent evaluations.

Proposed paragraph (c) would require that, except for those FSD's previously qualified and described in § 60.17, each FSD evaluated for initial qualification would have to meet the standards that are in effect at the time of the evaluation. However, if a change to the standards (*i.e.*, tests, tolerances, or other requirements) for the evaluation for initial qualification are published by the FAA, a sponsor may request that the

NSPM apply the standards that were in effect when an FSD was ordered for delivery under certain circumstances listed in the proposal.

Proposed paragraph (d) would require that the pilot or pilots who make the statement required by paragraph (b)(3) must be designated by the sponsor and approved by the TPAA. In addition the pilot or pilots must be qualified in the aircraft or set of aircraft being simulated or, for aircraft types not yet issued a type certificate, the pilot or pilots must be qualified on an aircraft type similar in size and configuration.

Proposed paragraph (e) would require that the subjective tests that form the basis for the statements described in proposed paragraph (b)(3) and the objective tests described in proposed paragraph (b)(5) must be accomplished at the sponsor's training facility, except as provided for in the appropriate QPS. The procedures described in the QPS allow complete testing of the FSD at the manufacturer's facility but requires that this be followed by a re-test of at least a ⅓ cross-section of all tests at the training center location to ensure that any disassembly/reassembly has not affected the performance or handling qualities of the FSD as originally determined (*e.g.*; see paragraph 11(m) in the proposed Airplane Flight Simulators Qualification Performance Standards, FAA Document No. FAA–5–120–40C). If the FSD must be moved after the initial evaluation, the sponsor must follow specific procedures that allow the NSPM to require the sponsor to reaccomplish certain tests to ensure that the performance was not affected by the disassembly and reassembly.

Proposed paragraph (f) would require the person seeking to qualify the FSD to provide the NSPM with access to the FSD for the length of time necessary to complete the required evaluation of the FSD for initial qualification. This evaluation for initial qualification includes performance demonstrations, objective tests, and subjective tests, including general FSD requirements, to determine that the FSD meets the standards in the appropriate QPS.

Proposed paragraph (g) would state that a satisfactory evaluation for initial qualification results in the NSPM issuing a Statement of Qualification which would: (1) Identify the sponsor; (2) identify the make, model, and series of aircraft or set of aircraft being simulated; (3) state that the FSD is qualified as either a flight simulator or an FTD; (4) identify the configuration of the aircraft or set of aircraft being simulated, *e.g.*, engine model or models, flight instruments, navigation or other systems, etc.; (5) list all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the FSD has not been subjectively tested and for which the FSD is not qualified, *e.g.*, circling approaches, windshear training, etc.; and (6) indicate the qualification level of the FSD. All of this information would be included on the Statement of Qualification so that future or prospective users of an FSD can determine that the FSD can perform the tasks necessary for their training program.

Proposed paragraph (h) would require that after the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG. The sponsor must incorporate the results of the FAA-witnessed tests and demonstrations, together with the results of all the objective tests and demonstrations described in the appropriate QPS.

Proposed paragraph (i) would provide that, upon issuance of the Statement of Qualification, the updated QTG would become the MQTG. The MQTG would have to be made available to the FAA upon request, so that the FAA can go to one source for all test results related to a specific FSD.

Section 60.16 Additional Qualifications for a Currently Qualified FSD

Proposed paragraph (a) would state the additional qualification process required if a user intends to use the FSD for meeting training, evaluation, of flight experience requirements beyond the qualification issued to the sponsor. Proposed paragraph (a) would require the sponsor to:

(i) Submit to the NSPM all modifications to the MQTG that are required to support the additional qualification; (ii) describe to the NSPM all modifications to the FSD that are required to support the additional qualification; and (iii) submit a statement to the NSPM that a pilot, designated by the sponsor and approved by the TPAA, has subjectively evaluated the FSD in those areas not previously evaluated. These requirements are necessary to ensure that training received in an FSD is adequate for a particular training program.

Proposed paragraph (a)(2) would require the FSD to successfully pass an evaluation as follows: (i) For initial qualification, in accordance with proposed § 60.15 if the NSPM has determined that a full evaluation for initial qualification is necessary; or (ii) for those elements of an evaluation for initial qualification (*e.g.*, objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

Proposed paragraph (b) would require the NSPM, in making the determinations described in paragraph (a)(2) of this section, to consider factors including the existing qualification of the FSD, any modifications to the FSD hardware or software that are involved, and any additions or modifications to the MQTG.

Proposed paragraph (c) would state that, except for those FSD's previously qualified and described in § 60.17, each FSD evaluated for initial qualification must meet the standards that are in effect at the time of the evaluation. However, if a change to the standards (*i.e.*, tests, tolerances, or other requirements) for the evaluation for initial qualification are published by the FAA, a sponsor may request that the NSPM apply the standards that were in effect when an FSD was ordered under certain circumstances listed in the proposal.

Proposed paragraph (d) would state that the FSD is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with proposed § 60.15(f).

Proposed paragraph (e) would state that the sponsor could not modify the FSD except as described in § 60.23.

Section 60.17 Previously Qualified FSD's

Proposed paragraph (a) would state that any FSD qualified before the effective date of a final rule for part 60 will retain its qualification as long as it continues to meet the standards of its original evaluation, regardless of sponsor, and as long as the sponsor complies with the applicable provisions of proposed part 60. This requirement would be effective unless otherwise specified by an FSD Directive or unless the sponsor elects to comply with later standards, as specified in proposed paragraph (e). However, this grandfathering provision applies only to the qualification basis of the FSD. All of the use requirements in part 60, such as the sponsor responsibility for a quality assurance program and the recurrent evaluation, maintenance, and recordkeeping requirements would apply to these grandfathered FSD's.

Proposed paragraph (b) would require that sponsors of previously qualified FSD's obtain a Statement of Qualification, including the Configuration List and the Restrictions to Qualification List within six (6) years after the effective date of this rule in accordance with the procedures set out in the appropriate QPS. This is necessary so that all qualified FSD's will

have a Statement of Qualification, and the information contained therein and retained on file with the NSPM will be useful to the sponsor, potential users, and the FAA.

The FAA is allowing the grandfathering process described above to ensure a stable regulatory design for investment and use of FSD's as long as the FSD is used continually under the rules in proposed § 60.7. At the same time, the FAA wants to encourage industry to use the most up to date standards and in some cases will mandate the use of new standards by issuing an FSD Directive.

Proposed paragraph (c) would state that if the FSD qualification is lost under proposed § 60.27 and is not restored for two or more years, then the basis for requalification would be those standards in effect at the time the sponsor applies for requalification. This is important because the FAA does not want to expend resources to requalify an unused FSD using out of date standards; rather, the FAA wants to encourage industry to use the most up to date standards in the requalification process. In other words, the FAA wants to discourage new investment in old technology and expenditure of public funds to requalify old technology. However, if an FSD is continually in use, the FAA will allow the FSD to continue to operate under the original standards.

Proposed paragraph (d) would require that all changes to FSD qualification levels initiated on or after the effective date of a final rule would require an evaluation for initial qualification in accordance with part 60 unless the sponsor chooses to downgrade the FSD, as specified in proposed paragraph (e). Subsequent recurrent evaluations would use the existing MQTG, modified as necessary to reflect the new qualification level.

Proposed paragraph (f) describes the requirements when a sponsor elects to adopt tests and tolerances described in qualifications standards developed after an FSD was initially qualified. The sponsor would have to provide appropriate validation data and obtain the approval of the NSPM. The NSPM would make the updated tests and tolerances a permanent part of the QTG/MTQG.

The FAA would like to note that there is another category of training devices. Although proposed § 60.17 would not specifically disallow the use of these devices, they would not be considered FTDs under this proposal. These training devices, approved under § 61.4 for use in other than FAA-approved training programs, have been treated as Level 1 FTDs. However, because these devices were not originally qualified under FAA standards and no objective or subjective tests were required before their approval, they do not meet the proposed definition of an FTD. These devices would continue to be allowed under part 61 for certain training, evaluation, and flight experience requirements, as described under the preamble discussion for ''Conforming changes to other parts.''

Section 60.19 Inspection, Recurrent Evaluation, and Maintenance Requirements

Proposed § 60.19 contains the specific requirements for conducting periodic inspections and evaluations and for maintaining FSD's. These requirements are necessary to ensure that the FSD continues to meet the standards under which it was originally qualified, so that any training, evaluation, and flight experience conducted in the FSD is reliable and adequate for meeting the objectives of the approved training program under which they occur.

Proposed paragraph (a)(1) would require that to maintain the qualification level for each FSD the sponsor must accomplish all appropriate QPS Appendix 1 performance demonstrations and all appropriate QPS Appendix 2 objective tests each year. To do this, the sponsor would be required to conduct quarterly inspections of the FSD evenly spaced throughout the year. All of the MQTG performance demonstrations and objective tests would have to be completed annually. The sequence and content of each inspection would be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM would look for a balance and a mix from the performance demonstrations and objective test requirement areas; *i.e.*, performance, handling qualities, motion system (where appropriate), visual system (where appropriate), sound system (where appropriate), and other FSD systems.

Proposed paragraphs (a)(2) and (a)(3) would require that to maintain the qualification level for each FSD the sponsor must ensure that the FSD be given a functional check-out, in accordance with the appropriate QPS, before each day's use, or not less than weekly when the FSD is not in use. The proposed paragraphs are similar to existing § 121.407(a)(4).

Proposed paragraph (a)(4) would state that to maintain the qualification level for each FSD the sponsor must maintain a discrepancy log. The discrepancy log would be maintained in or immediately adjacent to the FSD to advise users of the FSD of the current maintenance status and the status of each discrepancy, including the corrective action, recorded for at least the preceding 30 days. Under proposed paragraph (a)(5) the sponsor would have to ensure that, when a discrepancy is discovered, each discrepancy entry is maintained in the log until the discrepancy is corrected under the requirements of proposed § 60.25(b), and that the discrepancy entry, its corrective action, and the date the corrective action was taken remain in the log for at least 30 days after the discrepancy is corrected. Finally, the sponsor would be required to ensure that the discrepancy log be kept in a form and manner acceptable to the Administrator and must be kept in or immediately adjacent to the FSD. The proposed paragraphs are similar to existing § 121.407(a)(5).

Proposed paragraph (b) would specify the requirements for a recurrent evaluation to be conducted by the NSPM. Proposed paragraph (b)(1) would require that, with certain exceptions, a recurrent evaluation consist of performance demonstrations and objective and subjective tests in accordance with the qualification standards in effect at the time of the initial evaluation or as may be amended by an FSD Directive.

Proposed paragraph (b)(2) would require that the sponsor must coordinate with the NSPM to ensure that the FSD is evaluated within the established recurrent evaluation interval. The sponsor would have to contact the NSPM 60 days before the recurrent evaluation is due to schedule the evaluation.

Proposed paragraph (b)(3) would require that the sponsor must provide the NSPM access to the objective test results and general FSD performance or demonstration results in the MQTG and access to the FSD for the length of time necessary to complete the required recurrent evaluations. Access to the FSD would have to be provided weekdays between 6 AM and 6 PM (local time).

Proposed paragraph (b)(4) would provide that the frequency of NSPM-conducted recurrent evaluations for each FSD will be established by the NSPM and specified in the MQTG. Currently, NSPM evaluations are conducted annually. Proposed paragraph (b)(4) would allow these evaluations to be conducted at different intervals.

Proposed paragraph (b)(5) would provide that recurrent evaluations

conducted in the calendar month before or after the calendar month in which the recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

Proposed paragraph (b)(6) would prohibit the sponsor from using, or offering for use, an FSD for flightcrew member training or evaluation, or for obtaining flight experience under this chapter, unless the FSD has been recurrently evaluated by the NSPM within the timeframe specified in the MQTG.

Proposed paragraph (c) would state that the sponsor is responsible for not only the on-going preventive maintenance, but also for the continuing corrective maintenance. By preventive maintenance the FAA means those actions that are necessary to prevent maintenance discrepancies to the largest possible degree and to continue the FSD in proper service condition (*e.g.*, change hydraulic fluid and filters as prescribed by the manufacturer). By corrective maintenance the FAA means that the sponsor is to ''repair'' the device when it becomes necessary.

Section 60.20 Logging FSD Discrepancies

Proposed § 60.20 would require that each instructor, check airman, or representative of the Administrator conducting training or evaluation, or observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the FSD, would have to write or cause to be written a description of that discrepancy into the discrepancy log at the end of the FSD preflight or FSD use session. The FAA believes that the proposed section is important so that the sponsor will be alerted when a repair is necessary and the user will know that a particular task must not be done because any training, testing, or checking accomplished may result in incomplete or negative learning on the part of the pilot. The proposed section is similar to existing § 121.407(a)(5). Compliance with proposed § 60.20 would help FSD users comply with proposed § 60.25(a). In part, proposed § 60.25(a) provides that no person may use an FSD with a missing, malfunctioning, or inoperative component to meet any training, evaluation, or flight experience requirements for this chapter for which the correctly operating component is needed.

Section 60.21 Interim Qualification of FSD's for New Aircraft Types or Models

Proposed § 60.21 would provide for interim qualification of FSD's for new aircraft types or models under certain conditions when the final flight test data package has not been released by the aircraft manufacturer. In cases where an operator is adding a new aircraft type or model to its fleet, it may be necessary to begin training before the final flight test data is available, so that the operator can put the aircraft into service as soon as possible.

Under proposed § 60.21(a) the FSD may be eligible for interim qualification if the sponsor provides the aircraft manufacturer's predicted data, validated by a limited set of flight test data; the aircraft manufacturer's description of the prediction methodology used to develop the predicted data; and the QTG test results.

Proposed paragraph (b) states that in this situation, the interim qualification will be considered the same as initial qualification. The interim qualification would terminate one year after its issuance, if the sponsor has not applied for initial qualification using the final test data, unless the NSPM determines that specific conditions warrant otherwise. Under proposed paragraph (c), within six months of the release of the final flight test data package by the aircraft manufacturer, but no later than one year after the issuance of the interim qualification, the sponsor would have to apply for initial qualification based on the final flight test data package.

Proposed paragraph (d) states that an FSD with interim qualification may be modified only in accordance with § 60.23.

Section 60.23 Modifications to FSD's

Proposed § 60.23 outlines the circumstances under which a sponsor would have to modify an FSD and the procedural requirements the sponsor must follow for modifications. The purpose of this section is to ensure that the FSD continues to accurately simulate the aircraft and that if certain changes are made in the aircraft, the sponsor makes corresponding changes to the FSD. Proposed paragraph (a) would require that an FSD be modified when the FAA determines that the FSD cannot be used adequately for training, evaluating, or providing flight experience for flightcrew members, and when the sponsor or the FAA determines that any of the following circumstances exist:

(1) The aircraft manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the aircraft being simulated;

(2) A change in aircraft performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs;

(4) Other circumstances as determined by the NSPM.

Proposed paragraph (b) would state that when the FAA determines that FSD modification is necessary for safety of flight reasons, then the sponsor of each affected FSD must ensure that the FSD is modified according to the FSD Directive, regardless of the FSD's original qualification standards.

Proposed paragraph (c) would set forth requirements for sponsors in notifying the NSPM and TPAA about FSD modifications. The notification would have to include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the FSD, and be submitted in a form and manner as specified in the appropriate QPS. This notification is considered important to ensure that the FAA agrees with the modification before the modification is incorporated into training. In addition, the notification would ensure that training is consistent with the latest data, changes in aircraft performance, and changes in procedures.

Proposed paragraph (d) would set forth notification requirements if the sponsor intends to do any of the following: add additional equipment or devices intended to simulate aircraft appliances; modify hardware or software that would affect flight or ground dynamics; or change the motion, visual, or control loading systems (or sound system for FSD levels requiring sound tests and measurements). In any of these cases the sponsor would have to follow paragraph (c) plus provide a statement of the results of all objective tests that have been rerun with the modification incorporated, including any necessary updates to the MQTG. These notification requirements would not apply to routine maintenance or repair, but only for modifications to the FSD. The modifications could not be implemented until the sponsor receives written approval from the NSPM, who may require that the modified FSD be evaluated for full or partial initial qualification. The NSPM would evaluate at least the newly installed or changed equipment, any device intended to simulate an aircraft appliance, the new or changed software or hardware, and any other aspect of the

original FSD that might affect or be affected by the installation or change.

Proposed paragraph (e) would state that the sponsor may not modify a qualified FSD until, for circumstances described in paragraph (b) or (d), the sponsor receives written approval from the NSPM that the modification is authorized. For circumstances other than those described in paragraph (b) or (d), if the NSPM or TPAA does not otherwise notify the sponsor within 21 days after receiving the sponsor's notification, the sponsor may modify the FSD after the 21 days have passed.

Proposed paragraph (f) would require the sponsor to notify certificate holders about modifications made to an FSD before the certificate holders' first use of the FSD after the modification.

Proposed paragraph (g) would require that each time an FSD is modified and the modification affects an objective test, then the MQTG must be updated accordingly. The MQTG should reflect current objective test results (in accordance with § 60.15(b)(4)) and appropriate flight test data (in accordance with § 60.13). If this update is initiated by the FAA, the requirement to make this modification would be found in an FSD Directive. The MQTG would also have to be updated with the direction to make these changes, along with the record of the completion of the modification.

Section 60.25 Operation With Missing, Malfunctioning, or Inoperative Components

The FAA is proposing this section because it believes that users must be alerted when an FSD has a missing, malfunctioning, or inoperative component thereby limiting its use for certain tasks, while also providing the sponsor a reasonable time period to make repairs. If a user is unaware of a missing, malfunctioning or inoperative component, the training may be incomplete or even have negative results.

Proposed paragraph (a) would limit the use of FSD's with a missing, malfunctioning, or inoperative component. This restriction would prevent the potential of incomplete or negative learning on the part of the pilot, by preventing all maneuvers, procedures, or tasks that require the use of the correctly operating component from being conducted during flight training, evaluation, or flight experience activities when that component is not present and operating correctly. Due to the fact that the typical use of a ''minimum equipment list'' is associated with ''safety of flight operations,'' which is not applicable to the use of simulation for training, testing, or checking, the FAA is not describing or requiring the use of an FSD ''minimum equipment list.'' Instead, the FAA believes that those who operate the FSD for credit purposes (*e.g.*, instructors, check airmen, Aircrew Program Designees, representatives of the Administrator, etc.) are familiar with the components of a normally operating aircraft for each particular task, and know that if a normally functioning component, otherwise required for that task, were to become missing, malfunctioning, or inoperative, that task would have to be omitted from the syllabus, or delayed, until such time as that component is repaired or replaced. Except as provided below, this is not intended to restrict the operation of the FSD for accomplishment of a given task when a component is missing, malfunctioning, or inoperative, if that component is listed in the airplane ''minimum equipment list'' and the FSD is operated as the airplane would be operated, in accordance with any requirements listed in the ''minimum equipment list'' and that task is accomplished through use of alternative equipment. However, if the FAA-approved training program being administered requires that the task be completed using the correctly operating component, using the provisions of a ''minimum equipment list'' to complete the task without that component operating properly would not be permitted under this regulation. The FAA believes that this paragraph, together with the requirements of proposed § 60.20 (that would require each person who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the FSD, would have to write or cause to be written a description of that discrepancy into the discrepancy log) is representative of the current practice in FSD's that has well served the FAA, the industry, and the individual pilot for at least two decades. The FAA has, at this time, no reason to change this practice; however, should this position be found to be deficient in some way, additional steps may have to be considered.

Proposed paragraph (b) would require that within 7 calendar days, each missing, malfunctioning, or inoperative component must be repaired or replaced, unless the NSPM requires a shorter time or authorizes a longer time. If the sponsor does not repair or replace the component within 7 calendar days (or the shorter period required or longer period authorized under paragraph (b)), the NSPM may consider taking some action, including removing the qualification of the FSD. The requirement to repair each missing, malfunctioning, or inoperative component applies not only to components that are necessary for flightcrew member training, evaluation, or flight experience, but also to all other components of the FSD.

Proposed paragraph (c) would require that missing, malfunctioning, or inoperative components must be placarded on or adjacent to the component or the control for that component in the FSD and that a list of currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the FSD for review by users of the device.

Section 60.27 Automatic Loss of Qualification and Procedures for Restoration of Qualification

Proposed paragraph (a) would establish criteria that would indicate when an FSD is no longer qualified. When any of the circumstances in proposed paragraphs (a)(1) through (a)(5) occur, the FSD is automatically no longer qualified, without notification by the NSPM. In these circumstances, something has happened without the FAA's knowledge that makes the FSD not qualified for training, so the FSD should not be used until the FAA can evaluate the FSD under the procedures in proposed paragraph (b).

Proposed paragraphs (b) and (c) would contain requirements for restoring FSD qualification when it is lost under proposed paragraph (a). The NSPM would determine how the FSD qualification must be restored. The NSPM determination could range from requiring no evaluation, a partial evaluation for initial qualification, or a full evaluation for initial qualification. The basis for determining the evaluation content and time required for the evaluation would include: The number of recurrent evaluations missed during the inactive period, the amount of disassembly and reassembly that was accomplished, and the care that had been taken of the device since the last evaluation and since its loss of qualification.

Section 60.29 Other Losses of Qualification and Procedures for Restoration of Qualification

Proposed § 60.29 contains the procedures to be followed when an FSD loses its qualification in circumstances other than those covered in proposed § 60.27. The purpose of this section is to allow a sponsor to officially question loss of FSD qualification before the FSD

actually loses its qualification, except in emergency situations.

Proposed paragraphs (a)(1)–(3) would set forth the procedures for the NSPM or TPAA to follow in communicating with the sponsor when an FSD no longer meets qualification standards, including written notification to the sponsor; establishing a time period in which the NSPM or TPAA may respond with written information, views, and arguments on FSD qualification; and consideration of the sponsor's arguments and notification to the sponsor of the FSD qualification.

Proposed paragraph (a)(4) would require that if the NSPM or TPAA determines that an FSD is no longer qualified, the loss of qualification would be effective 30 days after the sponsor receives notice. The exceptions to this requirement would be if the NSPM or TPAA finds under paragraph (c) of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce, or if the sponsor petitions for reconsideration of the NSPM or the TPAA finding under paragraph (b) of this section.

Proposed paragraph (b) would set forth the procedures for a sponsor to follow when the sponsor seeks reconsideration of the NSPM or TPAA decision regarding FSD qualification. This would include submitting a petition for reconsideration, addressed to the Director of Flight Standards Service, within 30 days after the sponsor receives notice that some or all of the FSD is no longer qualified. This petition for reconsideration would suspend the NSPM's or TPAA's determination that the FSD is no longer qualified. However, this provision would not apply if the NSPM or the TPAA finds that, under paragraph (c) of this section, an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

Proposed paragraph (c) would set forth the procedures for the NSPM or TPAA to follow if they find an emergency exists that would require immediate action with respect to safety in air transportation or air commerce; such an emergency would make the procedures set out in other parts of this section impracticable or contrary to the public interest. Proposed paragraph (c)(1) would allow the NSPM or TPAA to withdraw qualification of some or all of the FSD and make the withdrawal of qualification effective on the day the sponsor receives notice of it. Proposed paragraph (c)(2) would require that the NSPM's or TPAA's notice to the sponsor articulate the reasons for its finding that an emergency exists. The notice would have to state that such an emergency would require immediate action with respect to safety in air transportation or air commerce, or that the emergency makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

Examples of such emergencies described in proposed paragraph (c) include: A finding by the FAA that the training conducted in the FSD is or may be incomplete, inaccurate, or negative because of a specified finding of a problem with the FSD. The finding of a specific problem with the FSD could be a reasonable basis for the NSPM questioning whether or not the FSD continues to meet its qualification level. Aviation safety requires that if the FAA has a reasonable basis for questioning whether the FSD continues to meet its qualification level, that it not be used for required flightcrew member training, testing, or flight experience until its known that the FSD is qualified.

Section 60.31 Recordkeeping and Reporting

This proposed section is based on the current recordkeeping practices of FSD sponsors and is necessary to ensure that the FSD is complete and operating correctly; that problems are noted and due dates are identified for correcting malfunctions; that users are alerted to approved uses for the FSD; and that training is useful and adequate.

Proposed paragraphs (a)(1)–(3) would require the FSD sponsor to maintain the following records for each FSD: (1) The MQTG and each amendment to the MQTG; (2) A copy of the programming used during evaluation of the FSD for initial qualification or upgrade, as well as a copy of all programming changes made since the evaluation for initial qualification; (3) A copy of results of evaluations for initial and upgrade qualification; the results of the quarterly objective tests and the approved performance demonstrations, which must be kept for 2 years; the results of either the previous three recurrent evaluations or the recurrent evaluations from the previous 2 years, whichever covers a longer period; and any comments obtained under § 60.9(b)(1), which must be maintained for at least 18 months.

Proposed paragraph (a)(4) would require the FSD sponsor to maintain a record of all discrepancies entered in the discrepancy log over the previous 2 years, including a current listing of components/equipment that have become missing, malfunctioning, or inoperative; the action taken to correct the deficiency; and the date of the corrective action. The list must be available for NSPM review at any time.

This proposed requirement should not be confused with the proposed requirement in § 60.19(a)(5)(ii), where the sponsor would be required to maintain a record of the discrepancy, and the corrective action, in the discrepancy log for a period of at least 30 days. The proposal in this section would require the sponsor to maintain these records for an additional 23 months; however, the sponsor would not necessarily have to keep the records in the discrepancy log in or immediately adjacent to the FSD for more than 30 days. Wherever the sponsor elects to keep the records, they must be available for NSPM review.

Proposed paragraph (a)(5) would require the FSD sponsor to keep a record of all modifications to FSD hardware or software configurations from the initial qualification configuration.

Proposed paragraph (b) would require the FSD sponsor to keep a current record of each certificate holder using the FSD and to provide a copy of this list to the NSPM at least semiannually.

Proposed paragraph (c) states that the records specified in this section would have to be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM. The FAA accepts and encourages the use of electronic records and reporting for all of these proposed requirements, assuming the sponsor has appropriate security or controls to prevent the illegal or inappropriate alteration of such records after the fact.

Proposed paragraph (d) would require the sponsor to submit an annual report certifying that the FSD continues to perform and handle as qualified by the NSPM. This report would have to be signed by the management representative.

Section 60.33 Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements

The proposed section is based on other FAA regulations addressing falsification of applications, reports, and records. The proposal is intended to ensure that a proposed sponsor or a user of an FSD understands that aviation safety requires accuracy and truthfulness in applications, reports, and records. Therefore, depending on the circumstances, there are consequences associated with falsification of applications, reports, and records.

Proposed paragraph (a) prohibits any person from making fraudulent or intentionally false statements, false entries, omissions, or fraudulent reproduction or alteration in any applications, reports, records, or test results required under proposed part 60 or the QPS, or to exercise any privileges under any other FAA regulation.

Proposed paragraph (b) would state that if any person commits any of the above acts, that person is subject to civil penalty, certificate suspension or revocation, or the removal of FSD qualification and approval for use in a training program issued under this part or QPS. The certificate suspension or revocation could apply to either an airman certificate, in a case involving an individual, or to an operating certificate, in a case involving a certificate holder.

Proposed paragraph (c) states the actions that could serve as a basis for removal of qualification of an FSD, including the withdrawal of authorization for use of an FSD or denying an application for a qualification. These actions include: (1) An incorrect statement, on which the FAA relied or could have relied, that was made in support of an application for a qualification or a request for approval for use; or (2) an incorrect entry, on which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for an FSD qualification or an approval for use.

Section 60.35 Specific Simulator Compliance Requirements

The proposed section addresses the goal of providing complete, accurate training and evaluation of flightcrew members in a flight simulator. This proposed requirement would help ensure that all aspects of a flightcrew member's training needs will be able to be addressed competently in a flight simulator.

Proposed paragraph (a) sets forth simulator requirements that would take effect 18 months after the effective date of the final rule for proposed part 60. These proposed requirements state that the flight simulator being evaluated for initial or upgrade qualification must conform to the aircraft being simulated, and must simulate the operation of all equipment or devices intended to simulate aircraft appliances installed and operating on the aircraft. Any simulator that was qualified before that date would remain qualified; however, if the sponsor decided to upgrade the simulator for any reason, it would also have to be upgraded to comply with this paragraph.

Proposed paragraph (b) sets forth simulator requirements that would take effect 2 years after the effective date of the final rule for proposed part 60. These proposed requirements state that each flight simulator used for meeting flightcrew member training, evaluation, or flight experience requirements of this chapter for certification or qualification that cannot perform satisfactorily in ground operations, takeoff, climb, cruise, descent, approach, and landing (including normal, abnormal, and emergency landings) would no longer be qualified as a simulator. The only significant change from existing practice is the addition of landings to this list. The net effect of this added requirement would be to eliminate the use of level A simulators.

The FAA is proposing this change because landings are an essential part of complete training conducted in simulators. The concern is that level A simulators do not provide adequate training on takeoffs and landings in normal and asymmetrical thrust conditions. Sponsors of level A simulators would have the option of downgrading to an FTD or upgrading to a level B simulator within 2 years after the effective date of the final rule.

The level A simulator is the least sophisticated of today's simulator levels and is today's reference for the historic ''visual'' simulator that was referenced in the regulations as far back as the mid- to late 1960's, when visual systems first appeared as attachments to the (non-visual) simulators that had been used in pilot training activities up to that time.

The requirements for data applicable to simulators of this vintage, both ''visual'' and ''non-visual,'' were elementary, and relatively primitive when compared to today's standards. The two most common visual systems consisted of either a Visual Anthropomorphic Motion Picture system that projected a motion picture of the final approach course from approximately three to four miles from the approach end of the runway—sometimes, through the beginning of the missed approach; or a closed circuit television camera mounted on a movable ''gondola'' that provided TV pictures as the camera was ''flown'' over a model terrain board containing a model airport and its surrounding environment. In addition to the inherent propensity for malfunctions (e.g., the reduction of the final approach length due to continual breakage of brittle film and the resulting splicing, or the limitations of the TV cable to twist or turn and become unplugged), the ''requirements'' for a visual system were completely subjective and the direct projected system provided an agreeable presentation to only one pilot at a time. The guidance given was that ''* * * visual systems may be approved for the specific maneuver(s), procedure(s), or function(s) requested by the applicant provided the evaluation indicates the training and checking objectives can be accomplished as well as in (the) airplane.''

Motion system requirements for visual and non-visual simulators were not as sophisticated as the requirements for a visual system. As the industry moved into the 1970's, the simulator motion system requirement stated that ''* * * visual and non-visual simulators, to be approved for any of the maneuvers * * * to be performed in a simulator in lieu of the aircraft, must have motion.'' Most such motion systems were either two or three degrees-of-freedom (dof), and not moving through much distance—just enough to let the occupants of the simulator know they were ''moving.'' While there was some effort expended in most cases to try to subjectively coordinate this simulator ''movement'' with what was thought to be what the pilot would feel in the airplane, there was little or no data on which to base this coordination and, therefore, no standards for such systems. Even though the industry formally acknowledged the value of a 6-dof motion system in the mid-1970's, the ''standards'' for motion systems had not yet pointed to a specific requirement for motion cueing or motion system operation. In fact, it wasn't until the beginning of the 1980's that any ''requirements'' for motion systems were formalized and published.

In the last two decades there have been two major advancements in the field of simulation. First, computer speed and capability have accelerated at a staggering rate; and second, there has been a recognition of the necessity for gathering meaningful airplane flight test data against which simulator performance and handling comparisons may be made. Computer speed and this newly acquired data have been incorporated rapidly into simulation and, overall, simulation has advanced considerably during this time period. Of significant note is that the levels of simulation that are the most affected by these advancements are the level C and level D simulators, with some, limited advancement in level B. Notably, however, there has not been an advancement in the data, nor in the data application, for the level A simulators probably due to the fact that very few new, level A simulators have been built and that it would be costly to modify current level A simulators to

incorporate the data/data applications that might be applicable.

The efficacy of training and testing using level A simulators has long been a topic of discussion among members of the industry and the FAA. The National Transportation Safety Board (NTSB) has also discussed the same topic when conducting investigations of several accidents/incidents during this same two decade period. Perhaps the most extensive discussion of this topic by the NTSB occurred during the investigation of the DC–9–14 accident at Milwaukee, Wisconsin, in September, 1985. In the report of that accident, the NTSB stated that ''* * * advanced (6 dof) simulators are not available for that series DC–9 * * * (and) this results in a requirement that landing credits, which cannot be obtained in the simulator, must be acquired in the airplane.'' The report went on to say, ''However, the practicing of engine failure maneuvers on takeoff, are authorized in the visual flight simulator.''

The dichotomy that has existed with this position—and remains true today—is the premise that the level A simulator has sufficient performance and handling qualities, supported by data and data application (*e.g.*, for motion system response), for all takeoffs (including the engine-out takeoff), but does not have sufficient performance and handling qualities, supported by data and data application, for landing maneuvers. Since takeoffs and landings occur in the same portion of the flight envelope (in and through ''ground effect''), the premise that takeoffs are supportable and landings are not supportable is clearly inconsistent. Either the data and their application are present and useable or they are not. This case is one where they are not present, and, therefore, cannot be useable.

Any authorizations must be based on the capability of the simulator to provide accurate simulation. This cannot occur without the availability of accurate data properly incorporated into the operation of the simulator.

Simplistically, an order changing the authorizations of level A simulators to disallow takeoff training, including the takeoff-with-engine-failure task, might seem to be all that is appropriate. However, the FAA is concerned that unnecessary confusion, perhaps confusion leading to misuse and possible negative training, might result. However, the FAA provides for additional levels of simulation that do not allow takeoff or landing tasks. One level of these flight training devices, FTD Level 6, equipped with a proper visual system and a proper motion system (which are not required but may be incorporated) may be authorized to conduct all of the flight training tasks that might otherwise be allowed in a ''revised'' approval of a level A simulator. FTDs, including those equipped with motion and/or visual systems, are not authorized for flightcrew member testing, checking, or review. Additionally, such an approach is more in line with the on-going harmonization effort currently underway with the Joint Aviation Authorities (JAA) in Europe for comparable simulation equipment.

Therefore, the FAA is proposing to eliminate the level A simulator from the inventory within the prescribed two year time frame described in the proposed rule.

Section 60.37 Simulator Qualification on the Basis of a Bilateral Aviation Safety Agreement (BASA)

The proposed section is based on existing Simulator Implementation Procedures, supported by existing BASAs, currently in place and others that are pending. Adding this to the rule provides the FAA with a regulatory basis for entering into such agreements for simulator evaluation/qualification purposes.

Proposed paragraph (a) would state that an evaluation or qualification of an airplane simulator by a contracting State to the Convention on International Civil Aviation for the sponsor of an aircraft simulator located in that contracting State may be used as the basis for the NSPM issuing a U.S. statement of qualification to the sponsor. A sample statement of qualification appears in the appropriate QPS, in appendix 5, figure 4. This would be in accordance with a BASA between the United States and the Contracting State that issued the qualification, and a Simulator Implementation Procedure (SIP) established under the BASA.

Proposed paragraph (b) would state that the SIP must contain any conditions and limitations on validation and issuance of such qualification by the U.S.

Conforming Changes to Parts 61, 63, 141, and 142

Because proposed part 60 contains the FAA requirements for evaluation and qualification of flight simulation devices, specific qualification requirements are no longer needed in other regulations that address the use of simulation in flightcrew member training. Therefore, changes are proposed in parts 61, 63, 141, and 142 to delete specific flight simulation device qualification requirements and substitute cross references to proposed part 60.

In addition, a number of changes are proposed for part 61 to provide for the continuing use of certain training devices that have been approved by the FAA under part 61 for use in other than FAA-approved training programs. These devices are currently designated as Level 1 flight training devices, but they do not meet the proposed definition for flight training devices in this NPRM. Under this proposed rule, these devices would retain their approval and can continue to be used for their current purposes; however, they would no longer be treated as flight training devices and would not fall under the qualification or use requirements of proposed part 60. Therefore, they would not need to follow the requirements for establishment of a quality assurance program, recurrent evaluation, maintenance, and recordkeeping. The approval for these devices is described in proposed § 61.4(b). They would be referred to as ''other devices approved under § 61.4(b).'' These devices could be used only for private pilot certificate and instrument rating training, evaluation, and flight experience requirements. A number of sections in part 61 would be amended to provide specific approval to use these devices for meeting certain requirements of part 61. The sections that would be amended are §§ 61.1, 61.23, 61.31, 61.51, 61.65 and 61.109.

Also, some minor clarifying changes are proposed to part 63. Section 63.39(b)(3) and Appendix C, paragraph (a)(3)(iv) refer to the activity to be accomplished ''* * * in an airplane simulator, or in an approved flight engineer training device.'' The FAA is proposing to use the term ''appropriately equipped cockpit specific flight training device qualified in accordance with part 60 of this chapter'' instead of ''approved flight engineer training device'' because flight training device is the term used in part 60. This should avoid confusion since part 60 describes qualification requirements for FTDs whereas ''approved flight engineer training device'' is not a defined term.

Delegation of Authority for Standards Documents

The FAA proposes to delegate final authority to review and issue amendments to the QPSs proposed elsewhere in this notice from the Administrator to the Director, Flight Standards Service. Specifically, these standards documents are the QPSs for: Airplane Flight Simulators; Airplane Flight Training Devices; Helicopter

Flight Simulators; and Helicopter Flight Training Devices.

The FAA anticipates that these documents will require routine changes for a variety of reasons, *e.g.*, increased knowledge about human factors, analysis of incident/accident data, and changes in aircraft or simulation technology. Because these standards will be regulatory in nature, current FAA policy provides for the Administrator to review changes before final action on them is complete. This process involves significant levels of participation in the review process by individuals at all levels of the agency.

The FAA expects that most future changes to the standards/rule sections of the QPS documents will be published in the **Federal Register** as NPRMs for public comment, just as they are published as part of this NPRM. This will be true unless ''good cause'' exists under the Administrative Procedure Act (APA), which would warrant the FAA publishing such a change to a QPS document without following the standard notice and comment procedures. Under the APA, in order for the FAA to issue a rule without following notice and comment procedures, the FAA would have to make a good cause finding that following such notice and public procedures would be impracticable, unnecessary, or contrary to the public interest.

The FAA does not expect that many changes to these standards documents will justify the expenditure of time and resources at the highest levels of the agency that the standard procedures for final review of rulemakings requires. Therefore, consistent with good government, the FAA proposes to streamline the process for making technical changes to these standards documents by delegating authority for final review and issuance from the Administrator to the Director, Flight Standards Service. The FAA believes that the delegation will result in more timely responses to incident/accident data and advances in aircraft or simulation technology.

Consistent with similar delegations of authority, this authority would be exercised with the concurrence of the Office of the Chief Counsel. If, at any time during the amendment process the Administrator or the Director, Flight Standards Service, determines that a proposed amendment would not be appropriate for this streamlined process, the rulemaking project would proceed in accordance with the agency's normal rulemaking procedures.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Transportation has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Flight Simulation Device Initial and Continuing Qualification and Use.

Summary: The FAA proposes to amend the regulations to establish flight simulation device qualification requirements for all certificate holders in a new part. The basis of these requirements currently exists in different parts of the FAA's regulations and in advisory circulars. The proposed changes would consolidate and update flight simulation device requirements.

Use of: This proposal would support the information needs of the following initiatives under the FAA's Corporate Project, Safer Skies:

a. AFS Strategic Plan—Goal 1: Evolve to a Systems Approach for Safety Oversight.
b. AFS Business Plan Initiative 2.9: Improve the Requirements Process.
c. AFS Strategic Plan—Goal 4: Promote Positive, Responsive, and Focused Customer Relations.
d. AFS Business Plan Initiative 2.13: Continue Efforts Associated with Safer Skies—Commercial Aviation.

Respondents (including number of): The likely respondents to this proposed information requirement are sponsors of Flight Simulation Devices. At this time, the likely number of respondents is 66.

Frequency: The FAA estimates the 66 sponsors would have a total of 450 responses annually in the first year.

Annual Burden Estimate: This proposal would result in an annual recordkeeping and reporting burden of 201,653 hours for the industry at a cost of $6,108,590. Out of that annual burden, however, the FAA believes that only 1,898 hours and $74,010 would be truly new; although not currently required by regulation, the industry is already doing much of what is proposed in this action. In addition to the burden stated above, there would be a one-time burden of 31,680 hours and $891,504. The recordkeeping and reporting burden is broken down into more detail as follows:

Section 60.5, Quality Assurance Program, would call for a sponsor to develop, review, and have approved by the FAA, a quality assurance program (or QAP) applicable for each flight simulation device. However, the FAA assumes that the sponsor will provide the same QAP for each FSD it sponsors. Therefore, a calculation of the time involved is on a ''per sponsor'' basis, rather than on a ''per FSD'' basis, is appropriate. The purpose of this QA program is to require the sponsor to systematically plan for and implement the requirements of part 60 and the associated QPS.

The quality assurance program would impose two types of cost on the industry and the FAA: a set-up, or one-time cost, and an annually recurring cost.

For the one-time cost on the industry side:

(1) an FSD technician and a pilot instructor would spend approximately 320 hours and 64 hours, respectively, to develop a quality assurance program:

(2) an FSD technician and a pilot instructor would spend approximately 16 hours each to work on the technical coordination of metrics for a QA program;

(3) a clerk would spend approximately 64 hours to do the paperwork associated with a QA program.

This yields a total of 31,680 hours and $891,504 for the one-time expense.

For the continuing, annual cost on the industry side:

(1) To maintain the QA program the Management Representative would spend 12 hours to do the paperwork:

(2) To maintain the QA program a clerk would spend approximately 2 hours to do the paperwork;

This yields a total of 924 hours and $33,984 for the continuing, annual expense.

Section 60.9(b)(3), Additional Responsibilities of the Sponsor, sets out a requirement for each sponsor to maintain a liaison with the manufacturer of the aircraft being simulated by the FSD. The time and costs involved would be as follows:

The Management Representative would spend 0.5 hours in drafting a letter to the manufacturer each quarter (*i.e.*, each 3 months or 4 times each year) and a clerk would spend 0.5 hours each quarter preparing the letter for mailing, for a total of 264 hours and $6,324.

Section 60.15(b), Initial Qualification Requirements, sets out the requirements for the contents of the request for evaluation and is broken into the following parts.

The request for an evaluation is a one-time event for each new FSD the sponsor wishes to include in the approved training program. Time and costs will be as follows:

(a) For the letter of request: The Management Representative, or a Pilot Instructor, would spend 0.5 hours in drafting a letter to the NSPM and a clerk

would spend 0.5 preparing the letter for mailing.

This yields 1 hour and $50.50 for each new FSD entering service with a given sponsor.

Estimates now are that approximately 70 new FSDs will enter service each year. This estimate would yield 70 hours and $3,535 each year.

(b) For the list of all operations tasks or simulated systems for which the sponsor is seeking or is not seeking qualification, the Management Representative, or a Pilot Instructor, would spend 1 hour developing the list and a clerk would spend 1.5 hours in preparing the list for attachment to the letter of request for evaluation.

This yields 2.5 hours and $108.50 for each new FSD entering service with a given sponsor. Estimates now are that approximately 70 new FSDs will enter service each year. This estimate would yield 175 hours and $7,595 each year.

(c) For the qualification test guide, an FSD technician would spend 40 hours developing the technical aspects of the qualification test guide and inserting the appropriate test results; the Management Representative or a Pilot Instructor, would spend 40 hours developing the operational aspects of the qualification test guide.

This yields 80 hours and $4,600 for each new FSD entering service with a given sponsor.

Estimates now are that approximately 70 new FSDs will enter service each year. This estimate would yield 5,600 hours and $322,000 each year.

Section 60.16, Additional Qualifications for a Currently Qualified FSD, sets out the requirements for the sponsor to submit to the NSPM a summary of all modifications to a qualified FSD if that FSD is going to be used by an additional user (other than the sponsor) for tasks not originally qualified. While it is not possible to predict with any accuracy what additional tasks might be needed beyond the qualified tasks for any FSD, the following is offered for consideration:

(a) For all additional tasks (beyond those originally qualified) that require no qualification test guide modification, the Management Representative or a pilot instructor would spend 0.5 hours in drafting a letter to the NSPM and a clerk would spend 0.5 preparing the letter for mailing. Assuming the following:

(1) That additional tasks (beyond those originally qualified) will be requested of 25% of all new FSDs and

(2) That 70 new FSDs will enter service each year.

(b) For each additional task (beyond those originally qualified) that requires qualification test guide modification, the FSD technician would spend 2.5 hours in developing an appropriate change, a clerk would spend 0.5 hours preparing the proposed change, the Management Representative or a pilot instructor would spend 0.5 hours drafting a letter to the NSPM, and a clerk would spend 0.5 hours preparing the letter for mailing. Assuming the following:

(1) That 2 additional tasks (beyond those originally qualified) will be requested on 5% of new FSDs;

(2) That 1 additional task will be requested on 20% of new FSDs and;

(3) That 70 new FSDs will enter service each year—

This yields 32 hours and $1,044.70×20%=14 FSDs with additional tasks; this yields 51 hours and $1,824.

Section 60.19, Inspection, Maintenance, and Recurrent Evaluation Requirements, requires sponsors to conduct inspections of each FSD each calendar quarter, with each such inspection addressing approximately one-fourth of the performance demonstrations and one-fourth of the objective tests required in the appropriate Qualification Performance Standard document. This inspection, conducted automatically, on modern FSDs would take an FSD technician 2 hours; and on older FSDs with more manually controlled functions, this inspection would take an FSD technician 6 hours to complete. Approximately 60% of the current 500 FSD inventory are modern FSDs and 40% are older FSDs. This yields 7,200 hours and $208,800.

This section also requires that a functional preflight check be completed prior to use each day and at least once each week when not regularly used. This preflight check would take an FSD technician 0.5 hours to complete. While it is not possible to predict with any accuracy what the frequency of use might be for any given FSD, the following is offered for consideration: Assume the following:

(1) That 70% of the qualified FSDs are used an average of 4 days each week for 42 weeks of the year and are used not more than once each week for the remainder of the 10 weeks each year;

(2) That 30% of the qualified FSDs are used an average of 6 days each week for 26 weeks, 3 days each week for 13 weeks, and not more than once each week for the remainder of the 13 weeks each year.

This yields 30,960 hours and $897,840.

This Sub-Section also requires that when a discrepancy is discovered at any time, the discrepancy and the corrective action taken must remain in the discrepancy log for at least 30 days after the discrepancy has been corrected. While it is not possible to predict accurately the frequency with which discrepancies might occur and the amount of time required to repair any given discrepancy would be directly dependent on the nature of that discrepancy, the following is offered for consideration: Assume the following:

(1) That there are an average of 2 discrepancies each week on each qualified FSD, for an average of 104 discrepancies each year on each qualified FSD;

(2) That 80% of these discrepancies is a minor discrepancy and will take an FSD technician an average of one hour to repair;

(3) That 15% of these discrepancies is moderate and will take an FSD technician an average of 4 hours to repair; and

(4) That 5% of these discrepancies is major and will take an FSD technician an average of 24 hours to repair.

It will take an FSD technician 0.25 hours to record each correction in the discrepancy log. This yields a total of 148,000 hours and $4,292,000.

This section also requires that each FSD be recurrently evaluated by the NSPM not less than once each year. This evaluation will require the time of a sponsor FSD technician and a sponsor pilot instructor. Each evaluation will require approximately 4 hours of time from both participants (time spent in the FSD) and approximately 2 additional hours of time from the sponsor's FSD technician. The FAA estimates that of the 500 FSDs currently qualified, approximately 30% are sponsored by 10% of the sponsors (large sponsor) and 70% are sponsored by 90% of the sponsors (small sponsor).

This yields a sub-total of 10 hours and $518 per FSD for each of the 30% of 500 FSDs, or a total of 10×150=1,500 hours and $518×150=$77,700.

For 90% of the sponsors (*i.e.*, small sponsors) representing 70% of the qualified FSDs: This yields a sub-total of 10 hours and $290 per FSD for each of the 70% of 500 FSDs, or a total of 10×350=3,500 hours and $290×350=$101,500. The total of the above is 5,000 hours and $179,200.

This section also requires the sponsor to contact the NSPM to schedule the FSD for the recurrent evaluation. This contact and schedule will require a clerk for the sponsor to write, fax, or e-mail the NSPM and will take 0.5 hours to gather the necessary data, complete

the contact, and arrange for the recurrent evaluation. A clerk for the NSPM will take 0.5 hours to complete the compatible schedule. With 500 FSDs this yields 0.5 hours × 500=250 hours and $ $7.50×500=$3,750.

Section 60.20, Logging FSD Discrepancies, requires that when a discrepancy is discovered at any time, the discrepancy must be written into the discrepancy log. While it is not possible to predict accurately the frequency with which discrepancies might occur, the following is offered for consideration: Assume the following:

(1) That there are an average of 2 discrepancies each week on each qualified FSD, for an average of 104 discrepancies each year on each qualified FSD.

(2) That 80% of these discrepancies are recognized by a pilot instructor and

(3) That 20% of these discrepancies are recognized by an FSD technician.

The entry of the discrepancy into the log would take 0.05 hour per entry.

The FAA estimates that of the 500 FSDs currently qualified, approximately 30% are sponsored by 10% of the sponsors (large sponsor) and 70% are sponsored by 90% of the sponsors (small sponsor). Together, this yields a total of 2600 hours and $119,860.

Section 60.23, Modifications to FSDs, describes what must be done in order to modify a qualified FSD. While it is not possible to predict accurately the frequency with which modifications might occur and the amount of time required to make any given modification would be directly dependent on the nature of that modification, the following is offered for consideration: Assume the following:

(1) There is an average of three modifications per year to 40% of the currently qualified FSDs;

(2) Two of these three modifications are minor in nature requiring review by, but not requiring written approval from, the NSPM;

(3) One of these modifications is major and requires both review and written approval from the NSPM; and

(4) One-quarter of the major modifications require NSPM on-site evaluation prior to returning the FSD to service.

The sponsor's FSD technician would take 2 hours to research and develop each required modification, followed by 0.5 hours to draft the notification the NSPM/TPAA. It would take a clerk 0.5 hours to prepare the notification for mailing. After the appropriate time or after receiving approval, it would take an FSD technician an average of 2 hours to complete each minor modification, and it would take the technician an average of 16 hours to complete each major modification.

This yields a total of 5,900 hours and $165,400.

Section 60.25, Operation with Missing, Malfunctioning, or Inoperative Components, requires that each missing, malfunctioning, or inoperative component in an FSD be placarded. While it is not possible to predict accurately the frequency with which components might become missing, might malfunction, or might not operate correctly, the following is offered for consideration: Assume the following:

(1) That an average of 2 components become missing, malfunctioning, or inoperative on each FSD each month;

(2) That it will take an FSD technician an average of 0.05 hours to placard each such component.

This yields a total of 50 hours and $1,450.

Section 60.31, Recordkeeping and Reporting, requires the sponsor to keep a record of each certificate holder using the FSD and to provide the NSPM with a copy of this record semiannually. This would take the Management Representative an average of 1.0 hour each six months (2.0 hours annually) to record this list and it would take a clerk an average of 0.5 hours to prepare this list for mailing. This yields a total of 132 hours and $5,334.

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirement by November 25, 2002, and should direct them to the address listed in the **ADDRESSES** section of this document.

According to the regulations implementing the Paperwork Reduction Act of 1995, (5 CFR 1320.8(b)(2)(vi)), an agency may not conduct or sponsor, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to first make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local or tribal governments, or on the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, the FAA has determined:

(1) This rule has benefits that justify its costs. This rulemaking does not impose costs sufficient to be considered ''significant'' under the economic standards for significance under Executive Order 12866 or under DOT's Regulatory Policies and Procedures. Due to public interest, however, it is considered significant under the Executive Order and DOT policy.

(2) This rule will not have a significant impact on a substantial number of small entities.

(3) This rule has no affect on any trade-sensitive activity.

(4) This rule does not impose an unfunded mandate on state, local, or

tribal governments, or on the private sector.

The FAA has placed these analyses in the docket and summarized them below.

The proposed rule for a new part 60 would contain the requirements for the evaluation, qualification, inspection, and maintenance of Flight Simulator Devices (FSDs) used for training, evaluating, or obtaining flight experience for flight crewmember certification or qualification. The proposed requirements are based on requirements in appendix H of part 121 and in the current § 121.407 as well as advisory circulars.

The estimated 10-year cost of this proposed rule would be approximately $1.9 million ($1.6 million, discounted) due to the development, review, and approval of a Quality Assurance (QA) program. The majority of the cost impact, estimated at approximately $1.3 million ($1.1 million, discounted) over a 10-year period, would be imposed on the industry. The FAA 10-year cost is estimated at approximately $571,000 ($413,000, discounted).

Based on safety considerations, the proposed rule would also eliminate the use of Level A simulators to meet flight crewmember training, evaluation, or flight experience for purposes of certification or qualification. The Level A simulator is the least sophisticated of today's simulator levels and the requirements for data applicable to simulators of this vintage are very elementary and relatively primitive when compared to today's standards for simulators. The FAA believes that all sponsors, as a result of this proposed rule, would either retire their Level A simulators or downgrade them to Level 6 Flight Training Devices at a minimal cost to the industry. The FAA believes that to upgrade to a Level B simulator would be an alternative the industry would reject because the costs ($350,000–$500,000 per simulator) to do so could not be recovered. The FAA has requested comments from the industry regarding this matter.

There are five types of safety and economic benefits of incorporating a QA program for each FSD sponsor. First, aviation safety would be better maintained because a QA program would identify, for the user and the FAA, flightcrew training problems that could or would arise due to problems with the maintenance and operation of the FSD. Second, when training is interrupted due to maintenance problems, those problems would be quickly and accurately corrected to allow the training process to resume. Third, sponsors would see cost savings due to a reduction of mistakes . Fourth, sponsors could see cost savings by having to support less frequent evaluations by NSP staff. And fifth, the FAA (and the tax payers) would realize cost savings by requiring less frequent on-site FSD evaluations; by not requiring commensurate growth of FAA personnel committed to individual evaluations of an ever-expanding fleet of FSDs; and by providing the ability to focus a more constant personnel resource on safety areas more deserving of individualized scrutiny.

Lastly, the proposed new part 60 would consolidate and update the existing FSD qualification requirements. Currently, regulations regarding advanced simulators are located in appendix H. Those who operate airplanes under other parts of the regulations and wish to use appendix H authorizations have to obtain exemptions from the certificate holding requirements of part 121 and have the appropriate simulator authorizations incorporated into their exemptions or would have to obtain a part 142 certificate. The proposed new part 60 would establish FSD requirements that could be used by any certificate holder as defined under part 60 who conducts training and evaluation, or intends to meet recent flight experience requirements. Its application, therefore, would be expanded beyond just those who operate under part 121.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The adoption of this proposal would impose an estimated 10-year cost of approximately $114,000 ($98,000, discounted) on approximately six small entities. Each of these sponsors would incur a one-time cost of approximately $13,000 to develop a QA program and an annual cost of approximately $600 to maintain the program. To determine the impact of the cost on these small entities, the FAA examined the relation of a small entity's annualized cost to its potential annual revenue. The FAA estimated that each flight simulation device, on average, is in use for training about 4,800 hours a year. Also, according to industry sources, most sponsors charge a minimum of $250 an hour for training in a Level B simulator. As a result, a sponsor's potential annual revenue from one Level B simulator is estimated at $1.2 million. Therefore, the annualized cost of this proposed rule for each small entity, approximately $2,300, would be considerably less than one percent of the estimated potential annual revenue ($1.2 million) for a small entity with only one Level B simulator. The FAA contends that these small entities would not be significantly impacted by the cost of this proposed rule.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination and requests that all comments be accompanied by clear documentation.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore create no

obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect 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, we determined that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this notice of proposed rulemaking has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this notice of proposed rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 60

Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Recreation and recreation areas, Reporting and recordkeeping requirements, Teachers.

14 CFR Part 63

Aircraft, Airmen, Navigation (air), Reporting and recordkeeping requirements.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

14 CFR Part 142

Administrative practice and procedure, Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools, Teachers.

The Proposed Amendment

The Federal Aviation Administration proposes to amend parts 1, 11, 61, 63, 141 and 142 and to add part 60 to title 14, chapter I of the Code of Federal Regulations as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

2. Section 1.1 is amended by adding new definitions in alphabetical order to read as follows:

§ 1.1 General definitions.

* * * * *

Flight simulation device (FSD) means a flight simulator or a flight training device.

Flight simulator means a full size replica of a specific type or make, model, and series aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent the aircraft in ground and flight operations, a visual system providing an out-of-the-cockpit view, a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standards (QPS) for a specific qualification level.

* * * * *

Flight training device (FTD) means a full size replica of aircraft instruments, equipment, panels, and controls in an open flight deck area or an enclosed aircraft cockpit replica. It includes the equipment and computer programs necessary to represent the aircraft or set of aircraft in ground and flight conditions having the full range of capabilities of the systems installed in the device as described in part 60 of this part and the qualification performance standard (QPS) for a specific qualification level.

* * * * *

3. Section 1.2 is amended by adding new abbreviations in alphabetical order to read as follows:

§ 1.2 Abbreviations and symbols.

* * * * *

FSD means flight simulation device.

FTD means flight training device.

* * * * *

4. Part 60 is added to subchapter D to read as follows:

PART 60—FLIGHT SIMULATION DEVICE INITIAL AND CONTINUING QUALIFICATION AND USE

Sec.

60.1 Applicability.
60.2 Applicability of sponsor rules to persons who are not sponsors and who are engaged in certain unauthorized activities.
60.3 Definitions.
60.4 Qualification Performance Standards.
60.5 Quality assurance program.
60.7 Sponsor qualification requirements.
60.9 Additional responsibilities of the sponsor.
60.11 FSD use.
60.13 FSD objective data requirements.
60.14 Special equipment and personnel requirements for qualification of the FSD.
60.15 Initial qualification requirements.
60.16 Additional qualifications for a currently qualified FSD.
60.17 Previously qualified FSD's.
60.19 Inspection, recurrent evaluation, and maintenance requirements.
60.20 Logging FSD discrepancies.
60.21 Interim qualification of FSD's for new aircraft types or models.
60.23 Modifications to FSD's.
60.25 Operation with missing, malfunctioning, or inoperative components.
60.27 Automatic loss of qualification and procedures for restoration of qualification.
60.29 Other losses of qualification and procedures for restoration of qualification.
60.31 Recordkeeping and reporting.
60.33 Applications, logbooks, reports, and records: Fraud, falsification, or incorrect statements.
60.35 Specific simulator compliance requirements.
60.37 Simulator qualification on the basis of a Bilateral Aviation Safety Agreement (BASA).
Appendix A to Part 60—Qualification Performance Standards for Airplane Flight Simulators

Appendix B to Part 60— Qualification Performance Standards for Airplane Flight Training Devices
Appendix C to Part 60— Qualification Performance Standards for Helicopter Flight Simulators
Appendix D to Part 60— Qualification Performance Standards for Helicopter Flight Training Devices

Authority: 49 U.S.C. 106(g), 40113, and 44701.

§ 60.1 Applicability.

(a) This part prescribes the rules governing the initial and continuing qualification and use of all aircraft flight simulation devices (FSD) used for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification.

(b) The rules of this part apply to each person using or applying to use an FSD to meet any requirement of this chapter.

(c) The requirements of § 60.31 regarding falsification of applications, records, or reports also apply to each person who uses an FSD for training, evaluation, or obtaining flight experience required for flightcrew member certification or qualification under this chapter.

§ 60.2 Applicability of sponsor rules to persons who are not sponsors and who are engaged in certain unauthorized activities.

(a) The rules of this part, that are directed to a sponsor of an FSD, also apply to any person who uses or causes the use of an FSD when—

(1) That person knows that the FSD does not have an FAA-approved sponsor; and

(2) The use of the FSD by that person is nonetheless claimed for purposes of meeting any requirement of this chapter or that person knows or should have known that the person's acts or omissions would cause another person to mistakenly credits use of the FSD for purposes of meeting any requirement of this chapter.

(b) A situation in which paragraph (a) of this section would not apply to a person would be when each of the following conditions are met:

(1) The person sold or leased the FSD and merely represented to the purchaser or lessee that the FSD is in a condition in which it should be able to obtain FAA approval and qualification under this part;

(2) The person does not falsely claim to be the FAA-approved sponsor for the FSD;

(3) The person does not falsely make representations that someone else is the FAA-approved sponsor of the FSD at a time when that other person is not the FAA-approved sponsor of the FSD; and

(4) The person's acts or omissions do not cause another person to detrimentally rely on such acts or omissions for the mistaken conclusion that the FSD is FAA-approved and qualified under this part at the time the FSD is sold or leased.

§ 60.3 Definitions.

In addition to the definitions in part 1 of this chapter, for the purpose of this part, the following terms and definitions apply:

Certificate holder. A person issued a certificate under parts 119, 141, or 142 of this chapter or a person holding an approved course of training for flight engineers in accordance with part 63 of this chapter.

Evaluation. With respect to an individual, the checking, testing, or review associated with flightcrew member qualification, training, and certification under parts 61, 63, 121, or 135 of this chapter. With respect to an FSD, the qualification activities (objective and subjective tests, inspections, recurrent evaluation, etc.) associated with the requirements of this part.

Flight experience. For purposes of this part, *flight experience* means recency of flight experience for landing credit purposes.

Flight test data. Actual aircraft performance data collected by the aircraft manufacturer (or other supplier of data acceptable to the NSPM) during an aircraft flight test program.

FSD Directive. A document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD.

Master Qualification Test Guide (MQTG). The FAA-approved Qualification Test Guide with the addition of the FAA-witnessed test, performance, or demonstration results, applicable to each individual FSD.

National Simulator Program Manager (NSPM). The FAA manager responsible for the overall administration and direction of the National Simulator Program (NSP), or a person approved by the NSPM .

Objective test. A quantitative comparison of simulator performance data to actual or predicted aircraft performance data to ensure that FSD performance is within the tolerances prescribed in the QPS.

Predicted data. Aircraft performance data derived from sources other than direct physical measurement of, or flight tests on, the subject aircraft. Predicted data may include engineering analysis and simulation, design data, wind tunnel data, estimations or extrapolations based on existing flight test data, or data from other models.

Qualification level. The categorization of the FSD, based on its demonstrated technical and operational capability as set out in the QPS.

Qualification Performance Standard (QPS). The collection of procedures and criteria published by the FAA to be used when conducting objective tests and subjective tests, including general FSD requirements, for establishing FSD qualification levels. The QPS are set forth in the following appendices: Appendix A, for Airplane Simulators; Appendix C, for Helicopter Simulators; Appendix B, for Airplane Flight Training Devices; and Appendix D, for Helicopter Flight Training Devices.

Qualification Test Guide (QTG). The primary reference document used for evaluating an aircraft FSD. It contains test results, performance or demonstration results, statements of compliance and capability, the configuration of the aircraft simulated, and other information for the evaluator to assess the FSD against the applicable regulatory criteria.

Set of aircraft. Aircraft that share similar handling and operating characteristics and similar operating envelopes and have the same number and type of propulsion systems (*i.e.*, engines, or engine and propeller/rotor combinations).

Sponsor. A certificate holder who seeks or maintains FSD qualification and is responsible for the prescribed actions as set out in this part and the QPS for the appropriate FSD and qualification level.

Subjective test. A qualitative comparison to determine the extent to which the FSD performs and handles like the aircraft being simulated.

Training Program Approval Authority (TPAA). A person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used.

Upgrade. The improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.

§ 60.4 Qualification Performance Standards.

The Qualification Performance Standards (QPS) are published in Appendices to this part as follows:

(a) Appendix A contains the QPS for Airplane Flight Simulators.

(b) Appendix B contains the QPS for Airplane Flight Training Devices.

(c) Appendix C contains the QPS for Helicopter Flight Simulators.

(d) Appendix D contains the QPS for Helicopter Flight Training Devices.

§ 60.5 Quality assurance program.

(a) After [date 6 months after effective date of the final rule], no sponsor may use or allow the use of or offer the use of an FSD for flightcrew member training or evaluation or for obtaining flight experience to meet any requirement of this chapter unless the sponsor has established and follows a quality assurance (QA) program, approved by the NSPM, for the continuing surveillance and analysis of the sponsor's performance and effectiveness in providing a satisfactory FSD for use on a regular basis as described in the appropriate QPS.

(b) The QA program must provide a process for identifying deficiencies in the program and for documenting how the program will be changed to address these deficiencies.

(c) Whenever the NSPM finds that the QA program does not adequately address the procedures necessary to meet the requirements of this part, the sponsor must, after notification by the NSPM, change the program so the procedures meet the requirements of this part.

(d) Each sponsor of an FSD must identify to the NSPM and to the TPAA, by name, one individual, who is an employee of the sponsor, to be the management representative (MR) and the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that FSD as provided for in this part.

§ 60.7 Sponsor qualification requirements.

(a) A person is eligible to apply to be a sponsor of an FSD if the following conditions are met:

(1) The person holds, or is an applicant for, a certificate under part 119, 141, or 142 of this chapter; or holds, or is an applicant for, an approved flight engineer course in accordance with part 63 of this chapter.

(2) The FSD will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the aircraft being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA.

(b) A person is a sponsor of the FSD if the following conditions are met:

(1) The person is a certificate holder under part 119, 141, or 142 of this chapter or has an approved flight engineer course in accordance with part 63 of this chapter.

(2) The person has operations specifications authorizing the use of the aircraft type or set of aircraft being simulated by the FSD or has training specifications or a course of training authorizing the use of an FSD for that aircraft type or set of aircraft.

(3) The person has an approved quality assurance program in accordance with § 60.5.

(4) The NSPM has approved the person as the sponsor of the FSD and that approval has not been withdrawn by the FAA.

(c) A person continues to be a sponsor of an FSD, if the following conditions are met:

(1) Beginning 12 calendar months after the initial qualification of the FSD and every 12 calendar months thereafter, the FSD must have been used within the sponsor's FAA-approved flight training program for the aircraft type or set of aircraft for a minimum of 600 hours.

(2) The use of the FSD described in paragraph (c)(1) of this section must be dedicated to meeting the requirements of parts 61, 63, 91, 121, or 135 of this chapter.

(3) If the use requirements of paragraphs (c)(1) and (2) of this section are not met, the person will continue to sponsor the FSD on a provisional basis for an additional period not longer than 12 calendar months; and—

(i) If the FSD is used as described in paragraphs (c)(1) and (2) of this section within this additional 12 calendar month period, the provisional status will be removed and regular sponsorship resumed; or

(ii) If the FSD is not used as described in paragraphs (c)(1) and (2) of this section within the additional 12 calendar month period, the FSD is not qualified and the sponsor will not be eligible to apply to sponsor that FSD for at least 12 calendar months.

§ 60.9 Additional responsibilities of the sponsor.

(a) The sponsor must allow the NSPM upon request to inspect immediately the FSD, including all records and documents relating to the FSD, to determine its compliance with this part. If the sponsor fails to allow the NSPM to inspect the FSD, and all records and documents relating to the FSD, the sponsor may not allow the FSD to be used for flightcrew member training or evaluation or for obtaining flight experience to meet any of the requirements under this chapter.

(b) The sponsor must, for each FSD—

(1) Establish a mechanism for the following persons to provide comments regarding the FSD and its operation and provide for receipt of those comments:

(i) Flightcrew members recently completing training or evaluation or recently obtaining flight experience in the FSD;

(ii) Instructors and check airmen using the FSD for training, evaluation, or flight experience sessions; and

(iii) Simulator technicians and maintenance personnel performing work on the FSD.

(2) Examine each comment received under paragraph (b)(1) of this section for content and importance and take appropriate action.

(3) Maintain a liaison with the manufacturer of the aircraft, or the holder of the aircraft type certificate for the aircraft if the manufacturer is out of business, being simulated by the FSD to facilitate compliance with § 60.13(f) when necessary.

(4) Post in or adjacent to the FSD the Statement of Qualification issued by the NSPM.

§ 60.11 FSD use.

No person may use or allow the use of or offer the use of an FSD for flightcrew member training or evaluation or for obtaining flight experience to meet any of the requirements under this chapter unless, in accordance with the QPS for the specific device, the FSD—

(a) Has a single sponsor who is qualified under § 60.7. The sponsor may arrange with another person for services of document preparation and presentation, as well as FSD inspection, maintenance, repair, and servicing; however, the sponsor remains responsible for ensuring that these functions are conducted in a manner and with a result of continually meeting the requirements of this part.

(b) Is qualified as described in the Statement of Qualification that is required to be posted pursuant to § 60.9(b)(4)—

(1) For the make, model, and series of aircraft or set of aircraft; and

(2) For all tasks and configurations.

(c) Remains qualified, through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with this part and the appropriate QPS.

(d) Functions during the training, evaluation, or flight experience with the same software and active programming that was evaluated by the NSPM.

§ 60.13 FSD objective data requirements.

(a) Except as provided in paragraphs (b) and (c) of this section, for the purposes of validating FSD performance and handling qualities during evaluation for qualification, the sponsor must submit to the NSPM the aircraft manufacturer's flight test data including all data developed after the type certificate was issued (*e.g.*, data developed in response to an airworthiness directive) if such data results from a change in performance, handling qualities, functions, or other

characteristics of the aircraft that must be considered for flightcrew member training, evaluation, or for meeting experience requirements of this chapter.

(b) The sponsor may submit flight test data from a source in addition to or independent of the aircraft manufacturer's data to the NSPM in support of an FSD qualification, but only if this data is gathered and developed by that source in accordance with flight test methods, including a flight test plan, as described in the appropriate QPS.

(c) The sponsor may submit predicted data, data from pilot owner or pilot operating manuals, or data from public domain sources acceptable to the NSPM for consideration, approval and possible use in particular applications for FSD qualification.

(d) Data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

(e) The NSPM may require additional flight testing to support certain FSD qualification requirements.

(f) When an FSD sponsor learns, or is advised by an aircraft manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate an FSD used in the sponsor's training program is available, the sponsor must immediately notify the NSPM.

§ 60.14 Special equipment and personnel requirements for qualification of the FSD.

When notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish or assist in the accomplishment of tests during initial, recurrent, or special evaluations.

§ 60.15 Initial qualification requirements.

(a) For each FSD, the sponsor must submit a request through the TPAA to have the NSPM evaluate the FSD for initial qualification at a specific level. The request must be submitted in the form and manner described in the appropriate QPS.

(b) The request must include all of the following:

(1) A statement that the FSD meets all of the applicable provisions of this part and all applicable provisions of the QPS.

(2) A statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification will be maintained, except where modified as authorized in § 60.23. The statement must include a description of the procedure.

(3) A statement signed by at least one pilot who meets the requirements of paragraph (c) of this section asserting that each pilot so approved has determined that the following requirements have been met:

(i) The FSD systems and sub-systems function equivalently to those in the aircraft or set of aircraft.

(ii) The performance and flying qualities of the FSD are equivalent to those of the aircraft or set of aircraft.

(iii) For type specific FSD's, the cockpit configuration conforms to the configuration of the aircraft make, model, and series being simulated.

(4) A list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the FSD has not been subjectively tested (*e.g.*, circling approaches, windshear training, etc.) and for which qualification is not sought.

(5) A qualification test guide (QTG) that includes all of the following:

(i) Objective data obtained from aircraft testing or another approved source.

(ii) Correlating objective test results obtained from the performance of the FSD as prescribed in the appropriate QPS.

(iii) The result of FSD performance demonstrations prescribed in the appropriate QPS.

(iv) A description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification.

(c) Except for those FSD's previously qualified and described in § 60.17, each FSD evaluated for initial qualification must meet the standard that is in effect at the time of the evaluation. However—

(1) If the FAA publishes a change to the existing standard or publishes a new standard for the evaluation for initial qualification, a sponsor may request that the NSPM apply the standard that was in effect when an FSD was ordered for delivery if the sponsor—

(i) Within 30 days of the publication of the change to the existing standard or publication of the new standard, notifies the NSPM that an FSD has been ordered;

(ii) Requests that the standard in effect at the time the order was placed be used for the evaluation for initial qualification; and

(iii) The evaluation is conducted within 24 months following the publication of the change to the existing standard or publication of the new standard, unless circumstances beyond the control of the sponsor prevent the evaluation from occurring within that time.

(2) This notification must include a description of the FSD; the anticipated qualification level of the FSD; the make, model, and series of aircraft simulated; and any other pertinent information.

(3) Any tests, tolerances, or other requirements that are current at the time of the evaluation may be used during the initial evaluation, at the request of the sponsor, if the sponsor provides acceptable updates to the required qualification test guide.

(4) The standards used for the evaluation for initial qualification will be used for all subsequent evaluations of the FSD.

(d) The pilot or pilots who make the statement required by paragraph (b)(3) of this section must—

(1) Be designated by the sponsor;

(2) Be approved by the TPAA; and

(3) Be qualified in—

(i) The aircraft or set of aircraft being simulated; or

(ii) For aircraft types not yet issued a type certificate, an aircraft type similar in size and configuration.

(e) The subjective tests that form the basis for the statements described in paragraph (b)(3) of this section and the objective tests referenced in paragraph (b)(5) of this section must be accomplished at the sponsor's training facility except as provided for in the appropriate QPS.

(f) The person seeking to qualify the FSD must provide the NSPM access to the FSD for the length of time necessary for the NSPM to complete the required evaluation of the FSD for initial qualification, which includes the conduct and evaluation of objective and subjective tests, including general FSD requirements, as described in the appropriate QPS, to determine that the FSD meets the standards in that QPS.

(g) When the FSD passes an evaluation for initial qualification, the NSPM issues a Statement of Qualification that includes all of the following:

(1) Identification of the sponsor.

(2) Identification of the make, model, and series of the aircraft or set of aircraft being simulated.

(3) Identification of the configuration of the aircraft of set or aircraft being simulated (*e.g.*, engine model or models, flight instruments, navigation or other systems, etc.).

(4) A statement that the FSD is qualified as either a flight simulator or a flight training device.

(5) Identification of the qualification level of the FSD.

(6) A list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the FSD has not been subjectively

tested and for which the FSD is not qualified (*e.g.*, circling approaches, windshear training, etc.).

(h) After the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG, with the results of the FAA-witnessed tests and demonstrations together with the results of all the objective tests and demonstrations described in the appropriate QPS.

(i) Upon issuance of the Statement of Qualification the updated QTG becomes the MQTG and must be made available to the FAA upon request.

§ 60.16 Additional qualifications for a currently qualified FSD.

(a) A currently qualified FSD is required to undergo an additional qualification process if a user intends to use the FSD for meeting training, evaluation, or flight experience requirements of this chapter beyond the qualification issued to the sponsor. This process consists of the following:

(1) The sponsor:

(i) Must submit to the NSPM all modifications to the MQTG that are required to support the additional qualification.

(ii) Must describe to the NSPM all modifications to the FSD that are required to support the additional qualification.

(iii) Must submit a statement to the NSPM that a pilot, designated by the sponsor in accordance with § 60.15(c) and approved by the TPAA for the user, has subjectively evaluated the FSD in those areas not previously evaluated.

(2) The FSD must successfully pass an evaluation—

(i) For initial qualification, in accordance with § 60.15, in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification (*e.g.*, objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

(b) In making the determinations described in paragraph (a)(2) of this section, the NSPM considers factors including the existing qualification of the FSD, any modifications to the FSD hardware or software that are involved, and any additions or modifications to the MQTG.

(c) The FSD is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with § 60.15(f).

(d) The sponsor may not modify the FSD except as described in § 60.23.

§ 60.17 Previously qualified FSD's.

(a) Unless otherwise specified by an FSD Directive, further referenced in the appropriate QPS, or as specified in paragraph (e) of this section, an FSD qualified before [effective date of final rule] will retain its qualification basis as long as it continues to meet the standards, including the performance demonstrations and the objective test results recorded in the MQTG, under which it was originally evaluated, regardless of sponsor. The sponsor of such an FSD must comply with the other applicable provisions of this part.

(b) For each FSD qualified before [effective date of the final rule], no sponsor may use or allow the use of or offer the use of such an FSD after [date 6 years after the effective date of the final rule] for flightcrew member training, evaluation or flight experience to meet any of the requirements of this chapter, unless that FSD has been issued a Statement of Qualification, including the Configuration List and Restrictions to the Qualification List in accordance with the procedures set out in the appropriate QPS.

(c) If the FSD qualification is lost under § 60.27 and not restored under § 60.27 for two (2) years or more, the qualification basis (in terms of objective tests and performance demonstrations) for the re-qualification will be those standards in effect and current at the time of re-qualification application.

(d) Except as provided in paragraph (e) of this section, any change in FSD qualification level initiated on or after [the effective date of this rule] requires an evaluation for initial qualification in accordance with this part.

(e) A sponsor may request that an FSD be downgraded. In such a case, the NSPM may downgrade a qualified FSD without requiring and without conducting an initial evaluation for the new qualification level. Subsequent recurrent evaluations will use the existing MQTG, modified as necessary to reflect the new qualification level.

(f) When the sponsor has appropriate validation data available and receives approval from the NSPM, the sponsor may adopt tests and associated tolerances described in the current qualification standards as the tests and tolerances applicable for the continuing qualification of a previously qualified FSD. The updated test(s) and tolerance(s) must be made a permanent part of the MQTG.

§ 60.19 Inspection, recurrent evaluation, and maintenance requirements.

(a) *Inspection.* No sponsor may use or allow the use of or offer the use of an FSD for flightcrew member training, evaluation, or flight experience to meet any of the requirements of this chapter unless the sponsor does the following:

(1) Accomplishes all appropriate QPS Attachment 1 performance demonstrations and all appropriate QPS Attachment 2 objective tests each year. To do this, the sponsor must conduct a minimum of four evenly spaced inspections throughout the year, as approved by the NSPM. The performance demonstrations and objective test sequence and content of each inspection in this sequence will be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM looks for a balance and a mix from the performance demonstrations and objective test requirement areas listed as follows:

(i) Performance.

(ii) Handling qualities.

(iii) Motion system (where appropriate).

(iv) Visual system (where appropriate).

(v) Sound system (where appropriate).

(vi) Other FSD systems.

(2) Completes a functional preflight check in accordance with the appropriate QPS each calendar day prior to the start of the first FSD period of use that begins in that calendar day.

(3) Completes at least one functional preflight check in accordance with the appropriate QPS in every 7 consecutive calendar days.

(4) Maintains a discrepancy log.

(5) Ensures that, when a discrepancy is discovered, the following requirements are met:

(i) A description of each discrepancy is entered in the log and remains in the log until 30 days after the discrepancy is corrected as specified in § 60.25(b).

(ii) A description of the corrective action taken for each discrepancy and the date that action is taken must be entered in the log. This entry concerning the corrective action is maintained for at least 30 days.

(iii) The discrepancy log is kept in a form and manner acceptable to the Administrator and is kept in or immediately adjacent to the FSD.

(b) *Recurrent evaluation.* (1) This evaluation consists of performance demonstrations, objective tests, and subjective tests, including general FSD requirements, as described in the appropriate QPS or as may be amended by an FSD Directive.

(2) The sponsor must contact the NSPM to schedule the FSD for recurrent evaluations not later than 60 days before the recurrent evaluation is due.

(3) The sponsor must provide the NSPM access to the objective test results

and FSD performance demonstration results in the MQTG, and access to the FSD for the length of time necessary for the NSPM to complete the required recurrent evaluations, weekdays between 6 o'clock AM (local time) and 6 o'clock PM (local time).

(4) The frequency of NSPM-conducted recurrent evaluations for each FSD will be established by the NSPM and specified in the MQTG.

(5) Recurrent evaluations conducted in the calendar month before or after the calendar month in which these recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

(6) No sponsor may use or allow the use of or offer the use of an FSD for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet any requirement of this chapter unless the FSD has passed an NSPM-conducted recurrent evaluation within the timeframe specified in the MQTG.

(c) *Maintenance.* The sponsor is responsible for continuing corrective and preventive maintenance on the FSD to ensure that it continues to meet the requirements of § 60.15(b).

§ 60.20 Logging FSD discrepancies.

Each instructor, check airman, or representative of the Administrator conducting training or evaluation, or observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the FSD, must write or cause to be written a description of that discrepancy into the discrepancy log at the end of the FSD preflight or FSD use session.

§ 60.21 Interim qualification of FSD's for new aircraft types or models.

(a) A sponsor may apply for and the NSPM may issue an interim qualification level for an FSD for a new type or model of aircraft, even though the flight test data used has not received final approval by the aircraft manufacturer, if the sponsor provides the following to the satisfaction of the NSPM—

(1) The aircraft manufacturer's predicted data, validated by a limited set of flight test data;

(2) The aircraft manufacturer's description of the prediction methodology used to develop the predicted data; and

(3) The QTG test results.

(b) An FSD that has been issued interim qualification will be deemed to have been issued initial qualification unless the NSPM rescinds the qualification. Interim qualification terminates one year after its issuance, unless the NSPM determines that specific conditions warrant otherwise.

(c) Within six months of the release of the final flight test data package by the aircraft manufacturer but no later than one year after the issuance of the interim qualification status the sponsor must apply for initial qualification in accordance with § 60.15 based on the final flight test data package approved by the aircraft manufacturer, unless the NSPM determines that specific conditions warrant otherwise.

(d) An FSD with interim qualification may be modified only in accordance with § 60.23.

§ 60.23 Modifications to FSD's.

(a) When the sponsor or the FAA determines that any of the following circumstances exist and the FAA determines that the FSD cannot be used adequately to train, evaluate, or provide flight experience for flightcrew members, the sponsor must modify the FSD accordingly.

(1) The aircraft manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the aircraft being simulated;

(2) A change in aircraft performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs; or

(4) Other circumstances as determined by the NSPM.

(b) When the FAA determines that FSD modification is necessary for safety of flight reasons, the sponsor of each affected FSD must ensure that the FSD is modified according to the FSD Directive regardless of the original qualification standards applicable to any specific FSD.

(c) Before modifying a qualified FSD, the sponsor must notify the NSPM and the TPAA as follows:

(1) The notification must include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the FSD.

(2) The notification must be submitted in a form and manner as specified in the appropriate QPS.

(d) If the sponsor intends to add additional equipment or devices intended to simulate aircraft appliances; modify hardware or software that would affect flight or ground dynamics, including revising FSD programming or replacing or modifying the host computer; or if the sponsor is changing or modifying the motion, visual, or control loading systems (or sound system for FSD levels requiring sound tests and measurements), the following applies:

(1) The sponsor must meet the notification requirements of paragraph (c) of this section and must include in the notification the results of all objective tests that have been re-run with the modification incorporated, including any necessary updates to the MQTG.

(2) However, the sponsor may not use, or allow the use of, or offer the use of, the FSD with the proposed modification for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet any requirement of this chapter unless or until the sponsor receives written notification from the NSPM approving the proposed modification. Prior to approval, the NSPM may require that the modified FSD be evaluated in accordance with the standards for an evaluation for initial qualification or any part thereof before it is placed in service.

(e) The sponsor may not modify a qualified FSD until one of the following has occurred:

(1) For circumstances described in paragraph (b) or (d) of this section, the sponsor receives written approval from the NSPM that the modification is authorized.

(2) For circumstances other than those described in paragraph (b) or (d) of this section, either:

(i) Twenty-one days have passed since the sponsor notified the NSPM and the TPAA of the proposed modification and the sponsor has not received any response from the NSPM or TPAA; or

(ii) The NSPM or TPAA approves the proposed modification in fewer than 21 days since the sponsor notified the NSPM and the TPAA of the proposed modification.

(f) When a modification is made to an FSD, the sponsor must notify each certificate holder planning to use that FSD of that modification prior to that certificate holder using that FSD the first time after the modification is complete.

(g) The MQTG must be updated with current objective test results in accordance with § 60.15(b)(5) and appropriate flight test data in accordance with § 60.13, each time an FSD is modified and an objective test is affected by the modification. If this update is initiated by an FSD Directive, the direction to make the modification

and the record of the modification completion must be filed in the MQTG.

§ 60.25 Operation with missing, malfunctioning, or inoperative components.

(a) No person may use or allow the use of or offer the use of an FSD with a missing, malfunctioning, or inoperative component for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification during maneuvers, procedures, or tasks that require the use of the correctly operating component.

(b) Each missing, malfunctioning, or inoperative component must be repaired or replaced within 7 calendar days unless otherwise required or authorized by the NSPM. Failure to repair or replace this component within the prescribed time may result in loss of FSD qualification.

(c) Each missing, malfunctioning, or inoperative component must be placarded as such on or adjacent to that component or the control for that component in the FSD and a list of the currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the FSD for review by users of the device.

§ 60.27 Automatic loss of qualification and procedures for restoration of qualification.

(a) An FSD is not qualified if any of the following occurs:

(1) The FSD is not used in the sponsor's FAA-approved flight training program in accordance with § 60.9(b)(4).

(2) The FSD is not maintained and inspected in accordance with § 60.19.

(3) The FSD is physically moved from one location to another, regardless of distance.

(4) The FSD is disassembled (*e.g.*, for repair or modification) to such an extent that it cannot be used for training, evaluation, or experience activities.

(5) The MQTG is missing or otherwise not available and a replacement is not made within 30 days.

(b) If FSD qualification is lost under paragraph (a) of this section, qualification is restored when either of the following provisions are met:

(1) The FSD successfully passes an evaluation:

(i) For initial qualification, in accordance with § 60.15 in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification approved as necessary by the NSPM.

(2) The NSPM or the TPAA advises the sponsor that an evaluation is not necessary.

(c) In making the determinations described in paragraph (b) of this section, the NSPM considers factors including the number of inspections and recurrent evaluations missed, the amount of disassembly and re-assembly of the FSD that was accomplished, and the care that had been taken of the device since the last evaluation.

§ 60.29 Other losses of qualification and procedures for restoration of qualification.

(a) Except as provided in paragraph (c) of this section, when the NSPM or the TPAA notifies the sponsor that the FSD no longer meets qualification standards, the following procedure applies:

(1) The NSPM or the TPAA notifies the sponsor in writing that the FSD no longer meets some or all of its qualification standards.

(2) The NSPM or the TPAA sets a reasonable period (but not less than 7 days) within which the sponsor may submit written information, views, and arguments on the FSD qualification.

(3) After considering all material presented, the NSPM or the TPAA notifies the sponsor about the NSPM's or TPAA's determination with regard to the qualification of the FSD.

(4) If the NSPM or the TPAA notifies the sponsor that some or all of the FSD is no longer qualified, it becomes effective not less than 30 days after the sponsor receives notice of it unless—

(i) The NSPM or the TPAA find under paragraph (c) of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce; or

(ii) The sponsor petitions the Director of Flight Standards Service for reconsideration of the NSPM or the TPAA finding under paragraph (b) of this section.

(b) When a sponsor seeks reconsideration of a decision from the NSPM or the TPAA concerning the FSD qualification, the following procedure applies:

(1) The sponsor must petition for reconsideration of that decision within 30 days of the date that the sponsor receives a notice that some or all of the FSD is no longer qualified.

(2) The sponsor must address its petition to the Director, Flight Standards Service, AFS–1, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of the determination by the NSPM or the TPAA that the FSD is no longer qualified unless the NSPM or the TPAA has found, under paragraph (c) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

(c) If the NSPM or the TPAA find that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The NSPM or the TPAA withdraws qualification of some or all of the FSD and makes the withdrawal of qualification effective on the day the sponsor receives notice of it.

(2) In the notice to the sponsor, the NSPM or the TPAA articulates the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

§ 60.31 Recordkeeping and reporting.

(a) The FSD sponsor must maintain the following records for each FSD it sponsors:

(1) The MQTG and each amendment thereto.

(2) A copy of the programming used during the evaluation of the FSD for initial qualification and for any subsequent upgrade qualification, and a copy of all programming changes made since the evaluation for initial qualification.

(3) A copy of all of the following:

(i) Results of the evaluations for the initial and each upgrade qualification.

(ii) Results of the quarterly objective tests and the approved performance demonstrations conducted in accordance with § 60.19(a) for a period of 2 years.

(iii) Results of the previous three recurrent evaluations, or the recurrent evaluations from the previous 2 years, whichever covers a longer period.

(iv) Comments obtained in accordance with § 60.9(b)(1) for a period of at least 18 months.

(4) A record of all discrepancies entered in the discrepancy log over the previous 2 years, including the following:

(i) A list of the components or equipment that were or are missing, malfunctioning, or inoperative.

(ii) The action taken to correct the discrepancy.

(iii) The date the corrective action was taken.

(5) A record of all modifications to FSD hardware configurations made since initial qualification.

(b) The FSD sponsor must keep a current record of each certificate holder

using the FSD. The sponsor must provide a copy of this list to the NSPM at least semiannually.

(c) The records specified in this section must be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM.

(d) The sponsor must submit an annual report, in the form of a comprehensive statement signed by the management representative, certifying that the FSD continues to perform and handle as qualified by the NSPM.

§ 60.33 Applications, logbooks, reports, and records: Fraud, falsification, or incorrect statements.

(a) No person may make, or cause to be made, any of the following:

(1) A fraudulent or intentionally false statement in any application or any amendment thereto, or any other report or test result required by this part or the QPS.

(2) A fraudulent or intentionally false statement in or a known omission from any record or report that is kept, made, or used to show compliance with this part or the QPS, or to exercise any privileges under this chapter.

(3) Any reproduction or alteration, for fraudulent purpose, of any report, record, or test result required under this part or the QPS.

(b) The commission by any person of any act prohibited under paragraph (a) of this section is a basis for any one or any combination of the following:

(1) A civil penalty.

(2) Suspension or revocation of any certificate held by that person that was issued under this chapter.

(3) The removal of FSD qualification and approval for use in a training program.

(c) The following may serve as a basis for removal of qualification of an FSD including the withdrawal of authorization for use of an FSD; or denying an application for a qualification:

(1) An incorrect statement, upon which the FAA relied or could have relied, made in support of an application for a qualification or a request for approval for use.

(2) An incorrect entry, upon which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for an FSD qualification or an approval for use.

§ 60.35 Specific simulator compliance requirements.

(a) After [date 18 months from the effective date of this rule], no simulator will be eligible for initial or upgrade qualification under this part unless it simulates the operation of all equipment and appliances installed and operating on the aircraft being simulated, if such equipment or appliances have controls or indications that are located in the aircraft cockpit.

(b) After [date 2 years from the effective date of this rule], any flight simulator used for meeting flightcrew member training, evaluation, or flight experience requirements of this chapter for certification or qualification that cannot perform satisfactorily in the following areas will no longer be qualified as a simulator.

(1) Ground operations;

(2) The takeoff, climb, cruise, descent, and approach portions of the simulated aircraft's operating envelope, including abnormal and emergency operations; and

(3) The landing maneuver, including normal, abnormal, and emergency landings.

§ 60.37 Simulator qualification on the basis of a Bilateral Aviation Safety Agreement (BASA).

(a) The evaluation and qualification of an airplane simulator by a contracting State to the Convention on International Civil Aviation for the sponsor of an aircraft simulator located in that contracting State may be used as the basis for issuing a U.S. statement of qualification (see appropriate QPS, attachment 5, figure 4) by the NSPM to the sponsor of that simulator in accordance with—

(1) A BASA between the United States and the Contracting State that issued the original qualification; and

(2) A Simulator Implementation Procedure (SIP) established under the BASA.

(b) The SIP will contain any conditions and limitations on validation and issuance of such qualification by the U.S.

Appendix A to Part 60—Qualification Performance Standards for Airplane Flight Simulators

Begin Information

This appendix establishes the standards for Airplane Flight Simulator evaluation and qualification. The Flight Standards Service, National Simulator Program (NSP) staff, under the direction of the NSP Manager (NSPM), is responsible for the development, application, and interpretation of the standards contained within this appendix.

The procedures and criteria specified in this appendix will be used by the NSPM, or a person or persons assigned by the NSPM (*e.g.*, FAA pilots and/or FAA aeronautical engineers, assigned to and trained under the direction of the NSP—referred to as NSP pilots or NSP engineers, other FAA personnel, *etc.*) when conducting airplane flight simulator evaluations.

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1. Introduction

a. This appendix contains background information as well as information that is either directive or guiding in nature. Information considered directive is described in this appendix in terms such as ''will,'' ''shall,'' and ''must,'' and means that the actions are mandatory. Guidance information is described in terms such as ''should,'' or ''may,'' and indicate actions that are desirable, permissive, or not mandatory and provide for flexibility.

b. To assist the reader in determining what areas are directive or required and what areas are guiding or permissive—

(1) The text in this appendix is contained within sections, separated by horizontal lines; headings associated with these horizontal lines will indicated that a particular section begins or ends. All of the text falls into one of three sections: a direct quote or a paraphrasing of the Part 60 rule language; additional requirements that are also regulatory but are found only in this appendix; and advisory or informative material.

(2) The text presented between horizontal lines beginning with the heading ''Begin Rule Language'' and ending with the heading ''End Rule Language,'' is a direct quote or is paraphrased from Part 60 of the regulations. For example: the rule uses the terms ''flight simulation device (FSD)'' and ''aircraft;'' however, in this appendix the rule is paraphrased and the term ''simulator'' is used instead of FSD, and ''airplane'' is used instead of aircraft. Additionally, the rule uses the terms ''this part'' and ''appropriate QPS;'' however, in this appendix the rule is paraphrased and the terms ''Part 60'' and ''this appendix,'' respectively, are used instead. (Definitions are not paraphrased or modified in any way.) For ease of referral, the Part 60 reference is noted at the beginning and end of the bordered area.

(3) The text presented between horizontal lines beginning with the heading ''Begin QPS Requirements'' and ending with the heading ''End QPS Requirements,'' is also regulatory but is found only in this appendix.

(4) The text presented between horizontal lines beginning with the heading ''Begin Information'' and ending with the heading ''End Information,'' is advisory or informative.

(5) The tables in this appendix have rows across the top of each table—

(a) The data presented in columns under the heading ''QPS REQUIREMENTS'' is regulatory but is found only in this appendix.

(b) The data presented in columns under the heading ''INFORMATION'' is advisory or informative.

Important Note: While this appendix contains quotes and paraphrasing directly from the rule, the reader is cautioned *not* to rely solely on this appendix for regulatory requirements regarding flight simulators. For regulatory references for airplane flight simulators, the reader is referred to paragraphs 3. a through i of this appendix.

c. Questions regarding the contents of this publication should be sent to the U.S. Department of Transportation, Federal Aviation Administration, Flight Standards Service, National Simulator Program Staff, AFS–205, PO Box 20636, Atlanta, Georgia, 30320. Telephone contact numbers for the NSP are: phone, 404–305–6100; fax, 404–305–6118. The NSP Internet Web Site address is: *http://www.faa.gov/nsp.* On this Web Site you will find an NSP personnel list with contact information, a list of qualified flight simulation devices, advisory circulars, a description of the qualification process, NSP policy, and an NSP ''In-Works'' section. Also linked from this site are additional information sources, handbook bulletins, frequently asked questions, a listing and text of the Federal Aviation Regulations, Flight Standards Inspector's handbooks, and other FAA links.

d. The NSPM encourages the use of electronic media for communication and the gathering, storage, presentation, or transmission of any record, report, request, test, or statement required by this appendix provided the media used has adequate provision for security and is acceptable to the NSPM. The NSPM recommends inquiries on system compatibility prior to any such activity. Minimum System requirements may be found on the NSP Website.

End Information

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2. Definitions

Begin Information

See Attachment 4 for a list of definitions and abbreviations. Attachment 4 contains definitions directly quoted from Part 1 or Part 60, presented between horizontal lines beginning with the heading ''Begin Rule Language'' and ending with the heading ''End Rule Language,'' and are a direct quote or are paraphrased from Part 1 or Part 60. These definitions are regulatory. Additional definitions and abbreviations used in reading and understanding this appendix are presented between horizontal lines beginning with the heading ''Begin QPS Requirements'' and ending with the heading ''End QPS Requirements.'' These definitions are also regulatory but are found only in this appendix. For purposes of accuracy, the definitions listed are directly quoted, and are not paraphrased.

End Information

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3. Related Reading References

Begin Information

a. 14 CFR part 60.
b. 14 CFR part 61.
c. 14 CFR part 63.
d. 14 CFR part 119.
e. 14 CFR part 121.
f. 14 CFR part 125.
g. 14 CFR part 135.
h. 14 CFR part 141.
i. 14 CFR part 142.
j. Advisory Circular (AC) 120–28C, Criteria for Approval of Category III Landing Weather Minima.
k. AC 120–29, Criteria for Approving Category I and Category II Landing Minima for part 121 operators.
l. AC 120–35B, Line Operational Simulations: Line-Oriented Flight Training, Special Purpose Operational Training, Line Operational Evaluation.
m. AC 120–41, Criteria for Operational Approval of Airborne Wind Shear Alerting and Flight Guidance Systems.
n. AC 120–57A, Surface Movement Guidance and Control System (SMGS).
o. AC 150/5300–13, Airport Design.
p. AC 150/5340–1G, Standards for Airport Markings.
q. AC 150/5340–4C, Installation Details for Runway Centerline Touchdown Zone Lighting Systems.
r. AC 150/5340–19, Taxiway Centerline Lighting System.
s. AC 150/5340–24, Runway and Taxiway Edge Lighting System.
t. AC 150/5345–28D, Precision Approach Path Indicator (PAPI) Systems.
u. International Air Transport Association document, ''Flight Simulator Design and Performance Data Requirements,'' Fifth Edition (1996).
v. AC 25–7, Flight Test Guide for Certification of Transport Category Airplanes.
w. AC 23–8A, Flight Test Guide for Certification of Part 23 Airplanes.
x. International Civil Aviation Organization (ICAO) Manual of Criteria for the Qualification of Flight Simulators, First Edition, 1994 Doc 9625–AN/938.
y. Airplane Flight Simulator Evaluation Handbook, Volume I (February, 1995) and Volume II (July, 1996), The Royal Aeronautical Society, London, UK.
z. FAA Publication FAA–S–8081 series (Practical Test Standards for Airline Transport Pilot Certificate, Type Ratings, Commercial Pilot, and Instrument Ratings).

End Information

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4. Background

Begin Information

a. In the late 1980's several regulatory authorities around the world, including the FAA, published new or revised documents stating the requirements for the qualification of flight simulators as applicable under their respective country's rules, regulations, and/or policies. As a result, those who used airplane flight simulators to train and/or check flightcrew members flying under more than one country's regulatory authority found themselves having to provide unique documentation for each authority. With the encouragement of persons from several wide-ranging governmental and non-governmental interests, the Flight Simulation Group of the United Kingdom's Royal Aeronautical Society (RAeS) agreed to organize and conduct two international seminars to focus attention on this situation. The result was the formulation of an RAeS working group consisting of recognized simulation experts and regulatory authority's representatives from around the world. Utilizing the FAA's Advisory Circular (AC) 120–40B document as its practical foundation, this working group devoted over 10,000 man-hours toward the development of a set of simulator evaluation criteria that was acceptable to all parties involved.

b. This set of evaluation criteria was presented for review and comment in an international conference hosted by RAeS in London on January 16 and 17, 1992. Following detailed explanation and considerable discussion, the conference delegates unanimously agreed to forward these criteria to the International Civil Aviation Organization (ICAO), recommending that ICAO adopt these criteria as appropriate for international flight

simulator evaluation criteria. After reviewing this material, ICAO agreed to translate the information into the appropriate language necessary for ICAO purposes; and the resulting ICAO document, ''Manual of Criteria for the Qualification of Flight Simulators,'' 1st Ed., 1994, is available through the Office of the Secretary General.

c. As a primary participant in the development of the information forwarded to the ICAO by the RAeS, the FAA had planned to modify the criteria and standards used for simulator evaluation conducted under U.S. authority to match this set of internationally developed information. The requirements in this appendix match the ICAO requirements for the evaluation and qualification of the highest two levels of airplane simulators addressed herein: *i.e.*, the requirements for Level C and Level D simulators set out in this appendix match the requirements for ICAO simulators at Level I and Level II, respectively.

d. For information purposes, the following is a chronological listing of the documents preceding this appendix that have addressed the qualification criteria for airplane simulator evaluation and qualification by the FAA, including the effective dates of those documents:

14 CFR part 121, appendix B	01/09/65 to 02/02/70
AC 121–14	12/19/69 to 02/09/76
AC 121–14A	02/09/76 to 10/16/78
AC 121–14B	10/16/78 to 08/29/80
14 CFR part 121, appendix H	06/30/80 to (date TBD)
AC 121–14C	08/29/80 to 01/31/83
AC 120–40	01/31/83 to 07/31/86
AC 120–40A	07/31/86 to 07/29/91
AC 120–40B	07/29/91 to (date TBD)

End Information

5. Quality Assurance Program

Begin Rule Language (§ 60.5)

a. After [date 6 months after the effective date of the final rule], no sponsor may use or allow the use of or offer the use of a simulator for flightcrew member training or evaluation or for obtaining flight experience to meet any requirement of 14 CFR chapter I unless the sponsor has established and follows a quality assurance (QA) program, acceptable to the NSPM, for the continuing surveillance and analysis of the sponsor's performance and effectiveness in providing a satisfactory simulator for use on a regular basis as described in this QPS appendix.

b. The QA program must provide a process for identifying deficiencies in the program and for documenting how the program will be changed to address these deficiencies.

c. Whenever the NSPM finds that the QA program does not adequately address the procedures necessary to meet the requirements of 14 CFR part 60, the sponsor must, after notification by the NSPM, change the program so the procedures meet the requirements of part 60.

d. Each sponsor of a simulator must identify to the NSPM and to the TPAA, by name, one individual, who is an employee of the sponsor, to be the management representative (MR) and the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that simulator as provided for in part 60.

End Rule Language (§ 60.5)

Begin QPS Requirements

e. The Director of Operations for a Part 119 certificate holder, the Chief Instructor for a Part 141 certificate holder, or the equivalent for a Part 142 or Flight Engineer School sponsor, must designate a management representative who has the responsibility and authority to establish and modify the sponsor's policies, practices, and procedures regarding the QA program for the recurring qualification of, and the day-to-day use of, each simulator.

f. An acceptable Quality Assurance (QA) Program must contain a complete, accurate, and clearly defined written description of and/or procedures for—

(1) The method used by management to communicate the importance of meeting the regulatory standards contained in Part 60 and this QPS appendix and the importance of establishing and meeting the requirements of a QA Program as defined in this paragraph f.

(2) The method(s) used by management to determine that the regulatory standards and the QA program requirements are being met, and if or when not met, what actions are taken to correct the deficiency and prevent its recurrence.

(3) The method used by management to determine that the sponsor is, on a timely and regular basis, presenting a qualified simulator.

(4) The criteria for and a definition or description of the workmanship expected for normal upkeep, repair, parts replacement, modification, *etc.*, on the simulator and how, when, and by whom such workmanship is determined to be satisfactorily accomplished.

(5) The method used to maintain and control appropriate technical and reference documents, appropriate training records, and other documents for—

(a) continuing simulator qualification; and

(b) the QA program.

(6) The criteria the sponsor uses (*e.g.*, training, experience, *etc.*) to determine who may be assigned to duties of inspection, testing, and maintenance (preventive and corrective) on simulators.

(7) The method used to track inspection, testing, and maintenance (preventive and corrective) on each simulator.

(8) The method used by the sponsor to inform the TPAA in advance of each scheduled NSPM-conducted evaluation and after the completion, the results of each such evaluation.

(9) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, are capable of determining what circumstance(s) constitute(s) a discrepancy regarding the simulator and its operation.

(10) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, record in the simulator discrepancy log each simulator discrepancy and each missing, malfunctioning, or inoperative simulator component.

(11) The method used to ensure that instructors and check airmen are completely and accurately logging the number of disruptions and time not available for training, testing, checking, or for obtaining flight experience during a scheduled simulator use-period, including the cause(s) of the disruption.

(12) The method used by the sponsor to notify users of the simulator of missing, malfunctioning, or inoperative components that restrict the use of the simulator.

(13) The method of recording NSPM-conducted evaluations and other inspections (*e.g.*, daily preflight inspections, NASIP inspections, sponsor conducted quarterly inspections, *etc.*), including the evaluation or inspection date, test results, discrepancies and recommendations, and all corrective actions taken.

(14) The method for ensuring that the simulator is configured the way the airplane it represents is configured and that if the configuration is authorized to be changed that the newly configured system(s) function(s) correctly.

(15) The method(s) for:

(a) Determining whether or not proposed modifications of the airplane will affect the performance, handling, or other functions or characteristics of the airplane; and

(b) Determining whether or not proposed modifications of the simulator will affect the performance, handling, or other functions or characteristics of the simulator; and

(c) Coordinating and communicating items 5. f. (15)(a) and (b) of this appendix, as appropriate, with the sponsor's training organization, other users (*e.g.*, lease or service contract users), the TPAA, and the NSPM.

(16) How information found in the discrepancy log is used to correct discrepancies and how this information is used to review and, if necessary, modify existing procedures for simulator maintenance.

(17) The method for how and when software or hardware modifications are accomplished and tracked, documenting all changes made from the initial submission.

(18) The method used for determining that the simulator meets appropriate standards each day that it is used.

(19) The method for acquiring independent feedback regarding simulator operation (from persons recently completing training, evaluation, or obtaining flight experience; instructors and check airmen using the simulator for training, evaluation or flight experience sessions; and simulator technicians and maintenance personnel) including a description of the process for addressing these comments.

(20) How devices used to test, measure, and monitor correct simulator operation are calibrated and adjusted for accuracy, including traceability of that accuracy to a recognized standard, and how these devices are maintained in good operating condition.

(21) How, by whom, and how frequently internal audits of the QA program are conducted and where and how the results of such audits are maintained and reported to Responsible Management, the NSPM, and the TPAA.

End QPS Requirements

Begin Information

g. Additional Information.

(1) In addition to specifically designated QA evaluations, the NSPM will evaluate the sponsor's QA program as part of regularly scheduled recurrent simulator evaluations and no-notice simulator evaluations, focusing in part on the effectiveness and viability of the QA program and its contribution to the overall capability of the simulator to meeting the requirements of 14 CFR part 60.

(2) The sponsor, through the MR, may delegate duties associated with maintaining the qualification of the simulator (*e.g.*, corrective and preventive maintenance, scheduling for and the conducting of tests and/or inspections, functional preflight checks, *etc.*) but retains the responsibility and authority for the day-to-day qualification and quality of the simulator. One person may serve in this capacity for more than one simulator, but one simulator would not have more than one person serving in this capacity.

(3) Should a sponsor include a ''foreign simulator'' (*i.e.*, one maintained by a non-US certificate holder) under their sponsorship, the sponsor remains responsible for the QA program for that simulator. However, if that foreign simulator is maintained under a QA program accepted by that foreign regulatory authority and that authority and the NSPM have agreed to accept each other's QA programs (*e.g.*, the Joint Aviation Authorities, JAA, of Europe), the sponsor will be required only to perform an ''external audit'' of the non-US certificate holder's compliance with the accepted foreign QA program, with the results of that audit submitted to and accepted by the NSPM.

End Information

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6. Sponsor Qualification Requirements

Begin Rule Language (§ 60.7)

a. A person is eligible to apply to be a sponsor of a simulator if the following conditions are met:

(1) The person holds, or is an applicant for, a certificate under part 119, 141, or 142 of 14 CFR chapter I; or holds, or is an applicant for, an approved flight engineer course in accordance with part 63 of 14 CFR chapter I.

(2) The simulator will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the airplane being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA.

b. A person is a sponsor of the simulator if the following conditions are met:

(1) The person is a certificate holder under part 119, 141, or 142 of 14 CFR chapter I or has an approved flight engineer course in accordance with part 63 of 14 CFR chapter I.

(2) The person has operations specifications authorizing the use of the airplane type being simulated by the simulator or has training specifications or a course of training authorizing the use of a simulator for that airplane type.

(3) The person has an approved quality assurance program in accordance with § 60.5.

(4) The NSPM has approved the person as the sponsor of the simulator and that approval has not been withdrawn by the FAA.

c. A person continues to be a sponsor of a simulator, if the following conditions are met:

(1) Beginning 12 calendar months after the initial qualification and every 12 calendar months thereafter, the simulator must have been used within the sponsor's FAA-approved flight training program for the airplane type for a minimum of 600 hours.

(2) The use of the simulator described in paragraph (c)(1) of this section must be dedicated to meeting the requirements of parts 61, 63, 91, 121, or 135 of 14 CFR chapter I.

(3) If the use requirements of paragraphs (c)(1) and (2) of this section are not met, the person will continue to sponsor the simulator on a provisional basis for a period not longer than 12 calendar months; and—

(a) If the simulator is used as described in paragraphs (c)(1) and (2) of this section within this additional 12 calendar month period, the provisional status will be removed and regular sponsorship resumed; or

(b) If the simulator is not used as described in paragraphs (c)(1) and (2) of this section within the additional 12 calendar month period, the simulator is not qualified and the sponsor will not be eligible to apply to sponsor that simulator for at least 12 calendar months.

End Rule Language (§ 60.7)

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7. Additional Responsibilities of the Sponsor

Begin Rule Language (§ 60.9)

a. The sponsor must not allow the simulator to be used for flightcrew member training or evaluation or for attaining flight experience for the flightcrew member to meet any of the requirements under 14 CFR chapter I unless the sponsor, upon request, allows the NSPM to inspect immediately the simulator, including all records and documents relating to the simulator, to determine its compliance with 14 CFR part 60.

b. The sponsor must, for each simulator—

(1) Establish a mechanism for the following persons to provide comments regarding the simulator and its operation and provide for receipt of those comments:

(a) Flightcrew members recently completing training or evaluation or recently obtaining flight experience in the simulator;

(b) Instructors and check airmen using the simulator for training, evaluation, or flight experience sessions; and

(c) Simulator technicians and maintenance personnel performing work on the simulator.

(2) Examine each comment received under paragraph (b)(1) of this section for content and importance and take appropriate action.

(3) Maintain a liaison with the manufacturer of the airplane being simulated by the simulator to facilitate compliance with § 60.13(f) when necessary.

(4) Post in or adjacent to the simulator the Statement of Qualification issued by the NSPM.

End Rule Language (§ 60.9)

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8. Simulator Use

Begin Rule Language (§ 60.11)

No person may use or allow the use of or offer the use of a simulator for meeting training, evaluation, or flight experience requirements of 14 CFR chapter I for flightcrew member certification or qualification unless, in accordance with the QPS for the specific device ''-a. It has a single sponsor who is qualified under § 60.9. The sponsor may arrange with another person for services of document preparation and presentation, as well as simulator inspection, maintenance, repair, and servicing; however, the sponsor remains responsible for ensuring that these functions are conducted in a manner and with a result of continually meeting the requirements of 14 CFR part 60. b. It is qualified as described in the Statement of Qualification that is required to be posted pursuant to § 60.9(b)(4) —

(1) For the make, model, and series of airplane; and

(2) For all tasks and configurations. c. It remains qualified, through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with 14 CFR part 60 and the appropriate QPS. d. Its software and active programming used during the training, evaluation, or flight experience is the same as the software and active programming that was evaluated by the NSPM.

End Rule Language (§ 60.11)

Begin QPS Requirements

e. Only those simulators that are used by a certificate holder (as defined for use in Part 60 and this QPS appendix) will be evaluated by the NSPM. However, other simulator evaluations may be conducted on a case-by-case basis as the Administrator deems appropriate, but only in accordance with applicable agreements.

End QPS Requirements

Begin Information

f. Each simulator must be evaluated as completely as possible. To ensure a thorough and uniform evaluation, each simulator is subjected to the performance demonstrations in attachment 1, the objective tests listed in attachment 2, and the subjective tests listed in attachment 3 of this appendix. The evaluation(s) described in this paragraph f will include, but not necessarily be limited to the following, as appropriate, for the qualification level of the simulator:

(1) Aerodynamic responses, including longitudinal and lateral-directional control responses (see attachment 2 of this appendix);

(2) Performance in authorized portions of the simulated airplane's operating envelope, to include tasks suitable to the NSPM in the areas of ground operations, takeoff, climb, cruise, descent, approach, and landing as well as abnormal and emergency operations (see paragraph 23 and attachment 2 of this appendix);

(3) Control checks (see attachment 1 and attachment 2 of this appendix);

(4) Cockpit configuration (see attachment 1 of this appendix);

(5) Pilot, flight engineer, and instructor station functions checks (see attachment 1 and attachment 3 of this appendix);

(6) Airplane systems and sub-systems (as appropriate) as compared to the airplane simulated (see attachment 1 and attachment 3 of this appendix);

(7) Simulator systems and sub-systems, including force cueing (motion), visual, and aural (sound) systems, as appropriate (see attachment 1 and attachment 2); and

(8) Certain additional requirements, depending upon the complexity of the simulator qualification level sought, including equipment or circumstances that may become hazardous to the occupants. The sponsor may be subject to Occupational Safety and Health Administration requirements.

g. The NSPM administers the objective and subjective tests, which includes an examination of functions. The tests include a qualitative assessment of the simulator by an NSP pilot. The NSP evaluation team leader may assign other qualified personnel to assist in accomplishing the functions examination and/or the objective and subjective tests performed during an evaluation when required.

(1) Objective tests are used to compare simulator and airplane data objectively to ensure that the simulator performance and handling qualities are within specified tolerances.

(2) Subjective tests provide a basis for:

(a) Evaluating the capability of the simulator to perform over a typical utilization period;

(b) Determining that the simulator satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and

(c) Verifying correct operation of the simulator controls, instruments, and systems.

h. The tolerances for the test parameters listed in attachment 2 of this appendix are the maximum acceptable to the NSPM for simulator validation and are not to be confused with design tolerances specified for simulator manufacture. In making decisions regarding tests and test results, the NSPM relies on the use of operational and engineering judgment in the application of data (including consideration of the way in which the flight test was flown and way the data was gathered and applied) data presentations, and the applicable tolerances for each test.

i. In addition to the scheduled recurrent evaluation (see paragraph 14), each simulator is subject to evaluations conducted by the NSPM at any time with no prior notification to the sponsor. Such evaluations would be accomplished in a normal manner (*i.e.*, requiring exclusive use of the simulator for the conduct of objective and subjective tests and an examination of functions) if the simulator is not being used for flightcrew member training, testing, or checking. However, if the simulator were being used, the evaluation would be conducted in a non-exclusive manner. This non-exclusive evaluation will be conducted by the simulator evaluator accompanying the check airman, instructor, Aircrew Program Designee (APD), or FAA inspector aboard the simulator along with the student(s) and observing the operation of the simulator during the training, testing, or checking activities. While the intent is to observe the operation and interaction of the device and not the check airman, instructor, APD, FAA inspector, or student(s), the simulator evaluator is a qualified FAA operations inspector and must, without question, report any obvious lack of proficiency to the appropriate POI or TCPM.

End Information

9. Simulator Objective Data Requirements

Begin Rule Language (§ 60.13)

a. Except as provided in paragraphs (b) and (c) of this section, for the purposes of validating simulator performance and handling qualities during evaluation for qualification, the sponsor must submit the airplane manufacturer's flight test data to the NSPM.

b. The sponsor may submit flight test data from a source in addition to or independent of the airplane manufacturer's data to the NSPM in support of a simulator qualification, but only if this data is gathered and developed by that source in accordance with flight test methods, including a flight test plan, as described in the appropriate QPS.

c. The sponsor may submit alternative data acceptable to the NSPM for consideration, approval and possible use in particular applications for simulator qualification.

d. Data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

e. The NSPM may require additional flight testing to support certain simulator qualification requirements.

f. When a simulator sponsor learns, or is advised by an airplane manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate a simulator used in the sponsor's training program is available, the sponsor must immediately notify the NSPM.

End Rule Language (§ 60.13)

Begin QPS Requirements

g. Flight test data used to validate simulator performance and handling qualities must have been gathered in accordance with a flight test program containing the following:

(1) A flight test plan, that contains:

(a) The required maneuvers and procedures.

(b) For each maneuver or procedure—

(i) The procedures and control input the flight test pilot and/or engineer are to use.

(ii) The atmospheric and environmental conditions.

(iii) The initial flight conditions.

(iv) The airplane configuration, including weight and center of gravity.

(v) The data that is to be gathered.

(vi) Any other appropriate factors.

(2) Appropriately qualified flight test personnel.

(31) An understanding of the accuracy of the data to be gathered.

(4) Appropriate and sufficient data acquisition equipment or system(s), including appropriate data reduction and analysis methods and techniques, as would be acceptable to the FAA's Aircraft Certification Service.

(5) Calibration of data acquisition equipment and airplane performance instrumentation must be current and traceable to a recognized standard.

h. The data presented, regardless of source, must be presented:

(1) In a format that supports the flight simulator validation process;

(2) In a manner that is clearly readable and annotated correctly and completely;

(3) With resolution sufficient to determine compliance with the tolerances set forth in attachment 2 of this appendix;

(4) With any necessary guidance information provided; and

(5) Without alteration, adjustments, or bias; however the data may be re-scaled, digitized, or otherwise manipulated to fit the desired presentation.

i. After completion of any additional flight test, a flight test report must be submitted in support of the objective data. The report must contain sufficient data and rationale to

support qualification of the simulator at the level requested.

End QPS Requirements

Begin Information

j. Any necessary data and the flight test plan should be reviewed with the NSP staff well in advance of commencing the flight test.

End Information

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10. Special Equipment and Personnel Requirements for Qualification of the Simulator

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Begin Rule Language (§ 60.14)

a. When notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish or assist in the accomplishment of tests during initial, recurrent, or special evaluations.

End Rule Language (§ 60.14)

Begin Information

b. Examples of a special evaluation would be an evaluation conducted at the request of the TPAA or as a result of comments received from users of the simulator that, upon analysis and confirmation, might cause a question as to the continued qualification or use of the simulator.

c. The NSPM will notify the sponsor at least 24 hours in advance of the evaluation if special equipment or personnel will be required to conduct the evaluation. Examples of special equipment include spot photometers, flight control measurement devices, sound analyzer, *etc.* Examples of special personnel would be those specifically qualified to install or use any special equipment when its use is required.

End Information

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11. Initial (and Upgrade) Qualification Requirements

Begin Rule Language (§ 60.15)

a. For each simulator, the sponsor must submit a request through the TPAA to have the NSPM evaluate the simulator for initial qualification at a specific level. The request must be submitted in the form and manner described in the appropriate QPS.

b. The request must include all of the following:

(1) A statement that the simulator meets all of the applicable provisions of 14CFR, part 60.

(2) A statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification will be maintained, except where modified as authorized in § 60.23. The statement must include a description of the procedure.

(3) A statement signed by at least one pilot who meets the requirements of paragraph c of this section asserting that each pilot so approved has determined that the following requirements have been met:

(a) The simulator systems and sub-systems function equivalently to those in the airplane.

(b) The performance and flying qualities of the simulator are equivalent to those of the airplane.

(c) The cockpit configuration conforms to the configuration of the airplane make, model, and series being simulated.

(4) A list of all of the operations tasks or simulator systems in the subjective test attachment of the appropriate QPS for which the simulator has not been subjectively tested (*e.g.*, circling approaches, windshear training, *etc.*) and for which qualification is not sought.

(5) A qualification test guide (QTG) that includes all of the following:

(a) Objective data obtained from airplane testing or another approved source.

(b) Correlating objective test results obtained from the performance of the simulator as prescribed in the appropriate QPS.

(c) The general simulator performance or demonstration results prescribed in the appropriate QPS.

(d) A description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification.

c. The pilot or pilots who make the statement required by paragraph (b)(3) of this section must—

(1) Be designated by the sponsor;

(2) Be approved by the TPAA; and

(3) Be qualified in—

(a) The airplane being simulated; or

(b) For airplane types not yet issued a type certificate, an airplane type similar in size and configuration.

d. The subjective tests that form the basis for the statements described in paragraph (b)(3) of this section and the objective tests referenced in paragraph (b)(5) of this section must be accomplished at the sponsor's training facility except as provided for in the appropriate QPS.

e. The person seeking to qualify the simulator must provide the NSPM access to the simulator for the length of time necessary for the NSPM to complete the required evaluation of the simulator for initial qualification, which includes the conduct and evaluation of objective and subjective tests, including general simulator requirements, as described in the appropriate QPS, to determine that the simulator meets the standards in that QPS.

f. When the simulator passes an evaluation for initial qualification, the NSPM issues a Statement of Qualification that includes all of the following:

(1) Identification of the sponsor.

(2) Identification of the make, model, and series of the airplane being simulated.

(3) Identification of the configuration of the airplane being simulated (*e.g.*, engine model or models, flight instruments, navigation or other systems, *etc.*).

(4) A statement that the simulator is qualified.

(5) Identification of the qualification level of the simulator.

(6) A list of all of the operations tasks or simulator systems in the subjective test attachment of the appropriate QPS for which the simulator has not been subjectively tested and for which the simulator is not qualified (*e.g.*, circling approaches, windshear training, *etc.*).

g. After the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG, with the results of the FAA-witnessed tests and demonstrations together with the results of all the objective tests and demonstrations described in the appropriate QPS.

h. Upon issuance of the Statement of Qualification the updated QTG becomes the MQTG and must then be made available to the FAA upon request.

End Rule Language (§ 60.15)

Begin QPS Requirements

i. The QTG described in paragraph 11.b.(4) of this appendix, must provide the documented proof of compliance with the simulator objective tests in attachment 2 of this appendix.

j. The QTG is prepared and submitted by the sponsor, or the sponsor's agent on behalf of the sponsor, through the TPAA to the NSPM for review and approval, and must include, for each objective test:

(1) Parameters, tolerances, and flight conditions;

(2) Pertinent and complete instructions for the conduct of automatically and manually conducted tests;

(3) A means of comparing the simulator's test results to the objective data;

(4) Statements of how a particular test was accomplished or that certain requirements have been met (see attachments to this appendix for additional information);

(5) Other information appropriate to the qualification level of the simulator.

k. The QTG described in paragraph 11.b.(4) of this appendix, must include the following:

(1) A QTG cover page with sponsor and FAA approval signature blocks (see Attachment 5, Figure 2, for a sample QTG cover page).

(2) A recurrent evaluation schedule requirements page—to be used by the NSPM to establish and record the frequency with which recurrent evaluations must be conducted and any subsequent changes that may be determined by the NSPM. See Attachment 5, Figure 4, for a sample Recurrent Evaluation Schedule Requirements page.

(3) A simulator information page that provides the information listed in this paragraph k.(3) (see Attachment 5, Figure 3, for a sample simulator information page). For convertible simulators, a separate page is submitted for each configuration of the simulator.

(a) The sponsor's simulator identification number or code.

(b) The airplane model and series being simulated.

(c) The aerodynamic data revision number or reference.

(d) The engine model(s) and its data revision number or reference.

(e) The flight control data revision number or reference.

(f) The flight management system identification and revision level.

(g) The simulator model and manufacturer.

(h) The date of simulator manufacture.

(i) The simulator computer identification.

(j) The visual system model and manufacturer, including display type.

(k) The motion system type and manufacturer, including degrees of freedom.

(4) A Table of Contents.

(5) A log of revisions and a list of effective pages.

(6) The source data.

(7) A glossary of terms and symbols used (including sign conventions and units).

(8) Statements of compliance and capability (SOC's) with certain requirements. SOC's must provide references to the sources of information for showing the capability of the simulator to comply with the requirement, a rationale explaining how the referenced material is used, mathematical equations and parameter values used, and the conclusions reached; *i.e.* that the simulator complies with the requirement. Refer to the ''Additional Details'' column in attachment 1, ''Simulator Standards,'' or in the ''Test Details'' column in attachment 2, ''Simulator Objective Tests,'' to see when SOC's are required.

(9) Recording procedures or equipment required to accomplish the objective tests.

(10) The following information for each objective test designated in attachment 2, as applicable to the qualification level sought:

(a) Name of the test.

(b) Objective of the test.

(c) Initial conditions.

(d) Manual test procedures.

(e) Automatic test procedures (if applicable).

(f) Method for evaluating simulator objective test results.

(g) List of all parameters driven or constrained during the automatically conducted test(s).

(h) List of all parameters driven or constrained during the manually conducted test(s).

(i) Tolerances for relevant parameters.

(j) Source of Airplane Test Data (document and page number).

(k) Copy of the Airplane Test Data (if located in a separate binder, a cross reference for the identification and page number for pertinent data location must be provided).

(l) Simulator Objective Test Results as obtained by the sponsor. Each test result must reflect the date completed and must be clearly labeled as a product of the device being tested.

l. Form and manner of presentation of objective test results in the QTG:

(1) The sponsor's simulator test results must be recorded in a manner, acceptable to the NSPM, that will allow easy comparison of the simulator test results to airplane test data (*e.g.*, use of a multi-channel recorder, line printer, cross plotting, overlays, transpariencies, *etc.*).

(2) Simulator results must be labeled using terminology common to airplane parameters as opposed to computer software identifications.

(3) Airplane data documents included in a QTG may be photographically reduced only if such reduction will not alter the graphic scaling or cause difficulties in scale interpretation or resolution.

(4) Scaling on graphical presentations must provide the resolution necessary to evaluate the parameters shown in attachment 2 of this appendix.

(5) For tests involving time histories, flight test data sheets (or transparencies thereof) and simulator test results must be clearly marked with appropriate reference points to ensure an accurate comparison between simulator and airplane with respect to time. Time histories recorded via a line printer are to be clearly identified for cross-plotting on the airplane data. Over-plots must not obscure the reference data.

m. The sponsor may elect to complete the QTG objective tests at the manufacturer's facility. Tests performed at this location must be conducted after assembly of the simulator has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate simulator performance at the sponsor's training facility by repeating a representative sampling of all the objective tests in the QTG and submitting these repeated test results to the NSPM. This sample must consist of at least one-third of the QTG objective tests. The QTG must be clearly annotated to indicate when and where each test was accomplished.

n. The sponsor may elect to complete the subjective tests at the manufacturer's facility. Tests performed at this location will be conducted after assembly of the simulator has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate simulator performance at the sponsor's training facility by having the pilot(s) who performed these tests originally (or similarly qualified pilot(s)), repeat a representative sampling of these subjective tests and submit a statement to the NSPM that the simulator has not changed from the original determination. The report must clearly indicate when and where these repeated tests were completed, but need not take more than one normal simulator period (*e.g.*, 4 to 8 hours) to complete.

o. The sponsor must maintain a copy of the MQTG at the simulator location. After [date 6 years from the effective date of the final rule] all MQTG's, regardless of initial qualification date of the simulator, must be available in an electronic format, acceptable to the NSPM. The electronic MQTG must include all objective data obtained from airplane testing, or another approved source (reformatted or digitized), together with correlating objective test results obtained from the performance of the simulator (reformatted or digitized) as prescribed in this appendix, the general simulator performance or demonstration results (reformatted or digitized) prescribed in this appendix, and a description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification. This electronic MQTG must include the original airplane flight test data used to validate simulator performance and handling qualities in either the original digitized format from the data supplier or an electronic scan of the original flight test time-history plots that were provided by the data supplier. An electronic copy of MQTG must be provided to the NSPM.

End QPS Requirements

Begin Information

p. Problems with objective test results are handled according to the following:

(1) If a problem with an objective test result is detected by the NSP evaluation team during an evaluation, the test may be repeated and/or the QTG may be amended.

(2) If it is determined that the results of an objective test do not support the level requested but do support a lower level, the NSPM may qualify the simulator at that lower level. For example, if a Level D evaluation is requested and the simulator fails to meet sound test tolerances, it could be qualified at Level C.

q. After the NSPM issues a statement of qualification to the sponsor when a simulator is successfully evaluated, the simulator is recommended to the TPAA, who will exercise authority on behalf of the Administrator in approving the simulator in the appropriate airplane flight training program.

r. Under normal circumstances, the NSPM establishes a date for the initial or upgrade evaluation within ten (10) working days after determining that a complete QTG is acceptable. Unusual circumstances may warrant establishing an evaluation date before this determination is made; however, once a schedule is agreed to, any slippage of the evaluation date at the sponsor's request may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation. A sponsor may commit to an initial evaluation date under this early process, in coordination with and the agreement of the NSPM, but the request must be in writing and must include an acknowledgment of the potential schedule impact if the sponsor slips the evaluation from this early-committed date. See Attachment 5, figure 5, Sample Request for Initial Evaluation Date.

s. A convertible simulator is addressed as a separate simulator for each model and series airplane to which it will be converted and for the FAA qualification level sought. An NSP evaluation is required for each configuration. For example, if a sponsor seeks qualification for two models of an airplane type using a convertible simulator, two QTG's, or a supplemented QTG, and two evaluations are required.

t. The numbering system used for objective test results in the QTG should closely follow the numbering system set out in attachment 2, Simulator Objective Tests.

End Information

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12. Additional Qualifications for a Currently Qualified Simulator

Begin Rule Language (§ 60.16)

a. A currently qualified simulator is required to undergo an additional qualification process if a user intends to use the simulator for meeting training, evaluation, or flight experience requirements of 14 CFR chapter I beyond the qualification issued to the sponsor. This process consists of the following—

(1) The sponsor:

(a) Must submit to the NSPM all modifications to the MQTG that are required to support the additional qualification.

(b) Must describe to the NSPM all modifications to the simulator that are required to support the additional qualification.

(c) Must submit a statement to the NSPM that a pilot, designated by the sponsor in accordance with § 60.15(c) and approved by the TPAA for the user, has subjectively evaluated the simulator in those areas not previously evaluated.

(2) The simulator must successfully pass an evaluation—

(a) For initial qualification, in accordance with § 60.15, in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(b) For those elements of an evaluation for initial qualification (*e.g.*, objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

b. In making the determinations described in paragraph (a)(2) of this section, the NSPM considers factors including the existing qualification of the simulator, any modifications to the simulator hardware or software that are involved, and any additions or modifications to the MQTG.

c. The simulator is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with § 60.15(f).

d. The sponsor may not modify the simulator except as described in § 60.23.

End Rule Language (§ 60.16)

13. Previously Qualified Simulators

Begin Rule Language (§ 60.17)

a. Unless otherwise specified by an FSD Directive, further referenced in the appropriate QPS, or as specified in paragraph (e) of this section, a simulator qualified before [the effective date of this rule] will retain its qualification as long as it continues to meet the standards, including the performance demonstrations and the objective test results recorded in the MQTG, under which it was originally evaluated, regardless of sponsor, and as long as the sponsor complies with the applicable provisions of 14 CFR part 60.

b. If the simulator qualification is lost under § 60.27 and not restored under § 60.27 for two (2) years or more, the qualification basis for the re-qualification will be those standards in effect and current at the time of re-qualification application.

c. Except as provided in paragraph (d) of this section, any change in simulator qualification level initiated on or after [the effective date of the final rule] requires an evaluation for initial qualification in accordance with 14 CFR part 60.

d. The NSPM may downgrade a qualified simulator without requiring and without conducting an initial evaluation for the new qualification level. Subsequent recurrent evaluations will use the existing MQTG, modified as necessary to reflect the new qualification level.

e. When the sponsor has appropriate validation data available and receives approval from the NSPM, the sponsor may adopt tests and associated tolerances described in the current qualification standards as the tests and tolerances applicable for the continuing qualification of a previously qualified simulator. The updated test(s) and tolerance(s) must be made a permanent part of the MQTG.

End Rule Language (§ 60.17)

Begin Information

f. Other certificate holders or persons desiring to use a flight simulator may contract with simulator sponsors to use those simulators already qualified at a particular level for an airplane type and approved for use within an FAA-approved flight training program. Such simulators are not required to undergo an additional qualification process, except as described in paragraph 12 of this appendix.

Note: The reader is reminded of the requirement that each simulator user must obtain approval from the appropriate TPAA to use any simulator in an FAA-approved flight training program.

End Information

14. Inspection, Maintenance, and Recurrent Evaluation Requirements

Begin Rule Language (§ 60.19)

a. Inspection. No sponsor may use or allow the use of or offer the use of a simulator for meeting training, evaluation, or flight experience requirements of 14 CFR, Chapter I for flightcrew member certification or qualification unless the sponsor does the following:

(1) Accomplishes all appropriate QPS Attachment 1 performance demonstrations and all appropriate QPS Attachment 2 objective tests each year. To do this, the sponsor must conduct a minimum of four evenly spaced inspections throughout the year, as approved by the NSPM. The performance demonstrations and objective test sequence and content of each inspection in this sequence will be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM looks for a balance and a mix from the performance demonstrations and objective test requirement areas listed as follows:

(a) Performance.

(b) Handling qualities.

(c) Motion system.

(d) Visual system.

(e) Sound system (where appropriate).

(f) Other simulator systems.

(2) Completes a functional preflight check in accordance with the appropriate QPS each calendar day prior to the start of the first simulator period of use that begins in that calendar day.

(3) Completes at least one functional preflight check in accordance with the appropriate QPS in every seven (7) consecutive calendar days.

(4) Maintains a discrepancy log.

(5) Ensures that, when a discrepancy is discovered, the following requirements are met:

(a) Each discrepancy entry must be maintained in the log until the discrepancy is corrected as specified in § 60.25(b) and for at least 30 days thereafter.

(b) The corrective action taken for each discrepancy and the date that action is taken must be entered in the log. This entry concerning the corrective action must be maintained for at least 30 days thereafter.

(c) The discrepancy log is kept in a form and manner acceptable to the Administrator and is kept in or immediately adjacent to the simulator.

b. Recurrent evaluation.

(1) This evaluation consists of performance demonstrations, objective tests, and subjective tests, including general simulator requirements, as described in the appropriate QPS or as may be amended by an FSD Directive.

(2) The sponsor must contact the NSPM to schedule the simulator for recurrent evaluations not later than 60 days before the recurrent evaluation is due.

(3) The sponsor must provide the NSPM access to the objective test results and general simulator performance or demonstration results in the MQTG, and access to the simulator for the length of time necessary for the NSPM to complete the required recurrent evaluations, weekdays between 6 o'clock a.m. (local time) and 6 o'clock p.m. (local time).

(4) No sponsor may use, or allow the use of, or offer the use of, a simulator for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of 14 CFR chapter I unless the simulator has passed an NSPM-conducted recurrent evaluation within the previous 12 calendar months or as otherwise provided for in the MQTG.

(5) Recurrent evaluations conducted in the calendar month before or after the calendar month in which these recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

c. Maintenance. The sponsor is responsible for continuing corrective and preventive maintenance on the simulator to ensure that it continues to meet the requirements of § 60.15(b).

End Rule Language (§ 60.19)

Begin QPS Requirements

d. The preflight inspections described in paragraphs 14.a.(2) and (3) of this appendix, must consist of, as a minimum—

(1) An exterior inspection of the simulator for appropriate hydraulic, pneumatic, and electrical connections (*e.g.*, in place, not leaking, appear serviceable);

(2) A check that the area around the simulator is free of potential obstacles throughout the motion system range;

(3) A review of the simulator discrepancy log;

(4) A functional check of the major simulator systems and simulated airplane systems (*e.g.*, visual, motion, sound, cockpit instrumentation, and control loading, including adequate air flow for equipment cooling) by doing the following:

(a) Turn on main power, including motion system, and allow to stabilize.

(b) Connect airplane power. This may be connected through ''quick start'' of airplane engines, auxiliary power unit, or ground power. Airplane operations will require operating engines.

(c) A general look for light bulb function, lighted instruments and switches, *etc.,* as well as inoperative ''flags'' or other such indications.

(d) Check Flight Management System(s) (and other date-critical information) for proper date range.

(e) Select takeoff position and from either pilot position, observe the visual system, for proper operation; *e.g.*, light-point color balance and convergence, edge-matching and blending, *etc.*

(f) Adjust visibility value to inside of the far end of the runway and release ''position freeze or flight freeze.'' From either pilot position, advance power to taxi down the runway (observe visual system, check sound system and engine instrument response) and apply spoiler/speed brake, if appropriate, and wheel brakes (to check spoiler/speed brake and wheel brake operation as applicable and to exercise simulator motion system); select reverse thrust, if applicable, to check normal operation and continued deceleration.

(g) Select position on final approach, at least five (5) miles out (observe visual scene). From either pilot position, adjust airplane configuration appropriately (check for normal gear and flap operation). Adjust visibility to see entire airport. Release ''position freeze'' or ''flight freeze.'' Make a rapid left and right bank (check control feel and freedom; observe proper airplane response; and exercise motion system). Observe visual system and simulated airplane systems operation.

(h) Extend gear and flaps,

(i) Fly to and land at airport, or select takeoff position.

(j) Shut down engines, turn off lights, turn off main power supply and motion system.

(k) Record ''functional preflight'' in the simulator discrepancy log book, including any item found to be missing, malfunctioning, or inoperative.

End QPS Requirements

Begin Information

e. If the NSP evaluator plans to accomplish specific tests during a normal recurrent evaluation that requires the use of special equipment or technicians, the sponsor will be notified as far in advance of the evaluation as practical; usually not less than 24 hours. These tests include latencies, control dynamics, sounds and vibrations, motion, and/or some visual system tests.

f. The recurrent evaluations described in paragraph 13.a.(7) of this appendix, require approximately eight (8) hours of simulator time and consist of the following:

(1) Review of the results of the objective tests and all the designated simulator performance demonstrations conducted by the sponsor since the last scheduled recurrent evaluation.

(2) At the discretion of the evaluator, a selection of approximately 20 percent of those objective tests conducted since the last scheduled recurrent evaluation and a selection of approximately 10 percent of the remaining objective tests in the MQTG. The tests chosen will be performed either automatically or manually, at the discretion of the evaluator.

(3) Subjective test of the simulator to perform a representative sampling of the tasks set out in attachment 3 of this appendix, selected at the discretion of the evaluator.

(4) An examination of the functions of the simulator, including, but not necessarily limited to the motion system, visual system, sound system, instructor operating station, and the normal and simulated malfunctions of the simulated airplane systems.

End Information

15. Logging Simulator Discrepancies

Begin Rule Language (§ 60.20)

Each instructor, check airman, or representative of the Administrator conducting training or evaluation, or observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the simulator, must write or cause to be written a description of that discrepancy into the discrepancy log at the end of the simulator preflight or simulator use session.

End Rule Language (§ 60.20)

16. Interim Qualification of Simulators for New Airplane Types or Models

Begin Rule Language (§ 60.21)

a. A sponsor may apply for and the NSPM may issue an interim qualification level for a simulator for a new type or model of airplane, even though the flight test data used has not received final approval by the airplane manufacturer, if the sponsor provides the following to the satisfaction of the NSPM—

(1) The airplane manufacturer's predicted data, validated by a limited set of flight test data;

(2) The airplane manufacturer's description of the prediction methodology used to develop the predicted data; and

(3) The QTG test results.

b. A simulator that has been issued interim qualification will be deemed to have been issued initial qualification unless the NSPM rescinds the qualification. Interim qualification terminates one year after its issuance, unless the NSPM determines that specific conditions warrant otherwise.

c. Within six months of the release of the final flight test data package by the airplane manufacturer but no later than one year after the issuance of the interim qualification status the sponsor must apply for initial qualification in accordance with § 60.15 based on the final flight test data package approved by the airplane manufacturer, unless the NSPM determines that specific conditions warrant otherwise.

d. A simulator with interim qualification may be modified only in accordance with § 60.23.

End Rule Language (§ 60.21)

17. Modifications to Simulators

Begin Rule Language (§ 60.23)

a. When the sponsor or the FAA determines that any of the following circumstances exist and the FAA determines that the simulator cannot be used adequately to train, evaluate, or provide flight experience for flightcrew members, the sponsor must modify the simulator accordingly.

(1) The airplane manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the airplane being simulated;

(2) A change in airplane performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs; or

(4) Other circumstances as determined by the NSPM.

b. When the FAA determines that simulator modification is necessary for safety of flight reasons, the sponsor of each affected simulator must ensure that the simulator is modified according to the FSD Directive regardless of the original qualification standards applicable to any specific simulator.

c. Before modifying a qualified simulator, the sponsor must notify the NSPM and the TPAA as follows:

(1) The notification must include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the simulator.

(2) The notification must be submitted in a form and manner as specified in the appropriate QPS.

d. If the sponsor intends to add additional equipment or devices intended to simulate airplane appliances; modify hardware or software which would affect flight or ground dynamics, including revising simulator programming or replacing or modifying the host computer; or if the sponsor is changing or modifying the motion, visual, or control loading systems (or sound system for simulator levels requiring sound tests and measurements), the following applies:

(1) The sponsor must meet the notification requirements of paragraph c of this section and must include in the notification the results of all objective tests that have been re-run with the modification incorporated, including any necessary updates to the MQTG.

(2) However, the sponsor may not use, or allow the use of, or offer the use of, the simulator with the proposed modification for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of 14CFR, Chapter I unless or until the sponsor receives written notification from the NSPM approving the proposed modification. Prior to approval, the NSPM may require that the modified simulator be evaluated in accordance with the standards for an evaluation for initial qualification or any part thereof before it is placed in service.

e. The sponsor may not modify a qualified simulator until one of the following has occurred:

(1) For circumstances described in paragraph b or d of this section, the sponsor receives written approval from the NSPM that the modification is authorized.

(2) For circumstances other than those described in paragraph b or d of this section, either:

(a) Twenty-one days have passed since the sponsor notified the NSPM and the TPAA of the proposed modification and the sponsor has not received any response from the NSPM or TPAA; or

(b) The NSPM or TPAA approves the proposed modification in fewer than 21 days since the sponsor notified the NSPM and the TPAA of the proposed modification.

f. When a modification is made to a simulator, the sponsor must notify each certificate holder planning to use that simulator of that modification prior to that certificate holder using that simulator the first time after the modification is complete.

g. The MQTG must be updated with current objective test results in accordance with § 60.15(b)(5) and appropriate flight test data in accordance with § 60.13, each time a simulator is modified and an objective test is affected by the modification. If this update is initiated by an FSD Directive, the direction to make the modification and the record of the modification completion must be filed in the MQTG.

End Rule Language (§ 60.23)

Begin QPS Requirements

h. The notification described in paragraph 17.c.(1) of this appendix, will include a statement signed by a pilot, qualified in the airplane type being simulated and designated by the sponsor, that, with the modification proposed—

(1) The simulator systems and sub-systems function equivalently to those in the airplane being simulated;

(2) The performance and flying qualities of the simulator are equivalent to those of the airplane being simulated; and

(3) The cockpit configuration conforms to the configuration of the airplane being simulated.

End QPS Requirements

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18. Operation With Missing, Malfunctioning, or Inoperative Components

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Begin Rule Language (§ 60.25)

a. No person may use or allow the use of or offer the use of a simulator with a missing, malfunctioning, or inoperative component for meeting training, evaluation, or flight experience requirements of 14 CFR chapter I for flightcrew member certification or qualification during maneuvers, procedures, or tasks that require the use of the correctly operating component.

b. Each missing, malfunctioning, or inoperative component must be repaired or replaced within 30 calendar days unless otherwise authorized by the NSPM. Failure to repair or replace this component within the prescribed time may result in loss of simulator qualification.

c. Each missing, malfunctioning, or inoperative component must be placarded as such on or adjacent to that component in the simulator and a list of the currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the simulator for review by users of the device.

End Rule Language (§ 60.25)

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19. Automatic Loss of Qualification and Procedures for Restoration of Qualification

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Begin Rule Language (§ 60.27)

a. A simulator is not qualified if any of the following occurs:

(1) The simulator is not used in the sponsor's FAA-approved flight training program in accordance with § 60.9(b)(4).

(2) The simulator is not maintained and inspected in accordance with § 60.19.

(3) The simulator is physically moved from one location to another, regardless of distance.

(4) The simulator is disassembled (*e.g.*, for repair or modification) to such an extent that it cannot be used for training, evaluation, or experience activities.

(5) The MQTG is missing or otherwise not available and a replacement is not made within 30 days.

b. If simulator qualification is lost under paragraph (a) of this section, qualification is restored when either of the following provisions are met:

(1) The simulator successfully passes an evaluation:

(a) For initial qualification, in accordance with § 60.15 in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(b) For those elements of an evaluation for initial qualification approved as necessary by the NSPM.

(2) The NSPM or the TPAA advises the sponsor that an evaluation is not necessary.

c. In making the determinations described in paragraph (b) of this section, the NSPM considers factors including the number of inspections and recurrent evaluations missed, the amount of disassembly and re-assembly of the simulator that was accomplished, and the care that had been taken of the device since the last evaluation.

End Rule Language (§ 60.27)

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20. Other Losses of Qualification and Procedures for Restoration of Qualification

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Begin Rule Language (§ 60.29)

a. Except as provided in paragraph c of this section, when the NSPM or the TPAA notifies the sponsor that the simulator no longer meets qualification standards, the following procedure applies:

(1) The NSPM or the TPAA notifies the sponsor in writing that the simulator no longer meets some or all of its qualification standards.

(2) The NSPM or the TPAA sets a reasonable period (but not less than 7 days) within which the sponsor may submit written information, views, and arguments on the simulator qualification.

(3) After considering all material presented, the NSPM or the TPAA notifies the sponsor of the simulator qualification.

(4) If the NSPM or the TPAA notifies the sponsor that some or all of the simulator is no longer qualified, it becomes effective not less than 30 days after the sponsor receives notice of it unless—

(a) The NSPM or the TPAA find under paragraph c of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce; or

(b) The sponsor petitions for reconsideration of the NSPM or the TPAA finding under paragraph b of this section.

b. When a sponsor seeks reconsideration of a decision from the NSPM or the TPAA concerning the simulator qualification, the following procedure applies:

(1) The sponsor must petition for reconsideration of that decision within 30 days of the date that the sponsor receives a notice that some or all of the simulator is no longer qualified.

(2) The sponsor must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of the determination by the NSPM or the TPAA that the simulator is no longer qualified unless the NSPM or the TPAA has found, under paragraph c of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

c. If the NSPM or the TPAA find that an emergency exists requiring immediate action

with respect to safety in air transportation or air commerce that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The NSPM or the TPAA withdraws qualification of some or all of the simulator and makes the withdrawal of qualification effective on the day the sponsor receives notice of it.

(2) In the notice to the sponsor, the NSPM or the TPAA articulates the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

End Rule Language (§ 60.29)

21. Recordkeeping and Reporting

Begin Rule Language (§ 60.31)

a. The simulator sponsor must maintain the following records for each simulator it sponsors:

(1) The MQTG and each amendment thereto.

(2) A copy of the programming used during the evaluation of the simulator for initial qualification and for any subsequent upgrade qualification and a copy of all programming changes made since the evaluation for initial qualification.

(3) A copy of all of the following:

(a) Results of the evaluations for the initial and each upgrade qualification.

(b) Results of the quarterly objective tests and the approved performance demonstrations conducted in accordance with § 60.19(a) for a period of 2 years.

(c) Results of the previous three recurrent evaluations, or the recurrent evaluations from the previous 2 years, whichever covers a longer period.

(d) Comments obtained in accordance with § 60.9(b)(1) for a period of at least 18 months.

(4) A record of all discrepancies entered in the discrepancy log over the previous 2 years, including the following:

(a) A list of the components or equipment that were or are missing, malfunctioning, or inoperative.

(b) The action taken to correct the discrepancy.

(c) The date the corrective action was taken.

(5) A record of all modifications to simulator hardware configurations made since initial qualification.

b. The simulator sponsor must keep a current record of each certificate holder using the simulator. The sponsor must provide a copy of this list to the NSPM at least semiannually.

c. The records specified in this section must be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM.

d. The sponsor must submit an annual report, in the form of a comprehensive statement signed by the quality assurance primary contact point, certifying that the simulator continues to perform and handle as qualified by the NSPM.

End Rule Language (§ 60.31)

22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements

Begin Rule Language (§ 60.33)

a. No person may make, or cause to be made, any of the following:

(1) A fraudulent or intentionally false statement in any application or any amendment thereto, or any other report or test result required by 14 CFR part 60 or the QPS.

(2) A fraudulent or intentionally false statement in or omission from any record or report that is kept, made, or used to show compliance with 14 CFR part 60 or the QPS, or to exercise any privileges under 14 CFR chapter I.

(3) Any reproduction or alteration, for fraudulent purpose, of any report, record, or test result required under 14 CFR part 60 or the QPS.

b. The commission by any person of any act prohibited under paragraph a of this section is a basis for any one or any combination of the following:

(1) A civil penalty.

(2) Suspension or revocation of any certificate held by that person that was issued under 14 CFR chapter I.

(3) The removal of simulator qualification and approval for use in a training program.

c. The following may serve as a basis for removal of qualification of a simulator including the withdrawal of authorization for use of a simulator; or denying an application for a qualification.

(1) An incorrect statement, upon which the FAA relied or could have relied, made in support of an application for a qualification or a request for approval for use.

(2) An incorrect entry, upon which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for a simulator qualification or an approval for use.

End Rule Language (§ 60.33)

23. Specific Simulator Compliance Requirements

Begin Rule Language (§ 60.35)

a. After [date 18 months from the effective date of the final rule], no simulator will be eligible for initial or upgrade qualification under 14 CFR part 60 unless it simulates the operation of all equipment and appliances installed and operating on the airplane being simulated, if such equipment or appliances have controls or indications that are located in the airplane cockpit.

b. After [date 2 years from the effective date of this final rule], any flight simulator used for meeting flightcrew member training, evaluation, or flight experience requirements of 14 CFR chapter I for certification or qualification that cannot perform satisfactorily in the following areas will no longer be qualified as a simulator.

(1) Ground operations;

(2) The takeoff, climb, cruise, descent, and approach portions of the simulated airplane's operating envelope, including abnormal and emergency operations; and

(3) The landing maneuver, including normal, abnormal, and emergency landings.

End Rule Language (§ 60.35)

24. [Reserved]

25. Simulator Qualification on the Basis of a Bilateral Aviation Safety Agreement (BASA)

Begin Rule Language (§ 60.37)

a. The evaluation and qualification of an airplane simulator by a contracting State to the Convention on International Civil Aviation for the sponsor of an airplane simulator located in that contracting State may be used as the basis for issuing a U.S. statement of qualification (see attachment 5, figure 4) by the NSPM to a U.S. sponsor of that simulator in accordance with—

(1) A BASA between the United States and the Contracting State that issued the original qualification; and

(2) A Simulator Implementation Procedure (SIP) established under the BASA.

b. The SIP will contain any conditions and limitations on validation and issuance of such qualification by the U.S.

End Rule Language (§ 60.37)

Attachment 1 to Appendix A to Part 60—General Simulator Requirements

1. General

Begin QPS Requirements

a. Requirements. (1) Certain simulator and visual system requirements included in this attachment must be supported with a Statement of Compliance and Capability (SOC) and, in designated cases, simulator performance must be recorded and the results made part of the QTG. In the following tabular listing of simulator standards, requirements for SOC's are indicated in the ''Additional Details'' column.

(2) Airports represented in visual scenes required by this document must be representations of real-world, operational airports or representations of fictional airports, designed specifically for use in training, testing, and/or checking of flight crewmembers.

(a) If real-world, operational airports are simulated, the visual representation and scene content is compared to that of the actual airport. This comparison requires accurate simulation of that airport to the extent set out in this document and as required by the qualification level sought. It

also requires the visual scene to be modified when the airport is modified; *e.g.*, when additional runways or taxiways are added; when existing runway(s) are lengthened or permanently closed; when magnetic bearings to or from a runway are changed; when significant and recognizable changes are made to the terminal, other airport buildings, or surrounding terrain; *etc.*

(b) If fictional airports are used, the navigational aids and all appropriate maps, charts, and other navigational reference material for such airports (and surrounding areas as necessary), are evaluated for compatibility, completeness, and accuracy. These items are compared to the visual presentation and scene content of the fictional airport and require simulation to the extent set out in this document and as required by the qualification level sought. An SOC must be submitted that addresses navigation aid installation and performance (including obstruction clearance protection, *etc.*) and other criteria for all instrument approaches that are available in the simulator. The SOC must reference and account for information in the Terminal Instrument Procedures Manual (''Terps'' Manual, FAA Handbook 8260.3, as amended) and the construction and availability of the required maps, charts, and other navigational material. This material must be appropriately marked ''for training purposes only.''

End QPS Requirements

Begin Information

b. Discussion.

(1) This attachment describes the minimum simulator requirements for qualifying airplane simulators. To determine the complete requirements for a specific level simulator the objective tests in attachment 2 and the examination of functions and subjective tests listed in attachment 3 must also be consulted.

(2) The material contained in this attachment is divided into the following categories:

(a) General cockpit configuration.

(b) Simulator programming.

(c) Equipment operation.

(d) Equipment and facilities for instructor/evaluator functions.

(e) Motion system.

(f) Visual system.

(g) Sound system.

End Information

TABLE OF MINIMUM SIMULATOR REQUIREMENTS

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
2. General Cockpit Configuration						
a. The simulator must have a cockpit that is a full-scale replica of the airplane simulated with controls, equipment, observable cockpit indicators, circuit breakers, and bulkheads properly located, functionally accurate and replicating the airplane. The direction of movement of controls and switches must be identical to that in the airplane.	X	X	X	X	Pilot seats must afford the capability for the occupant to be able to achieve the design ''eye position'' established for the airplane being simulated.	For simulator purposes, the cockpit consists of all that space forward of a cross section of the fuselage at the most extreme aft setting of the pilots' seats including additional, required crewmember duty stations and those required bulkheads aft of the pilot sets.
b. Those circuit breakers that affect procedures and/or results in observable cockpit indications must be properly located and functionally accurate.	X	X	X	X		
3. Programming						
a. The effect of aerodynamic changes for various combinations of drag and thrust normally encountered in flight must correspond to actual flight conditions, including the effect of change in airplane attitude, thrust, drag, altitude, temperature, gross weight, center of gravity location, and configuration.	X	X	X	X		
b. The simulator must have the computer capacity, accuracy, resolution, and dynamic response needed to meet the qualification level sought.	X	X	X	X	An SOC is required.	
c. Simulator hardware and programming must be updated within 6 months of any airplane modifications or appropriate data releases unless, with prior coordination, the NSPM authorizes otherwise.	X	X	X	X		

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
d. Ground operations must be represented to the extent that allows turns within the confines of the runway and adequate controls of the landing and roll-out from a crosswind approach to a landing.	X					
e. Ground handling and aerodynamic programming must include the following:					An SOC is required. Simulator performance must be recorded and the results made part of the QTG.	
(1) Ground effect		X	X	X	This requires data on lift, drag, pitching moment, trim, and power while in ground effect.	Applicable areas include: roundout, flare, and touchdown.
(2) Ground reaction		X	X	X	This requires data on strut deflections, tire friction, side forces, etc.	This is the reaction of the airplane upon contact with the runway during landing, and may differ with changes in gross weight, airspeed, rate of descent on touchdown, etc.
(3) Ground handling characteristics, including aerodynamic and ground reaction modeling including steering inputs, operations with crosswind, braking, thrust reversing, deceleration, and turning radius.		X	X	X		
f. The simulator must employ windshear models that provide training for recognition of windshear phenomena and the execution of recovery procedures. Models must be available to the instructor/evaluator for the following critical phases of flight: (1) Prior to takeoff rotation ..... (2) At liftoff ..... (3) During initial climb ..... (4) On final approach, below 500 ft. AGL.			X	X	Required only for turbo-jet powered, transport category airplanes. Simulator performance must be recorded and the results made part of the QTG; see Attachment 6 of this appendix. The QTG must reference the FAA Windshear Training Aid or present alternate airplane related data, including the implementation method(s) used. If the alternate method is selected, wind models from the Royal Aerospace Establishment (RAE), the Joint Airport Weather Studies (JAWS) Project and other recognized sources may be implemented, but must be supported and properly referenced in the QTG. Only those simulators meeting these requirements may be used to satisfy the training requirements of part 121 pertaining to a certificate holder's approved low-altitude windshear flight training program as described in § 121.409.	If desired, Level A and B simulators may qualify for windshear training by meeting these standards; see Attachment 6 of this appendix. Windshear models may consist of independent variable winds in multiple simultaneous components. The FAA Windshear Training Aid presents one acceptable means of compliance with simulator wind model requirements.
g. The simulator must include a means for quickly and effectively testing simulator programming and hardware.			X	X	An SOC is required	This may include an automated system, which could be used for conducting at least a portion of the tests in the QTG.

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
h. The simulator must provide for automatic testing of simulator hardware and software programming to determine compliance with simulator objective tests as prescribed in Attachment 2.			X	X	An SOC is required. Simulator test results must include simulator number, date, time, conditions, tolerances, and appropriate dependent variables portrayed in comparison to the airplane standard.	Automatic ''flagging'' of out-of-tolerance situations is encouraged.
i. Relative responses of the motion system, visual system, and cockpit instruments must be coupled closely to provide integrated sensory cues.	X				Response must be within 300 milliseconds of the airplane response.	
		X	X	X	Response must be within 150 milliseconds of the airplane response.	
(1) Latency: These systems must respond to abrupt input at the pilot's position. The response must not be prior to that time when the airplane responds and may respond up to 150/300 milliseconds after that time. Visual change may start before motion response, but motion acceleration must be initiated before completion of the visual scan of the first video field containing different information.					Simultaneously record: the analog output from the pilot's control column, wheel, and pedals; the output from an accelerometer attached to the motion system platform located at an acceptable location near the pilots' seats; the output signal to the visual system display (including visual system analog delays); and the output signal to the pilot's attitude indicator or an equivalent test approved by the Administrator. Simulator performance must be recorded. These results must be compared to airplane response data in the takeoff, cruise, and approach or landing configuration and must be recorded in the QTG.	The intent is to verify that the simulator provides instrument, motion, and visual cues that are, within the stated time delays, like the airplane responses. Acceleration in the appropriate rotational axis is preferred. Simulator Latency is measured from the start of a control input to the appropriate perceivable change in flight instrument indication; visual system response; or motion system response.
(2) Transport Delay: (As an alternative to the Latency requirement, above, a transport delay demonstration may be used to demonstrate that the simulator system does not exceed the specified limit of 300 milliseconds for Level A simulators or 150 milliseconds for Level B, C, or D simulators. The sponsor must measure all the delay encountered by a step signal migrating from the pilot's control through the control loading electronics and interfacing through all the simulation software modules in the correct order, using a handshaking protocol, finally through the normal output interfaces to the instrument displays, the motion system, and the visual system).					An SOC is required. A recordable start time for the test must be provided with the pilot flight control input. the migration of the signal must permit normal computation time to be consumed and must not alter the flow of information through the hardware/software system. While transport delay need only be measured once in each axis, independent of flight conditions, if this method is chosen, the sponsor must also demonstrate the latency of the simulator with respect to that of the aircraft with at least one demonstration in pitch, in roll, and in yaw as described above. Simulator performance must be recorded and the results must be recorded in the QTG.	The transport delay is the delay time between the control input and the individual hardware (*i.e.,* instruments, motion system, visual system) responses.
j. The simulator must accurately reproduce the stopping time and distances for at least the following runway conditions:.			X	X	An SOC is required. Simulator performance must be recorded and the results made part of the QTG.	Objective tests are described in Attachment 2 for dry, wet, and icy runway conditions.
(1) Patch Wet (2) Patch Icy						

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
(3) Wet on Rubber Residue in Touchdown Zone						
k. The simulator must accurately simulate brake and tire failure dynamics (including antiskid failure) and decreased brake efficiency due to high brake temperatures.			X	X	An SOC is required. A demonstration is required for initial and recurrent evaluations. Simulator performance must be recorded for decreased braking efficiency due to brake temperature and the results made part of the QTG.	Simulator pitch, side loading, and directional control characteristics should be representatives of the airplane.
l. The simulator must replicate the effects of airframe icing.			X	X	A demonstration is required for initial and recurrent evaluations.	
m. The aerodynamic modeling in the simulator must include: (1) Low-altitude level-flight ground effect; (2) Match effect at high altitude; (3) Effects of airframe icing; (4) Normal and reverse dynamic thrust effect on control surfaces; and (5) Aeroelastic representations of nonlinearities due to sideslip.				X	An SOC is required and must include references to computations of aeroelastic representations and nonlinearities due to sideslip. A demonstration of icing effects is required for initial and recurrent evaluations. Simulator performance must be recorded and the results made a part of the QTG.	See Attachment 2, paragraph 4, for further information on ground effect.
n. The simulator must have a software and hardware control methodology that is supported by diagnostic analysis programs(s) and resulting printouts.				X	An SOC is required.	
4. Equipment Operation						
a. All relevant instrument indications involved in the simulation of the airplane must automatically respond to control movement or external disturbances to the simulated airplane; *e.g.,* turbulence or windshear.	X	X	X	X	Numerical values must be presented in the appropriate units for U.S. operations.	For example, fuel in pounds, speed in knots, and altitude in feet.
b. Communications and navigation equipment must be installed and operate within the tolerances applicable for the airplane.	X	X	X	X	.....	See Attachment 3, paragraph 1c for further information regarding long-range navigation equipment.
c. Simulator systems must operate as the airplane systems would operate under normal, abnormal, and emergency operating conditions on the gound and in flight.	X	X	X	X		
d. The simulator must provide pilot controls with control force and control travel that correspond to the simulated airplane. The simulator must be also react in the same manner as in the airplane under the same flight conditions.	X	X	X	X		
5. Instructor or Evaluator Facilities						

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
a. In addition to the flight crew member stations, the simulator must have two suitable seats for the instructor/check airman and FAA inspector. These seats must provide adequate vision to the pilot's panel and forward windows.	X	X	X	X	All seats other than flight crew seats need not represent those found in the airplane but must be equipped with similar positive restraint devices.	The NSPM will consider alternatives to this standard for additional seats based on unique cockpit configurations.
b. The simulator must have controls that enable the instructor/evaluator to control all required system variables and insert all abnormal or emergency conditions described in the sponsor's pilot operating manual into the simulated airplane systems.	X	X	X	X		
c. The simulator must have instructor controls for wind speed and direction.	X	X	X	X		
d. The simulator must provide the instructor or evaluator the ability to present ground and air hazards.			X	X	.....	For example, another airplane crossing the active runway and converging airborne traffic; etc.
6. Motion System						
a. The simulator must have motion (force) cues perceptible to the pilot that are representative of the motion in an airplane.	X	X	X	X	.....	For example, touchdown cues should be a function of the rate of descent (RoD) of the simulated airplane.
b. The simulator must have a motion system with a minimum of three degrees of freedom.	X				An SOC is required.	
c. The simulator must have a motion system with a minimum of four degrees of freedom (at least pitch, roll, sway, and heave).		X			An SOC is required.	
d. The simulator must have a motion (force cueing) system that produces cues at least equivalent to those of a six-degrees-of-freedom, synergistic platform motion system.			X	X	An SOC is required.	
e. The simulator must provide special effects programming that includes the following: (1) Thrust effect with brakes set. (2) Runway rumble, oleo deflections, effects of ground speed and uneven runway characteristics. (3) Buffets on the ground due to spoiler/speedbrake extension and thrust reversal. (4) Bumps after lift-off of nose and main gear. (5) Buffet during extension and retraction of landing gear. (6) Buffet in the air due to flap and spoiler/speedbrake extension.		X	X	X	A qualitative assessment is required to determine that the effect is representative of the airplane simulated.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
(7) Stall buffet to, but not necessarily beyond, the FAA certificated stall speed, V_s, if applicable. (8) Representative touchdown cues for main and nose gear. (9) Nosewheel scuffing, if applicable. (10) Mach buffet.						
f. The simulator must provide characteristic buffet motions that result from operation of the airplane, or from atmospheric disturbances, which can be sensed in the cockpit; *e.g.,* high-speed buffet, extended landing gear or flaps, nosewheel scuffing, stall buffet, air turbulence, etc.				X	Simulator performance (with emphasis on amplitude and frequency) must be recorded and compared to airplane data. The results must be made a part of the QTG. For air turbulence, general purpose disturbance models that approximate demonstrable flight test data are acceptable.	The simulator should be programmed and instrumented in such a manner that the characteristic buffet modes can be measured and compared to airplane data.
7. Visual System						
a. The simulator must have a visual system providing an out-of-the-cockpit view.	X	X	X	X	A demonstration is required for initial and recurrent evaluations.	
b. The simulator must provide a continuous minimum collimated field of view of 45° horizontally and 30° vertically per pilot seat. Both pilot seat visual systems must be operable simultaneously.	X	X			An SOC is required.	
c. The simulator must provide a continuous minimum collimated visual field of view of 75° horizontally and 30° vertically per pilot seat. Both pilot seat visual systems must be operable simultaneously.			X	X	An SOC is required. Wide angle systems providing cross cockpit viewing (for both pilots simultaneously) must provide a minimum field of view of 150° horizontally.	
d. The simulator must have operational landing lights for night scenes.	X	X	X	X	A demonstration is required for initial and recurrent evaluations. Where used, dusk (or twilight) scenes require operational landing lights.	
e. The simulator must have instructor controls for the following: (1) Cloudbase. (2) Visibility in statute miles (km) and runway visual range (RVR) in ft. (m). (3) Airport selection. (4) Airport lighting.	X	X	X	X	A demonstration is required for initial and recurrent evaluations.	
f. Each airport scene displayed must include the following:	X	X	X	X	A demonstration is required for initial and recurrent evaluations.	
(1) Airport runways and taxiways. (2) Runway definition. (i) Runway surface and markings. (ii) Lighting for the runway in use, including runway threshold, edge, centerline, touchdown zone, VASI (or PAPI), and approach lighting of appropriate colors.						

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
(iii) Taxiway lights.						
g. The distances at which runway features are visible, as measured from runway threshold to an airplane aligned with the runway on an extended 3° glide slope must not be less than listed below:	X	X	X	X	A demonstration is required for initial and recurrent evaluations.	
(1) Runway definition, strobe lights, approach lights, runway edge white lights and Visual Approach Slope Indicator (VASI) or Precision Approach Path Indicator (PAPI) system lights from 5 statute miles (8 kilometers (km)) of the runway threshold. (2) Runway centerline lights and taxiway definition from 3 statute miles (4.8 km).. (3) Threshold lights and touchdown zone lights from 2 statute miles (3.2 km).. (4) Runway markings within range of landing lights for night scenes; as required by three (3) arc-minutes resolution on day scenes..						
h. The simulator must provide visual system compatibility with aerodynamic programming.	X	X	X	X		
i. The simulator must be verified for visual ground segment and visual scene content for the airplane in landing configuration and a main wheel height of 100 feet (30 meters) above the touchdown zone. Data submitted must include at least the following: (1) Static airplane dimensions as follows: (i) Horizontal and vertical distance from main landing gear (MLG) to glideslope reception antenna. (ii) Horizontal and vertical distance from MLG to pilot's eyepoint. (iii) Static cockpit cutoff angle. (2) Approach data as follows: (i) Identification of runway. (ii) Horizontal distance from runway threshold to glideslope intercept with runway.	X	X	X	X	The QTG must contain appropriate calculations and a drawing showing the pertinent data used to establish the airplane location and the segment of the ground that is visible considering the airplane attitude (cockpit cut-off angle) and a runway visual range of 1,200 feet or 350 meters. Simulator performance must be measured against the QTG calculations. Sponsors must provide this data for each simulator (regardless of previous qualification standards) to qualify the simulator for all precision instrument approaches. (iii) glideslope angle. (iv) Airplane pitch angle on approach. (3) Airplane data for manual testing: (i) Gross weight. (ii) Airplane configuration. (iii) Approach airspeed.	
j. The simulator must provide visual cues necessary to assess sink rates (provide depth perception) during landings, to include: (1) Surface on runways, taxiways, and ramps. (2) Terrain features.		X	X	X	A demonstration is required for initial and recurrent evaluations.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
k. The simulator must have night and dusk (or twilight) visual scene capability, including general terrain characteristics and significant landmarks, free from apparent quantization.			X	X	A demonstration is required for initial and recurrent evaluations. Dusk (or twilight) scene must enable identification of a visible horizon and general terrain characteristics.	Examples of general terrain characteristics are fields, roads, and bodies of water.
l. The simulator must provide for ..... (1) Accurate portrayal of the environment relating to the simulator attitude	X	X	X	X	A demonstration is required for initial evaluation. However, if there is any question regarding this function, the NSPM may require the demonstration be repeated during any inspection or subsequent recurrent evaluation.	
(2) Quick confirmation of visual system color, RVR, focus, and intensity.			X	X	An SOC is required. A demonstration is required for initial evaluation. However, if there is any question regarding this function, the NSPM may require the demonstration be repeated during any inspection or subsequent recurrent evaluation.	Visual attitude vs. simulator attitude is a comparison of pitch and roll of the horizon as displayed in the visual scene compared to the display on the attitude indictor.
m. The simulator must provide a minimum of three airport scenes including: (1) Surfaces on runways, taxiways, and ramps. (2) Lighting of appropriate color for all runways, including runway threshold, edge, centerline, VASI (or PAPI), and approach lighting for the runway in use. (3) Airport taxiway lighting. (4) Ramps and buildings that correspond to the sponsor's Line Oriented scenarios.			X	X	A demonstration is required for initial and recurrent evaluations.	
n. The simulator must be capable of producing at least 10 levels of occulting.			X	X	A demonstration is required for initial evaluation. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
o. The simulator must be able to provide weather representations including the following: (1) Variable cloud density. (2) Partial obscuration of ground scenes; *i.e.,* the effect of a scattered to broken cloud deck. (3) Gradual break out. (4) Patchy fog. (5) The effect of fog on airport lighting.			X	X	A demonstration is required for initial and recurrent evaluations. The weather representations must be provided at and below an altitude of 2,000 ft (610 m) height above the airport and within a radius of 10 miles (16 km) from the airport.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
p. The surface resolution must be demonstrated by a test pattern of objects shown to occupy a visual angle of three (3) arc-minutes in the visual scene from the pilot's ''eye point''.			X	X	An SOC is required and must include the relevant calculations. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
q. The lightpoint size must not be greater than six (6) arc-minutes.			X	X	An SOC is required and must include the relevant calculations. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
r. The lightpoint contrast ratio must not be less than 25:1.			X	X	An SOC is required and must include the relevant calculations. A 1-degree spot photometer is used to measure a square of at least 1 degree, filled with lightpoints (where lightpoint modulation is just discernible) and compare the results to the measured adjacent background. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
s. The simulator must have (1) daylight, (2) night, and (3) either dusk or twilight visual scenes with sufficient scene content to recognize the airport, the terrain, and major landmarks around the airport. The scene content must allow a pilot to successfully accomplish a visual landing. The simulator cockpit ambient lighting must be dynamically consistent with the visual scene displayed.				X	A demonstration is required for initial and recurrent evaluations. The daylight visual scene must be part of a total daylight cockpit environment which at least represents the amount of light in the cockpit on an overcast day. For daylight scenes, such ambient lighting must not ''washout'' the displayed visual scene nor fall below 5 foot-lamberts (17 cd/m^2) of light as reflected from an instrument approach plate at knee height at both pilots' station. These requirement are applicable to any level of simulator equipped with a ''daylight'' visual system.	Brightness capability may be demonstrated with a test pattern of white light using a spot photometer. Daylight visual system is defined as a visual system capable of producing, at a minimum, full color presentations, scene content comparable in detail to that produced by 4,000 edges or 1,000 surfaces for daylight and 4,000 lightpoints for night and dusk scenes, 6 foot-lamberts (20 cd/m^2) of light measured at the pilot's eye position (highlight brightness) and a display which is free of apparent quantization and other distracting visual effects while the simulator is in motion.

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
(1) The simulator visual system must provide a minimum contrast ratio of 5:1.					A raster-drawn pattern must be displayed that fills the entire visual scene (3 or more channels) consisting of a matrix of black and white squares no larger than 10° and no smaller than 5° per square, with a white square having a minimum threshold value of 2 foot-lamberts, or 7 cd/m² in the center of each channel. The contrast ratio is the numerical value of the brightness measured for the center (white) square divided by the brightness value for any adjacent (dark) square.	A 1° spot photometer is used to measure the brightness values.
(2) The simulator visual system must provide a highlight brightness of not less than six (6) foot-lamberts (20 cd/m²).					The test must use the full pattern described above, measuring the brightness of a white square, superimposed completely with a highlighted area covering the square. Use of calligraphic capabilities to enhance raster brightness is acceptable; however, individual light points or light point arrays are not acceptable.	A 1° spot photometer is used to measure the brightness values.
t. The simulator must provide operational visual scenes that portray physical relationships known to cause landing illusions to pilots.				X	A demonstration is required for initial and recurrent evaluations.	For example: short runways, landing approaches over water, uphill or downhill runways, rising terrain on the approach path, unique topographic features, *etc.*
u. The simulator must provide special weather representations of light, medium, and heavy precipitation near a thunderstorm on takeoff and during approach and landing.				X	A demonstration is required for initial and recurrent evaluations. Representations need only be presented at and below an altitude of 2,000 ft. (610 m) above the airport surface and within 10 miles (16 km) of the airport.	
v. The simulator must present visual scenes of wet and snow-covered runways, including runway lighting reflections for wet conditions, partially obscured lights for snow conditions, or suitable alternative effects.				X	A demonstration is required for initial and recurrent evaluations.	
w. The simulator must present realistic color and directionality of all airport lighting.				X	A demonstration is required for initial and recurrent evaluations.	
8. Sound System						
a. The simulator must provide cockpit sounds that result from pilot actions that correspond to those that occur in the airplane.	X	X	X	X		

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirements						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
b. The simulator must accurately simulate the sound of precipitation, windshield wipers, and other significant airplane noises perceptible to the pilot during normal operations, and include the sound of a crash (when the simulator is landed in an unusual attitude or in excess of the structural gear limitations); normal engine and thrust reversal sounds; and the sounds of flap, gear, and spoiler extension and retraction.			X	X	An SOC is required. A demonstration is required for initial and recurrent evaluations.	
c. The simulator must provide realistic amplitude and frequency of cockpit noises and sounds.				X	Simulator performance must be recorded, compared to amplitude and frequency of the same sounds recorded in the airplane, and be made a part of the QTG. These sounds must include, at least, the sound of precipitation, windshield wipers, engine, and airframe sounds. When appropriate, the sounds must be coordinated with the weather representations required in paragraph 4.*w*.	

Attachment 2 to Appendix A to Part 60—Simulator Objective Tests

1. General

Begin QPS Requirements

a. Test requirements. (1) The ground and flight tests required for qualification are listed in the following Table of Objective Tests. Computer generated simulator test results must be provided for each test. If a flight condition or operating condition is required for the test but which does not apply to the airplane being simulated or to the qualification level sought, it may be disregarded (for example: An engine out missed approach for a single-engine airplane; a maneuver using reverse thrust for an airplane without reverse thrust capability; a landing test for a Level A simulator; *etc.*). Each test result is compared against Flight Test Data described in § 60.13, and Paragraph 9 in the main body of this appendix. Although use of a driver program designed to automatically accomplish the tests is encouraged for all simulators and required for Level C and Level D simulators, each test must be able to be accomplished manually while recording all appropriate parameters. The results must be produced on a multi-channel recorder, line printer, or other appropriate recording device acceptable to the NSPM. Time histories are required unless otherwise indicated in the Table of Objective Tests. All results must be labeled using the tolerances and units given.

(2) The Table of Objective Tests in this attachment sets out the test results required, including the parameters, tolerances, and flight conditions for simulator validation. Tolerances are provided for the listed tests because aerodynamic modeling and acquisition/development of reference data are often inexact. All tolerances listed in the following tables are applied to simulator performance. When two tolerance values are given for a parameter, the less restrictive may be used unless otherwise indicated.

(3) Certain tests included in this attachment must be supported with a Statement of Compliance and Capability (SOC). In the following tabular listing of simulator tests, requirements for SOC's are indicated in the ''Test Details'' column.

(4) When operational or engineering judgment is used in making assessments for flight test data applications for simulator validity, such judgment must not be limited to a single parameter. For example, data that exhibit rapid variations of the measured parameters may require interpolations or a ''best fit'' data selection. All relevant parameters related to a given maneuver or flight condition must be provided to allow overall interpretation. When it is difficult or impossible to match simulator to airplane data throughout a time history, differences must be justified by providing a comparison of other related variables for the condition being assessed.

(5) Unless noted otherwise, simulator tests must represent airplane performance and handling qualities at operating weights and centers of gravity (CG) typical of normal operation. If a test is supported by airplane data at one extreme weight or CG, another test supported by airplane data at mid-conditions or as close as possible to the other extreme must be included, except as may be authorized by the NSPM. Tests of handling qualities must include validation of augmentation devices.

(6) When comparing the parameters listed to those of the airplane, sufficient data must also be provided to verify the correct flight condition and airplane configuration changes. For example: to show that control force is within ±5 pounds (2.2 daN) in a static stability test, data to show the correct airspeed, power, thrust or torque, airplane configuration, altitude, and other appropriate datum identification parameters must also be given. If comparing short period dynamics, normal acceleration may be used to establish a match to the airplane, but airspeed, altitude, control input, airplane configuration, and other appropriate data must also be given. If comparing landing gear change dynamics, pitch, airspeed, and altitude may be used to establish a match to the airplane, but landing gear position must also be provided. All airspeed values must be clearly annotated as to indicated, calibrated, *etc.,* and like values used for comparison.

(7) The QTG provided by the sponsor must describe clearly and distinctly how the simulator will be set up and operated for each test. Overall integrated testing of the simulator must be accomplished to assure that the total simulator system meets the prescribed standards; *i.e.,* it is not acceptable to test only each simulator subsystem independently. A manual test procedure with explicit and detailed steps for completion of each test must also be provided.

(8) In those cases where the objective test results authorize a ''snapshot'' result in lieu of a time-history result, the sponsor must

ensure that a steady state condition exists from 5 seconds prior to, through 2 seconds after, the instant of time captured by the ''snapshot.''

(9) For previously qualified simulators, the tests and tolerances of this attachment may be used in subsequent recurrent evaluations for any given test providing the sponsor has submitted a proposed MQTG revision to the NSPM and has received NSPM approval.

(10) Simulators are evaluated and qualified with an engine model simulating the airplane manufacturer's flight test engine. For qualification of alternate engine models (either variations of the flight test engines or other manufacturer's engines) additional simulator tests with the alternate engine models are required. Where thrust is different by more than 5% from the flight test engine, flight test data from an airplane equipped with the alternate engine is required. Where the airplane manufacturer certifies that the only impact on the simulator model is thrust, and that other variables related to the alternate engine (such as drag and thrust vector) are unchanged or are insignificantly changed, additional simulator tests may be run with the same initial conditions using the thrust from the flight test data as a driven parameter for the alternate engine model.

(11) Motion System Tests:

(a) The minimum excursions, accelerations, and velocities for pitch, roll, and yaw must be measurable about a single, common reference point and must be achieved by driving one degree of freedom at a time.

(b) The minimum excursions, accelerations, and velocities for heave, sway, and surge may be measured about different but identifiable reference points and must also be achieved by driving one degree of freedom at a time.

(12) For testing Computer Controlled Airplane (CCA) simulators, or other highly augmented airplane simulators, flight test data are required for both the Normal (N) and Non-normal (NN) control states, as indicated in this attachment except that some tests require data only in the Normal control state and are so noted. Where test results are independent of control state, Non-normal control data may be used. Tests for other levels of control state degradation may be required as detailed by the NSPM at the time of definition of a set of specific airplane tests for simulator data. Where Non-normal control states are required, test data must be provided for one or more Non-normal control states, and must include the least augmented state. All tests in the Table of Objective Tests require test results in the Normal control state unless specifically noted otherwise in the additional requirements section following the CCA designation. Where applicable, flight test data must record Normal and Non-normal states for:

(a) Pilot controller deflections or electronically generated inputs, including location of input; and

(b) Flight control surface positions unless test results are not affected by, or are independent of, surface positions.

(13) For computer controlled airplanes using airplane hardware (*e.g.*, ''side stick controller'') in the simulator cockpit, some tests will not be required. Those tests are annotated in the ''Additional Requirements'' column with the Computer Controlled Airplane (CCA) note—''test not required if cockpit controller is installed in the simulator.'' However, in these cases the sponsor must supply a statement that the airplane hardware meets and will continue to meet the appropriate manufacturer's specifications and the sponsor must have supporting information to that fact available for NSPM review.

End QPS Requirements

b. Discussion

Begin Information

(1) If relevant winds are present in the objective data, the wind vector (magnitude and direction) should be clearly noted as part of the data presentation, expressed in conventional terminology, and related to the runway being used for the test.

(2) The NSPM will not evaluate any simulator unless the required SOC indicates that the motion system is designed and manufactured to safely operate within the simulator's maximum excursion, acceleration, and velocity capabilities (see paragraph 3, Motion System, in the following table).

(3) In the following Table of Objective Tests, the last column is titled ''Paragraph 8.'' A ''yes'' indication in that column directs the reader to paragraph 8 of this attachment for additional information relative to sources of data, procedures used to acquire the data, and instrumentation that may be used, as an alternative to those expected under normal flight test procedures and that may be used for that particular test for Level A or Level B simulators. Paragraph 8 also contains notes, reminders, and information applicable to that particular test for those simulator levels. These data sources, procedures, and instrumentation, if used, would be submitted in accordance with the alternative data provisions of § 60.13 of Part 60 and Section 9 of this QPS attachment.

(4) The reader is encouraged to review the Airplane Flight Simulator Evaluation Handbook, Volumes I and II, published by the Royal Aeronautical Society, London, UK, in February 1995 and July 1996, respectively, and FAA Advisory Circulars (AC) 25–7, Flight Test Guide for Certification of Transport Category Airplanes, and (AC) 23–8A, Flight Test Guide for Certification of Part 23 Airplanes, for references and examples regarding flight testing requirements and techniques.

End Information

TABLE OF OBJECTIVE TESTS

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
2. Performance									
a. Taxi									
(1) Minimum Radius Turn	±3 ft (0.9m) or 20% of Airplane Turn Radius.	Ground/Takeoff		X	X	X	Record both Main and Nosegear turning radius. This test is to be accomplished without the use of brakes and only minimum thrust, except for airplanes requiring asymmetric thrust or braking to turn.	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(2) Rate of Turn vs. Nosewheel Steering Angle.	±10% or ±2°/sec. Turn Rate ...	Ground/Takeoff		X	X	X	Record a minimum of two speeds, greater than minimum turning radius speed, with a spread of at least 5 knots.	.....	Yes.
b. Takeoff									
(1) Ground Acceleration Time and Distance.	±5% Time and Distance or ±5% Time and ±200 ft (61 m) of Distance.	Ground/Takeoff	X	X	X	X	Record acceleration time and distance for a minimum of 80% of the segment from brake release to V_R. Preliminary aircraft certification data may be used..	.....	Yes.
(2) Minimum Control Speed – Ground (V_{mcg}) using aerodynamic controls only (per applicable Airworthiness Standard) or Low Speed, Engine Inoperative Ground Control Characteristics.	±25% of Maximum Airplane Lateral Deviation or ±5 ft (1.5 m). Additionally, for those simulators of airplanes with reversible flight control systems: Rudder Pedal Force; ±10% or ± 5 lb (2.2 daN).	Ground/Takeoff	X	X	X	X	Engine failure speed must be within ±1 knot of airplane engine failure speed. Engine thrust decay must be that resulting from the mathematical model for the engine variant applicable to the simulator under test.	.....	Yes.
(3) Minimum Unstick Speed (V_{mu}) or equivalent as provided by the airplane manufacturer.	±3 Kts Airspeed ±1.5° Pitch	Ground/Takeoff	X	X	X	X	Record main landing gear strut compression or equivalent air/ground signal. Record from 10 Kts before start of rotation. Elevator input must precisely match airplane data. See 14CFR § 25.107(d).	.....	Yes.
(4) Normal Takeoff	±3 Kts Airspeed ±1.5° Pitch ±1.5° Angle of Attack ±20 ft (6 m) Altitude. Additionally, for those simulators of airplanes with reversible flight control systems: Stick/Column Force; ± 10% or ± 5 lb (2.2 daN).	Ground/Takeoff and First Segment Climb.	X	X	X	X	Record takeoff profile from brake release to at least 200 ft (61 m) above ground level (AGL).	.....	Yes.
(5) Critical Engine Failure on Takeoff.	±3 Kts Airspeed ±1.5° Pitch, ±1.5° Angle of Attack, ±20 ft (6 m) Altitude, ±2° Bank and Sideslip Angle. Additionally, for those simulators of airplanes with reversible flight control systems: Stick/Column Force; ±10% or ±5 lb (2.2 daN)), Wheel Force; ±10% or ±1.3 daN (3 lb)); and Rudder Pedal Force; ±10% or ±5 lb (2.2 daN).	Ground/Takeoff and First Segment Climb.	X	X	X	X	Record takeoff profile at near maximum takeoff weight from prior to engine failure to at least 200 ft (61 m) AGL. Engine failure speed must be within ±3 Kts of airplane data. **CCA:** Test in Normal AND Non-normal control state.	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(6) Crosswind Takeoff	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack, ±20 ft (6 m) Altitude, ±2° Bank and Sideslip Angle. Additionally, for those simulators of airplanes with reversible flight control systems: Stick/Column Force; ±10% or ±5 lb (2.2 daN); Wheel Force; ±10% or ±3 lb (1.3daN); and Rudder Pedal Force; ±10% or ±5 lb (2.2 daN).	Ground/Takeoff and First Segment Climb.	X	X	X	X	Record takeoff profile from brake release to at least 200 ft (61 m) AGL. Requires test data, including information on wind profile (*i.e.*, wind speed and direction vs. altitude), for a crosswind component of at least 20 Kts., but not more than the maximum (or maximum demonstrated) crosswind for the airplane.	.....	Yes.
(7) Rejected Takeoff	±5% Time or ±1.5 sec; ±7.5% Distance or ±250 ft (±76 m.	Ground/Takeoff	X	X	X	X	Record time and distance from brake application to full stop. The airplane must be at or near the maximum takeoff gross weight. Use maximum braking effort, auto or manual.	Autobrakes will be used where applicable.	Yes.
(8) Dynamic Engine Failure After Takeoff.	±20% Body Rates	1st Segment Climb			X	X	Engine failure speed must be within ±3 Kts of airplane data. Record Hands Off from 5 secs. before to 5 secs. after engine failure or 30° Bank, whichever occurs first, and then Hands On until wings level recovery. Engine failure may be a snap deceleration to idle. (**CCA:** Test in Normal AND Non-normal control state).	For safety considerations, airplane flight test may be performed out of ground effect at a safe altitude, but with correct airplane configuration and airspeed.	
c. Climb									
(1) Normal Climb	±3 kts Airspeed, ±5% or ±100 FPM (0.5 m/Sec.) Climb Rate.	All Engines Operating..	X	X	X	X	Record results at nominal climb speed and at nominal altitude. Manufacturer's gross climb gradient may be used for flight test data. May be a Snapshot Test.	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(2) One engine Inoperative Second Segment Climb.	±3 kts Airspeed, ±5% or ±100 FPM (0.5 m/Sec.) Climb Rate, but not less than the FAA-Approved Airplane Flight Manual (AFM) Rate of Climb.	Second Segment Climb with one engine inoperative.	X	X	X	X	Record results at airplane limiting conditions of weight, altitude, & temperature. Manufacturer's gross climb gradient may be used for flight test data. May be a Snapshot Test.	.....	Yes.
(3) One Engine Inoperative En route Climb.	±10% Time, ±10% Distance, ±10% Fuel Used.	En route Climb			X	X	Record results for at least a 5000 ft (1550 m) climb segment. Approved Performance Manual data may be used.		
(4) One Engine Inoperative Approach Climb (if Approved AFM requires specific performance in icing conditions).	±3 Kts Airspeed, ±5% or ±100 FPM (0.5 m/Sec.) Climb Rate, but not less than the Approved AFM Rate of Climb.	Approach Climb With One Engine Inoperative.	X	X	X	X	Record results at not less than 80% of the FAA-certificated maximum landing weight. Manufacturer's gross climb gradient may be used for flight test data. May be a Snapshot Test.	.....	Yes.
d. Cruise									
(1) Level Acceleration and Deceleration.	±5% Time	Cruise	X	X	X	X	Record results for a minimum of 50 Kts speed change.		
(2) Cruise Performance ..	±.05 EPR ±5% of N_1 and N_2, ±5% of Torque, ±5% of Fuel Flow.	Cruise			X	X	May be a Snapshot Test; however, a minimum of 2 consecutive snapshots with a spread of at least 5 minutes will be required.		
e. Ground Deceleeration									
(1) Deceleration Time and Distance, using manual application of wheel brakes and no reverse thrust.	±5% of Time. For distance up to 4000 ft (1220 m): ±200 ft (61 m) or ±10%, whichever is smaller. For distance greater than 4000 ft (1220 m): ±5% of distance.	Landing, Dry Runway.	X	X	X	X	Record time and distance for at least 80% of the segment from touch down to full stop. Data on brake system pressure and position of ground spoilers (including method of deployment, if used) must be provided. Engineering data may be used for the medium and light gross weight conditions.	Data is required for medium, light, and near maximum landing gross weights.	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(2) Deceleration Time and Distance, using reverse thrust and no wheel brakes.	±5% Time and the smaller of ±10% or ±200 ft (61 m) of Distance.	Landing, Dry Runway.	X	X	X	X	Record time and distance for at least 80% of the total demonstrated reverse thrust segment. Data on the position of ground spoilers, (including method of deployment, if used) must be provided. Engineering data may be used for the medium and light gross weight conditions.	Data is required for medium, light, and near maximum landing gross weights.	Yes.
(3) Deceleration Distance, using wheel brakes and no reverse thrust.	±10% of Distance or ±200 ft (61 m).	Landing, Wet Runway.	.....	.....	X	X	The FAA-approved AFM data or FAA accepted ground handling model calculations are permissible.		
(4) Deceleration Distance, using wheel brakes and no reverse thrust.	±10% of Distance or ±200 ft (61 m).	Landing, Icy Runway.	.....	.....	X	X	The FAA-approved AFM data or FAA accepted ground handling model calculations are permissible.		
f. Engines									
(1) Acceleration	±10% T_i, ±10% T_t	Approach or landing	X	X	X	X	Record engine power (N_1, N_2, EPR, Torque, etc.) from idle to go-around power for a rapid (slam) throttle movement.	.....	Yes
(2) Deceleration	±10% T_i, ±10% T_t	Ground/Takeoff					Record engine power (N_1, N_2, EPR, Torque, etc.) from Max T/O power to 90% decay of Max T/O power for a rapid (slam) throttle movement.	.....	Yes.
3. HANDLING QUALITIES									

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
For simulators requiring Static or Dynamic tests at the controls (i.e., column, wheel, rudder pedal), special test fixtures will not be required during initial or upgrade evaluations if the sponsor's QTG/MQTG shows both test fixture results *and* the results of an alternative approach, such as computer plots produced concurrently, that show satisfactory agreement. Repeat of the alternative method during the initial or upgrade evaluation would then satisfy this test requirement. For initial and upgrade evaluations, the control dynamic characteristics must be measured at and recorded directly from the cockpit controls, and must be accomplished in takeoff, cruise, and landing flight conditions and configurations. Contact the NSPM for clarification of any issue regarding airplanes with reversible controls.									
a. Static Control Checks									
(1) Column Position vs. Force and Surface Position Calibration.	Breakout: ±2 lb (0.9 daN). Force: ±10% or ±5 lb (2.2 daN) and ±2° Elevator.	Ground	X	X	X	X	Record results for an uninterrupted control sweep to the stops. **CCA:** Position vs. force not required if cockpit controller is installed in the simulator.	.....	Yes.
(2) Wheel Position vs. Force and Surface Position Calibration.	Breakout: ±2 lb (0.9 daN). Force: ±10% or ±3 lb (1.3 daN) and ±1° Aileron, ±3° Spoiler Angle.	Ground	X	X	X	X	Record results for an uninterrupted control sweep to the stops. **CCA:** Position vs. force not required if cockpit controller is installed in the simulator.	.....	Yes.
(3) Rudder Pedal Position vs. Force and Surface Position Calibration.	Breakout: ±5 lb (2.2 daN). Force ±10% or ±5 lb (2.2 daN) and ±2° Rudder Angle.	Ground	X	X	X	X	Record results for an uninterrupted control sweep to the stops.	.....	Yes.
(4) Nosewheel Steering Force & Position.	Breakout: ±2 lb (0.9 daN). Force: ±10% or ±3 lb (1.3 daN) and ±2° Nosewheel Angle.	Ground	X	X	X	X	Record results of an uninterrupted control sweep to the stops.	.....	Yes.
(5) Rudder Pedal Steering Calibration.	±2° Nosewheel Angle, ±0.5° Deadband.	Ground	X	X	X	X	Record results of an uninterrupted control sweep to the stops.	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(6) Pitch Trim Calibration (Indicator vs. Computed) and Rate.	±0.5° of Computed Trim Angle, ±10% Trim Rate.	Ground and Go Around.	X	X	X	X	Trim rate must be checked using the pilot primary trim control (ground) and using the autopilot or pilot primary trim control in flight at go-around flight conditions.	.....	Yes.
(7) Alignment of Power Lever Angle vs. Selected Engine Parameter (*e.g.*, EPR, N_1, Torque, etc.).	±5° of Power Lever Angle	Ground	X	X	X	X	Requires recording for all engines. No simulator throttle position may be more than 5° (in either direction) from the airplane throttle position. Also, no simulator throttle position may differ from any other simulator throttle position by more than 5°. Where power levers do not have angular travel, a tolerance of ± 0.8 in (2 cm) applies. In the case of propeller powered airplanes, if a propeller lever is present, it must also be checked. May be a series of shapshot test results.	.....	Yes.
(8) Brake Pedal Position vs. Force and Brake System Pressure.	±5 lb (2.2 daN) or 10% Force, ±150 psi (1.0 MPa) or ±10% Brake System Pressure.	Ground	X	X	X	X	Hydraulic system pressure must be related to pedal position through a ground static test.	.....	Yes.
b. Dynamic Control Checks									
(1) Pitch Control	±10% of time for first zero crossing and ±10 (n+1)% of period thereafter, ±10% amplitude of first overshoot, ±20% of amplitude of 2nd and subsequent overshoots greater than 5% of initial displacement (A_d), ±1 overshoot.	Takeoff, Cruise, and Landing.			X	X	Data must show normal control displacement in both directions. Tolerances apply against the absolute values of each period (considered independently). Normal control displacement for this test is 25% to 50% of full throw. **CCA:** Test not required if cockpit controller is installed in the simulator.	''n'' is the sequential period of a full cycle of oscillation. Refer to paragraph 3 of this attachment for more information.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(2) Roll Control	±10% of time for first zero crossing, and ±10 (n±1)% of period thereafter, ±10% amplitude of first overshoot, ±20% of amplitude of 2nd and subsequent overshoots greater than 5% of initial displacement (A_d), ±1 overshoot.	Takeoff, Cruise, and Landing.			X	X	Data must show normal control displacement in both directions. Tolerances apply against the absolute values of each period (considered independently). Normal control displacement for this test is 25% to 50% of full throw. **CCA:** Test not required if cockpit controller is installed in the simulator.	''n'' is the sequential period of a full cycle of oscillation. Refer to paragraph 3 of this attachment for more information.	
(3) Yaw Control	±10% of time for first zero crossing, and ±10 (n±1)% of period thereafter, ±10% amplitude of first overshoot, ±20% of amplitude of 2nd and subsequent overshoots greater than 5% of initial displacement (A_d), ±1 overshoot.	Takeoff, Cruise, and Landing.			X	X	Data must show normal control displacement in both directions. Tolerances apply against the absolute values of each period (considered independently). Normal control displacement for this test is 25% to 50% of full throw.	''n'' is the sequential period of a full cycle of oscillation. Refer to paragraph 3 of this attachment for more information.	
(4) Small Control Inputs	±20% Body Rates	Cruise and Approach.			X	X	This test is applicable in all three axes. Small control inputs are 5% of total travel.		
c. Longitudinal			.....	.....					
(1) Power Change Dynamics.	±3 Kts Airspeed, ±100 ft (30 m) Altitude, ±20% or ±1.5° Pitch.	Approach	X	X	X	X	Wing flaps must remain in the approach position. Record the uncontrolled free response from 5 seconds before the power change is initiated to 15 seconds after the power change is completed. (**CCA:** Test in Normal and Non-normal control state.).	.....	Yes.
(2) Flap/Slat Change Dynamics.	±3 Kts Airspeed, ±100 ft (30 m) Altitude, ±20% or ±1.5° Pitch.	Takeoff, and Approach.	X	X	X	X	Record the uncontrolled free response from 5 seconds before the configuration change is initiated to 15 seconds after the configuration change is completed. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(3) Spoiler/Speedbrake Change Dynamics.	±3 Kts Airspeed, ±100 ft (30 m) Altitude, ±20% or ±1.5° Pitch.	Cruise	X	X	X	X	Record the uncontrolled free response from 5 seconds before the configuration change is initiated to 15 seconds after the configuration change is completed. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
(4) Gear Change Dynamics.	±3 Kts Airspeed, ±100 ft (30 m) Altitude, ±20% or ±1.5° Pitch.	Takeoff, Second Segment Climb, and Approach.	X	X	X	X	Record the time history of uncontrolled free response for a time increment from 5 seconds before the configuration change is initiated to 15 seconds after the configuration change is completed. (**CAA:** Test in Normal and Non-normal control state).	.....	Yes.
(5) Alternate Landing Gear and Alternate Flap/Slat Operating Times.	±1 second or ±10% of Time	Takeoff and Approach.	X	X	X	X	Record all data throughout full range. Record extension and retraction for alternate flap operation. Record extension only for alternate gear operation. Tabular data from production airplanes are acceptable.	Intermediate increment times are not required.	Yes.
(6) Longitudinal Trim	±1° Pitch Control (Stab and Elev.), ±1° Pitch Angle, ±5% Net Trust or Equivalent.	Cruise, Approach, and Landing.	X	X	X	X	May be Snapshot Tests. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
(7) Longitudinal Maneuvering Stability (Stick Force/g).	±5 lb (±2.2 daN) or ±10% Column Force or Equivalent Surface Position.	Cruise, Approach, and Landing.	X	X	X	X	Record results for approximately 20° and 30° of bank for approach and landing configurations. Record results for approximately 20°, 30°, and 45° of bank for the cruise configuration. May be a series of shapshot test results. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(8) Longitudinal Static Stability.	±5 lb (±2.2 daN) or ±10% Column Force or Equivalent Surface Position.	Approach	X	X	X	X	Record results for at least 2 speeds above and 2 speeds below trim speed. May be a series of shapshot test results. (**CCA:** Test in Normal or Non-normal control state).	.....	Yes.
(9) Stick Shaker, Airframe Buffet, Stall Speeds.	±3 Kts Airspeed, ±2° Bank for speeds higher than stick shaker or initial buffet, Airplanes with reversible flight control systems, ±10% or ±5 lb (2.2 daN)) Stick/Column force.	Second Segment Climb, and Approach or Landing.	X	X	X	X	Record the stall warning signal and buffet on-set, if applicable. The signal must occur in the proper relation to buffet/stall. Airplanes exhibiting a sudden pitch attitude change or ''g break'' must demonstrate this characteristic. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
(10) Phugoid Dynamics ..	±10% of Period, ±10% of Time to ½ or Double Amplitude or ±.02 of Damping Ratio.	Cruise	X	X	X	X	The test must include whichever is less of the following: Three full cycles (six overshoots after the input is completed), or The number of cycles sufficient to determine time to ½ or double amplitude. (**CCA:** Test in Non-normal control state).	.....	Yes.
(11) Short Period Dynamics.	±1.5° Pitch or ±2°/sec. Pitch Rate, ±0.10g Acceleration.	Cruise		X	X	X	(**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
d. Lateral Directional									
(1) Minimum Control Speed, Air (V_{mca}), per Applicable Airworthiness Standard or Low Speed Engine Inoperative Handling Characteristics in Air.	±3 Kts Airspeed	Takeoff or Landing (Whichever is most critical in the airplane).	X	X	X	X	(**CCA:** Test in Normal or Non-normal control state).	Low Speed Engine Inoperative Handling may be governed by a performance or control limit that prevents demonstration of V_{mca} in the conventional manner.	Yes.
(2) Roll Response (Rate)	±10% Roll Rate or ± 2°/sec. Additionally, for those simulators of airplanes with reversible flight control systems: wheel force ±10% or ±3lb (1.3 daN).	Cruise, and Approach or Landing.	X	X	X	X	Record results for normal wheel deflection (about 30%).		

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(3) Roll Response to Cockpit Roll Controller Step Input.	±10% or ±2°/sec. roll rate	Approach or Landing.	X	X	X	X	Record from initiation of roll through 15 seconds after control is returned to neutral and released. After the roll rate is established, the controller is returned to neutral and the remaining response is to be ''hands-off.'' (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
(4) Spiral Stability	±2° Bank or ±10% in 20 seconds. Bank must be in the proper direction.	Cruise	X	X	X	X	Record results for both directions. Airplane data averaged from multiple tests may be used. (**CCA:** Test in Non-normal control state).	.....	Yes.
(5) Engine Inoperative Trim.	±1° Rudder angle or ±1° Tab angle or equivalent pedal, ±2° Sideslip angle.	Second Segment Climb, and Approach or Landing.	X	X	X	X	May be Snapshot Tests.	.....	Yes.
(6) Rudder Response	±2°/sec. or ±10% Yaw Rate	Approach or Landing.	X	X	X	X	Record results for stability augmentation system ON and OFF. A rudder step input of 20%–30% rudder pedal throw is used. (**CCA:** Test in Normal and Non-normal control state).	.....	Yes.
(7) Dutch Roll, (Yaw Damper OFF).	±0.5 sec. or ±10% of period, ±10% of time to ½ or double amplitude or ±.02 of damping ratio, ±20% or ±1 sec. of time difference between peaks of bank and sideslip.	Cruise, and Approach or Landing.	X	X	X	X	Record results for at least 6 cycles with stability augmentation OFF. (**CCA:** Test in Non-normal control state).	.....	Yes.
(8) Steady State Sideslip	For given rudder position ±2° Bank, ±1° Sideslip, ±10% or ±2° Aileron, ±10% or ±5° Spoiler or equivalent wheel position or force. Additionally, for those simulators of airplanes with reversible flight control systems: Wheel force, ±10% or ±3 lb (1.3 daN), and Rudder pedal force, ±10% or ±5 lb (2.2 daN).	Approach or Landing.	X	X	X	X	Propeller driven airplanes must test in each direction. May be a series of shapshot test results using at least two rudder positions.	.....	Yes.
e. Landings									

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(1) Normal Landing	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack, ±10% or ±10 ft (3 m) Altitude. Additionally, for those simulators of airplanes with reversible flight control systems: Stick/Column Force ±10% or ±5 lbs (±2.2 daN).	Landing		X	X	X	Record results from a minimum of 200 ft (61 m) AGL to nose-wheel touch-down. Results with medium, light, and near maximum landing weights must be shown. (**CCA:** Test in Normal and Non-normal control state).	Derotation may be shown as a separate segment from the time of MLG touch down.	Yes.
(2) Minimum/No Flap Landing.	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack, ±10% or ±10 ft (3 m) Altitude. Additionally, for those simulators of airplanes with reversible flight control systems: Stick/Column Force, ±10% or ±5 lbs 9/2.2 daN).	Minimum Certified Landing Flap Configuration.			X	X	Record results from a minimum of 200 ft (61 m) AGL to nosewheel touch-down with airplane at near Maximum Landing Weight.	Derotation may be shown as a separate segment from the time of MLG touch down.	
(3) Crosswind Landing ...	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack, ±10% or ±10 ft (3 m) Altitude, ±2° Bank Angle, ±2° Sideslip Angle. Additionally, for those simulators of airplanes with reversible flight control systems: Wheel force, ±10% or ±3 lb (1.3 daN) and Rudder pedal force, ±10% or ±5 lb (2.2 daN).	Landing		X	X	X	Record results from a minimum of 200 ft (61 m) AGL, through nosewheel touch down, to 50% of V_{REF} speed. Use maximum demonstrated cross-wind if available. If not available use 20 kts.	.....	Yes.
(4) One Engine Inoperative Landing (Not required for Single-engine airplanes.).	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack, ±10% Altitude or ±10 ft (3 m), ±2° Bank Angle, ±2° Sideslip Angle.	Landing		X	X	X	Record results from a minimum of 200 ft (61 m) AGL, through nosewheel touch down, to 50% of V_{REF} speed.	.....	Yes.
(5) Autoland (if applicable).	±5 ft (1.5 m) Flare Height, ±0.5 sec T_f, ±140 ft/min (.7 m/sec) Rate of Descent at Touch-down, ±10 ft (3 m) Lateral Deviation from Maximum demonstrated cross-wind (autoland) deviation.	Landing			X	X	Record Lateral Deviation and continue to Autopilot disconnect.	This test is not a substitute for the Ground Effects test requirement.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(6) Go Around	±3 Kts Airspeed, ±1.5° Pitch, ±1.5° Angle of Attack.	Go Around			X	X	Additionally, a Go Around with an engine inoperative is required. This test must be conducted at near maximum landing weight and with the critical engine inoperative. (Not required for single-engine airplanes.) A normal, all-engines-operating, Go Around with the autopilot engaged must also be demonstrated (if applicable) at medium landing weight. (**CCA:** Test in Normal and Non-normal control state).		
(7) Directional Control (Rudder Effectiveness) with symmetric reverse thrust.	±2 deg/sec yaw rate	On Ground		X	X	X	Record results from a speed approximating touchdown speed to the minimum thrust reverser operation speed. Airplane manufacturer's engineering simulator data may be considered as an alternative. Yaw control is applied in both directions until reaching minimum thrust reverser operation speed.		
(8) Directional Control (Rudder Effectiveness) with asymmetric reverse thrust.	±5 knots	On Ground		X	X	X	Maintain heading with yaw control. Record results from a speed approximating touchdown speed to a speed at which control of yaw cannot be maintained. The tolerance applies to this lower speed. Airplane manufacturer's engineering simulator data may be considered as an alternative.		
f. Ground Effect									
Demonstrate Longitudinal Ground Effect.	±1° Elevator or Stabilizer Angle, and ±5% Net Thrust or Equivalent, and ±1° Angle of Attack, and ±10% Height/Altitude or ±5 ft (1.5 m), and ±3 Knots Airspeed, and ±1° Pitch Attitude.	Landing		X	X	X	The Ground Effect model must be validated by the test selected and a rationale must be provided for selecting the particular test.	The test selected for validation is at the option of the sponsor. See paragraph 6, Ground Effect, in this attachment for additional information.	Yes.

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
g. Brake Fade									
Demonstrate Decreased Braking Efficiency Due to Brake Temperature.	None	Takeoff or Landing			X	X	An SOC is required. The demonstration must show decreased braking efficiency due to brake temperature. Substantiating data must be provided.		
h. Windshear									
Demonstrate Windshear Models.	See Attachment 6	Takeoff and Landing			X	X	Requires windshear models that provide training in the specific skills needed to recognize windshear phenomena and to execute recovery procedures. See Attachment 6 for tests, tolerances, and procedures.	See Attachment 6 for information related to Level A and B simulators.	
i. Envelope Protection Functions									
The requirements of tests i. (1) through (6), of this attachment are applicable to computer controlled airplanes only. Time history results are required for simulator response to control inputs during entry into envelope protection limits. Flight test data must be provided for both normal and non-normal control states.									
(1) Overspeed	±5 Kts Airspeed	Cruise			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
(2) Minimum Speed	±3 Kts Airspeed	Takeoff, Cruise, and Approach or Landing.			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
(3) Load Factor	±0.1g Normal Acceleration	Takeoff and Cruise			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
(4) Pitch Angle	±1.5° Pitch	Cruise, and Go Around.			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
(5) Bank Angle	±2° or ±10% Bank	Approach			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
(6) Angle of Attack	±1.5° AOA	Second Segment Climb, and Approach or Landing.			X	X	(**CCA:** Test in Normal and Non-normal control state.).		
3. Motion System									
a. Minimum Excursion									
1) Pitch	At least ±40°	N/A	X	X			An SOC is required for 3.a.(1) through (6). (Applicable to Initial evaluations only.) The "*" in the Simulator Level column applies if this DOF is used..		
(2) Roll	At least ±40°	N/A	X	X					
(3) Yaw	At least ±45°	N/A	*	*					
(4) Heave	At least 40 inches total movement.	N/A	*	X					
		N/A	X	X					
(5) Sway	At least 45 inches total movement.	N/A	*	*					
(6) Surge	At least 50 inches total movement.								
(7) Pitch	At least ±50°	N/A			X	X	An SOC is required for 3.a.(7) through (12). (Applicable to Initial evaluations only.).		
(8) Roll	At least ±50°	N/A			X	X			
(9) Yaw	At least ±50°	N/A			X	X			
(10) Heave	At least 68 inches total movement.	N/A			X	X			

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
(11) Sway	At least 90 inches total movement.	N/A			X	X			
(12) Surge	At least 68 inches total movement.	N/A			X	X			
b. Minimum Acceleration									
(1) Pitch	At least 80°/sec²	N/A	X	X			An SOC is required for 3.b.(1) through (6). (Applicable to Initial evaluations only.) The "*" in the Simulator Level column applies if this DOF is used.		
(2) Roll	At least 80°/sec²	N/A	X	X					
(3) Yaw	At least 80°/sec²	N/A	*	*					
(4) Heave	At least 0.6g in each direction	N/A	*	X					
(5) Sway	At least 0.6g in each direction	N/A	X	X					
(6) Surge	At least 0.6g in each direction	N/A	*	*					
(7) Pitch	At least 100°/sec²	N/A			X	X	An SOC is required for 3.b.(7) through (12). (Applicable to Initial evaluations only.).		
(8) Roll	At least 100°/sec²	N/A			X	X			
(9) Yaw	At least 100°/sec²	N/A			X	X			
(10) Heave	At least 0.8g in each direction	N/A			X	X			
(11) Sway	At least 0.6g in each direction	N/A			X	X			
(12) Surge	At least 0.6g in each direction	N/A			X	X			
c. Minimum Velocity									
(1) Pitch	At least 20°/sec	N/A	X	X			An SOC is required for 3.c.(1) through (6). (Applicable to Initial evaluations only.) The "*" in the Simulator Level column applies if this DOF is used.		
(2) Roll	At least 20°/sec	N/A	X	X					
(3) Yaw	At least 20°/sec	N/A	*	*					
(4) Heave	At least 20 in/sec	N/A	*	X					
(5) Sway	At least 20 in/sec	N/A	X	X					
(6) Surge	At least 20 in/sec	N/A	*	*					
(7) Pitch	At least 20°	N/A			X	X	An SOC is required for 3.c.(7) through (12). (Applicable to Initial evaluations only.).		
(8) Roll	At least 20°	N/A			X	X			
(9) Yaw	At least 20°	N/A			X	X			
(10) Heave	At least 24/in sec	N/A			X	X			
(11) Sway(12) Surge	At least 28/in sec	N/A			X	X			
	At least 28/in sec	N/A			X	X			
d. Frequency Response									
Phase lag	Not to exceed 45° at 4 Hz	N/A	X	X	X	X	A demonstration is required and must be made part of the MQTG. Iinject an acceleration command into the kinematic transformation equations and measuring the acceleration output of the motion platform. The response bandwidth must be determined in each applicable translational degree of freedom.		
e. Motion Cue									

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes	Paragraph 8
Test	Tolerance	Flight conditions	Simulator level				Test details		
			A	B	C	D			
Repeatability		N/A	X	X	X	X	A demonstration is required and must be made part of the MQTG. The assessment procedures must be designed to ensure that the motion system continues to perform as originally qualified. An example demonstration is described in paragraph 7, Motion Cue Repeatability.		
4. Sound System [Reserved]									

Begin Information

5. Control Dynamics

a. The characteristics of an airplane flight control system have a major effect on the handling qualities. A significant consideration in pilot acceptability of an airplane is the ''feel'' provided through the cockpit controls. Considerable effort is expended on airplane feel system design in order to deliver a system with which pilots will be comfortable and consider the airplane desirable to fly. In order for a simulator to be representative, it too must present the pilot with the proper feel; that of the respective airplane. Aircraft control feel dynamics shall duplicate the airplane simulated. This shall be determined by comparing a recording of the control feel dynamics of the simulator to airplane measurements in the takeoff, cruise, and landing configuration.

b. Recordings such as free response to an impulse or step function are classically used to estimate the dynamic properties of electromechanical systems. In any case, it is only possible to estimate the dynamic properties as a result of only being able to estimate true inputs and responses. Therefore, it is imperative that the best possible data be collected since close matching of the simulator control loading system to the airplane systems is essential. The required control feel dynamic tests are described in this attachment. This is usually accomplished by measuring the free response of the controls using a step or pulse input to excite the system.

c. For airplanes with irreversible control systems, measurements may be obtained on the ground if proper pitot-static inputs are provided to represent airspeeds typical of those encountered in flight. Likewise, it may be shown that for some airplanes, takeoff, cruise, and landing configurations have like effects. Thus, one may suffice for another. If either or both considerations apply, engineering validation or airplane manufacturer rationale must be submitted as justification for ground tests or for eliminating a configuration.

(1) *Control Dynamics Evaluations.* The dynamic properties of control systems are often stated in terms of frequency, damping, and a number of other classical measurements which can be found in texts on control systems. In order to establish a consistent means of validating test results for simulator control loading, criteria are needed that will clearly define the interpretation of the measurements and the tolerances to be applied. Criteria are needed for both the underdamped system and the overdamped system, including the critically damped case. In the case of an underdamped system with very light damping, the system may be quantified in terms of frequency and damping. In critically damped or overdamped systems, the frequency and damping is not readily measured from a response time history. Therefore, some other measurement must be used.

(2) *For Levels C and D Simulators.* Tests to verify that control feel dynamics represent the airplane show that the dynamic damping cycles (free response of the control) match that of the airplane within the specified tolerances. An acceptable method of evaluating the response and the tolerance to be applied are described below for the underdamped and critically damped cases.

d. Tolerances. (1) *Underdamped Response.* (a) Two measurements are required for the period, the time to first zero crossing (in case a rate limit is present) and the subsequent frequency of oscillation. It is necessary to measure cycles on an individual basis in case there are nonuniform periods in the response. Each period will be independently compared to the respective period of the airplane control system and, consequently, will enjoy the full tolerance specified for that period.

(b) The damping tolerance will be applied to overshoots on an individual basis. Care must be taken when applying the tolerance to small overshoots since the significance of such overshoots becomes questionable. Only those overshoots larger than 5 percent of the total initial displacement will be considered significant. The residual band, labeled $T(A_d)$ on Figure 1 is ±5 percent of the initial displacement amplitude A_d from the steady state value of the oscillation. Oscillations within the residual band are considered insignificant. When comparing simulator data to airplane data, the process would begin by overlaying or aligning the simulator and airplane steady state values and then comparing amplitudes of oscillation peaks, the time of the first zero crossing, and individual periods of oscillation. To be satisfactory, the simulator would show the same number of significant overshoots to within one when compared against the airplane data. This procedure for evaluating the response is illustrated in Figure 1 of this attachment.

(2) *Critically Damped and Overdamped Response.* Due to the nature of critically damped responses (no overshoots), the time to reach 90 percent of the steady state (neutral point) value would be the same as the airplane within ±10 percent. The simulator response must be critically damped also. Figure 2 illustrates the procedure.

(3)(a) The following summarizes the tolerances, T, for an illustration of the referenced measurements. (See Figures 1 and 2 of this attachment):

$T(P_0)$ ±10% of P_0
$T(P_1)$ ±20% of P_1
$T(A)$ ±10% of A_1, ±20% of Subsequent Peaks
$T(A_d)$ ±5% of A_d = Residual Band
Overshoots ±1

(b) In the event the number of cycles completed outside of the residual band, and thereby significant, exceeds the number depicted in figure 1 of this attachment, the following tolerances (T) will apply:

$T(P_n)$ ±10(n+1)% of P_n, where ''n'' is the next in sequence.

e. Alternative Method for Control Dynamics. (1) An alternative means for dealing with control dynamics applies to airplanes with hydraulically powered flight

controls and artificial feel systems. Instead of free response measurements, the system would be validated by measurements of control force and rate of movement.

(2) For each axis of pitch, roll, and yaw, the control shall be forced to its maximum extreme position for the following distinct rates. These tests would be conducted at typical taxi, takeoff, cruise, and landing conditions.

(a) Static Test—Slowly move the control such that approximately 100 seconds are required to achieve a full sweep. A full sweep is defined as movement of the controller from neutral to the stop, usually aft or right stop, then through the neutral position to the opposite stop, then to the neutral position.

(b) Slow Dynamic Test—Achieve a full sweep in approximately 10 seconds.

(c) Fast Dynamic Test—Achieve a full sweep in approximately 4 seconds.

(**Note:** Dynamic sweeps may be limited to forces not exceeding 100 lb.)

f. Tolerances.

(1) Static Test—Items 2.a.(1) (2) and (3) of this attachment.

(2) Dynamic Test—2 lb. or 10 percent on dynamic increment above static test.

g. The NPSM is open to alternative means such as the one described above. Such alternatives, however, would have to be justified and found appropriate to the application. For example, the method described here may not apply to all manufacturers' systems and certainly not to airplanes with reversible control systems. Hence, each case must be considered on its own merit on an ad hoc basis. If the NSPM finds that alternative methods do not result in satisfactory simulator performance, then more conventionally accepted methods must be used.

End Information

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6. Ground Effect

Begin Information

a. During landing and takeoff, airplanes operate close to the ground for brief time intervals. The presence of the ground significantly modifies the air flow past the airplane and changes the aerodynamic characteristics. The close proximity of the ground imposes a barrier which inhibits the downward flow normally associated with the production of lift. The downwash is a function of height with the effects usually considered to be negligible above a height of approximately one wingspan. There are three main effects of the reduced downwash:

(1) A reduction in downwash angle at the tail for a conventional configuration.

(2) An increase in both wing and tail lift because of changes in the relationship of lift coefficient to angle of attack (increase in lift curve slope).

(3) A reduction in the induced drag.

b. Relative to out-of-ground effect flight (at a given angle of attack), these effects result in higher lift in ground effect and less power required for level flight. Because of the associated effects on stability, they also cause significant changes in elevator (or stabilizer) angle to trim and stick (column) forces required to maintain a given lift coefficient in level flight near the ground.

c. For a simulator to be used for takeoff and in particularly landing credit, it must faithfully reproduce the aerodynamic changes which occur in ground effect. The parameters chosen for simulator validation must obviously be indicative of these changes. The primary validation parameters for longitudinal characteristics in ground effect are:

(1) Elevator or stabilizer angle to trim.

(2) Power (thrust) required for level flight (PLF).

(3) Angle of attack for a given lift coefficient.

(4) Height/altitude.

(5)Airspeed.

d. The above list of parameters assumes that ground effect data is acquired by tests during ''fly-bys'' at several altitudes in and out of ground effect. These test altitudes would normally, as a minimum, be at 10 percent, 30 percent, and 70 percent of the airplane wingspan and one altitude out of ground effect; *e.g.*, 150 percent of wingspan. Level fly-bys are required for Level D; and, while they are acceptable for all levels, they are not required for Level C and Level B.

e. If, in lieu of the level fly-by method for Levels B and C, other methods such as shallow glidepath approaches to the ground maintaining a chosen parameter constant are proposed, then additional validation parameters are important. For example, if constant attitude shallow approaches are chosen as the test maneuver, pitch attitude, and flight path angle are additional necessary validation parameters. The selection of the test methods and procedures to validate ground effect is at the option of the organization performing the flight tests; however, rationale must be provided to conclude that the tests performed do indeed validate the ground effect model.

f. Tolerances (longitudinal parameters) for validation of ground effect characteristics are:

(1) Elevator or Stabilizer Angle ±1°

(2) Power for Level Flight (PLF)±5%

(3) Angle of Attack ±1°

(4) Altitude/Height ±10% or 5 feet (1.5 m.)

(5) Airspeed ±3 Knots

(6) Pitch Attitude ±1°

g.The lateral-directional characteristics are also altered by ground effect. Because of the above-mentioned changes in lift curve slope, roll damping, as an example, is affected. The change in roll damping will affect other dynamic modes usually evaluated for simulator validation. In fact, Dutch-roll dynamics, spiral stability, and roll-rate for a given lateral control input are altered by ground effect. Steady heading sideslips will also be affected. These effects must be accounted for in the simulator modeling. Several tests such as ''crosswind landing,'' ''one engine inoperative landing,'' and ''engine failure on takeoff'' serve to validate lateral-directional ground effect since portions of them are accomplished while transiting altitudes at which ground effect is an important factor.

End Information

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7. Motion Cue Repeatability

Begin Information

a. The motion system characteristics in the Table of Objective Tests address basic system capability, but not pilot cueing capability. Until there is an objective procedure for determination of the motion cues necessary to support pilot tasks and stimulate the pilot response which occurs in an airplane for the same tasks, motion systems will continue to be ''tuned'' subjectively. Having tuned a motion system, however, it is important to involve a test to ensure that the system continues to perform as originally qualified. Any motion performance change from the initially qualified baseline can be measured objectively.

b. An objective assessment of motion performance change is accomplished at lease annually using the following testing procedure:

(1) The current performance of the motion system is assessed by comparison with the initial recorded test data.

(2) The parameters to be recorded are the outputs of the motion drive algorithms and the jack position transducers.

(3) The test input signals are inserted at an appropriate point prior to the integrations in the equations of motion (see figure 3 of this attachment).

(4) The characteristics of the test signal (see figure 4) are adjusted to ensure that the motion is exercised through approximately ⅔ of the maximum displacement capability in each axis. The time segment T_0–T_1, must be of sufficient duration to ensure steady initial conditions.

End Information

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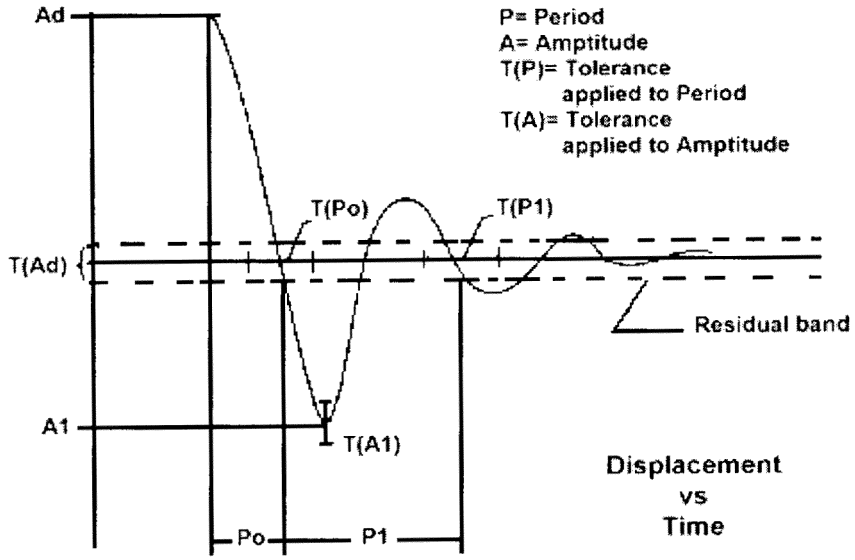
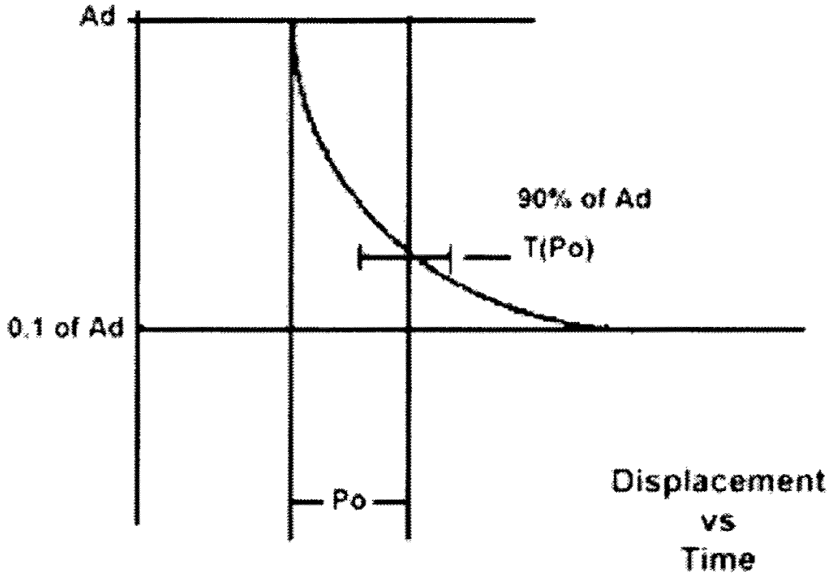


ATTACHMENT 2 TO APPENDIX A TO PART 60—

FIGURE 1. UNDER-DAMPED STEP RESPONSE

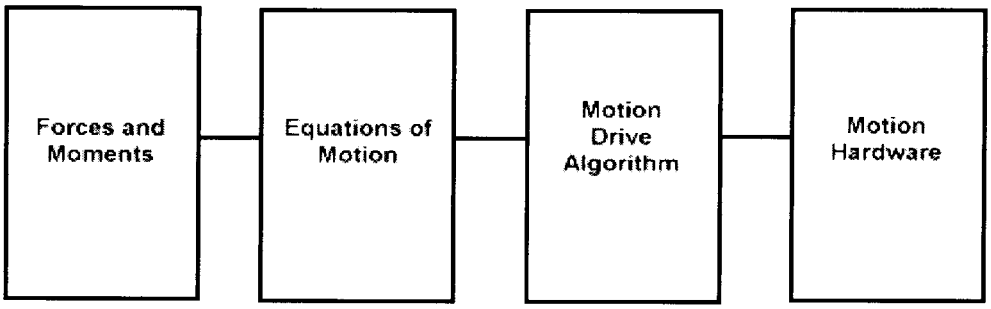


ATTACHMENT 2 TO APPENDIX A TO PART 60—

FIGURE 2. CRITICALLY-DAMPED STEP RESPONSE

ATTACHMENT 2 TO APPENDIX A TO PART 60—

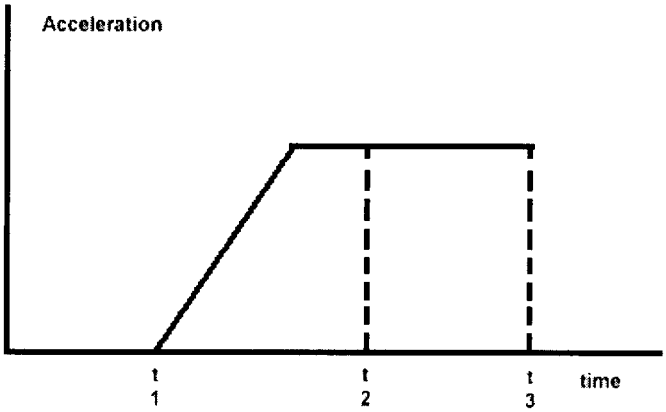
FIGURE 3. ACCELERATION TEST SIGNALS



Note to Figure 3: If the simulator weight changes for any reason (*i.e.*, visual change, or structural change), then the motion system baseline performance repeatability tests must be rerun and the new results used for future comparison.

ATTACHMENT 2 TO APPENDIX A TO PART 60—

FIGURE 4, ACCELERATION TEST SIGNAL



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Note to Figure 4: If the simulator weight changes for any reason (*i.e.*, visual change, or structural change), then the motion system baseline performance repeatability tests must be rerun and the new results used for future comparison.

8. Alternative Data Sources, Procedures, and Instrumentation: Level A and Level B Simulators Only

Begin Information

a. In recent years, considerable progress has been made by highly experienced aircraft and simulator manufacturers in improvement of aerodynamic modeling techniques. In conjunction with increased accessibility to very high powered computer technology, these techniques have become quite sophisticated. Additionally, those who have demonstrated success in combining these modeling techniques with minimal flight testing have incorporated the use of highly mature flight controls models and have had extensive experience in comparing the output of their effort with actual flight test data—and they have been able to do so on an iterative basis over a period of years.

b. It has become standard practice for experienced simulator manufacturers to use such techniques as a means of establishing data bases for new simulator configurations while awaiting the availability of actual flight test data; and then comparing this new data with the newly available flight test data. The results of such comparisons have, as reported by some recognized and experienced simulation experts, become increasingly consistent and indicate that these techniques, applied with appropriate experience, are becoming dependably accurate for the development of aerodynamic models for use in Level A and Level B simulators.

c. In reviewing this history, the NSPM has concluded that, with proper care, those who are experienced in the development of aerodynamic models for simulator application can successfully use these modeling techniques to acceptably alter the method by which flight test data may be acquired and, when applied to Level A or Level B simulators, does not compromise the quality of that simulation.

d. The information in the table that follows (Table of Alternative Data Sources,

Procedures, and Information) is presented to describe an acceptable alternative to data sources for simulator modeling and validation and as an acceptable alternative to the procedures and instrumentation found in the traditionally accepted flight test methods used to gather such modeling and validation data.

(1) Alternative data sources which may be used for part or all of a data requirement are the Airplane Maintenance Manual, the Airplane Flight Manual (AFM), Airplane Design Data, the Type Inspection Report (TIR), Certification Data or acceptable supplemental flight test data.

(2) The NSPM recommends that use of the alternative instrumentation noted in the following Table be coordinated with the NSPM prior to employment in a flight test or data gathering effort.

e. The NSPM position regarding the use of these alternative data sources, procedures, and instrumentation is based on three primary preconditions and presumptions regarding the objective data and simulator aerodynamic program modeling.

(1) While the data gathered through the alternative means does not require angle of attack (AOA) measurements or control surface position measurements for any flight test, AOA can be sufficiently derived if the flight test program insures the collection of acceptable level, unaccelerated, trimmed flight data. All of the simulator time history tests that begin in level, unaccelerated, and trimmed flight, including the three basic trim tests and ''fly-by'' trims, can be a successful validation of angle of attack by comparison with flight test pitch angle. (**Note:** Due to the criticality of angle of attack in the development of the ground effects model, particularly critical for normal landings and landings involving cross-control input applicable to Level B simulators, stable ''fly-by'' trim data will be the acceptable norm for normal and cross-control input landing objective data for these applications.)

(2) A rigorously defined and fully mature simulation controls system model that includes accurate gearing and cable stretch characteristics (where applicable), determined from actual aircraft measurements, will be used. Such a model does not require control surface position measurements in the flight test objective data in these limited applications.

(3) The authorized uses of Level A and Level B simulators (as listed in the appropriate Commercial, Instrument, or Airline Transport Pilot and/or Type Rating Practical Test Standards) for ''initial,'' ''transition,'' or ''upgrade'' training, still requires additional flight training and/or flight testing/checking in the airplane or in a Level C or Level D simulator.

f. The sponsor is urged to contact the NSPM for clarification of any issue regarding airplanes with reversible control systems. This table is not applicable to Computer Controlled Aircraft flight simulators.

g. Utilization of these alternate data sources, procedures, and instrumentation does not relieve the sponsor from compliance with the balance of the information contained in this document relative to Level A or Level B flight simulators.

End Information

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION INFORMATION

Table of objective test—test reference number and title	Sim level		Aternative data sources, procedures, and instrumentation	Notes and reminders
	A	B		
2.a.(1) Performance. Taxi. Minimum Radius turn.	X	X	TIR, AFM, or Design data may be used.	
2.a.(2) Performance. Taxi Rate of Turn vs. Nosewheel Steering Angle.		X	Data may be acquired by using a constant tiller position, measured with a protractor or full rudder pedal application for steady state turn, and synchronized video of heading indicator. If less than full rudder pedal is used, pedal position must be recorded.	A single procedure may not be adequate for all airplane steering systems, therefore appropriate measurement procedures must be devised and proposed for NSPM concurrence.
2.b.(1) Performance. Takeoff. Ground Acceleration Time and Distance.	X	X	Preliminary certification data may be used. Data may be acquired by using a stop watch, calibrated airspeed, and runway markers during a takeoff with power set before brake release. Power settings may be hand recorded. If an inertial measurement system is installed, speed and distance may be derived from acceleration measurements.	
2.b.(2) Performance. Takeoff. Minimum Control Speed—Ground (V_{mcg}) using aerodynamic controls only (per applicable Airworthiness Standard) or Low Speed, Engine Inoperative Ground Control Characteristics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	Rapid throttle reductions at speeds near V_{mcg} may be used while recording appropriate parameters. The nose wheel must be free to caster, or equivalently freed of sideforce generation.
2.b.(4) Performance. Takeoff. Normal Takeoff.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls. AOA can be calculated from pitch attitude and flight path.	
2.b.(5) Performance. Takeoff. Critical Engine Failure during Takeoff.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	Record airplane dynamic response to engine failure and control inputs required to correct flight path.

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION INFORMATION—Continued

Table of objective test—test reference number and title	Sim level		Aternative data sources, procedures, and instrumentation	Notes and reminders
	A	B		
2.b.(6) Performance. Takeoff. Crosswind Takeoff.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	The ''1:7 law'' to 100 feet (30 meters) is an acceptable wind profile.
2.b.(7) Performance. Takeoff. Rejected Takeoff.	X	X	Data may be acquired with a synchronized video of: Calibrated airplane instruments, thrust lever position, engine parameters, and distance (e.g., runway markers). A stop watch is required.	
2.c.(1) Performance. Climb. Normal Climb.	X	X	Data may be acquired with a synchronized video of: calibrated airplane instruments and engine power throughout the climb range.	
2.c.(2) Performance. Climb. One engine Inoperative Second Segment Climb.	X	X	Data may be acquired with a synchronized video of: calibrated airplane instruments and engine power throughout the climb range.	
2.c.(4) Performance. Climb. One Engine Inoperative Approach Climb (if Approved AFM requires specific performance in icing conditions).	X	X	Data may be acquired with a synchronized video of: calibrated airplane instruments and engine power throughout the climb range.	
2.e.(1) Performance. Ground. Deceleration Time and Distance, using manual application of wheel brakes and no reverse thrust.	X	X	Data may be acquired during landing tests using a stop watch, runway markers, and a synchronized video of: calibrated airplane instruments, thrust lever position and the pertinent parameters of engine power.	
2.e.(2) Performance. Ground. Deceleration Time and Distance, using reverse thrust and no wheel brakes.	X	X	Data may be acquired during landing tests using a stop watch, runway markers, and a synchronized video of: calibrated airplane instruments, thrust lever position and the pertinent parameters of engine power.	
2.f.(1) Performance. Engines. Acceleration.	X	X	Data may be acquired with a synchronized video recording of: engine instruments and throttle position.	
2.f.(2) Performance. Engines. Deceleration.	X	X	Data may be acquired with a synchronized video recording of: engine instruments and throttle position.	
3.a.(1) Handling Qualities. Static Control Checks. Column Position vs. Force and Surface Position Calibration.	X	X	Surface position data may be acquired from flight data recorder (FDR) sensor or, if no FDR sensor, at selected, significant column positions (encompassing significant column position data points), acceptable to the NSPM, using a control surface protractor on the ground with winds less than 5 kts. Force data may be acquired by using a hand held force gauge at the same column position data points.	

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION INFORMATION—Continued

Table of objective test—test reference number and title	Sim level		Aternative data sources, procedures, and instrumentation	Notes and reminders
	A	B		
3.a.(2) Handling Qualities. Static Control Checks. Wheel Position vs. Force and Surface Position Calibration.	X	X	Surface position data may be acquired from flight data recorder (FDR) sensor or, if no FDR sensor, at selected, significant wheel positions (encompassing significant wheel position data points), acceptable to the NSPM, using a control surface protractor on the ground with winds less than 5 kts. Force data may be acquired by using a hand held force gauge at the same wheel position data points.	
3.a.(3) Handling Qualities. Static Control Checks. Rudder Pedal Position vs. Force and Surface Position Calibration.	X	X	Surface position data may be acquired from flight data recorder (FDR) sensor or, if no FDR sensor, at selected, significant rudder pedal positions (encompassing significant rudder pedal position data points), acceptable to the NSPM, using a control surface protractor on the ground with winds less than 5 kts. Force data may be acquired by using a hand held force gauge at the same rudder pedal position data points.	
3.a.(4) Handling Qualities. Static Control Checks. Nosewheel Steering Force & Position.	X	X	Breakout data may be acquired with a hand held force gauge. The remainder of the force to the stops may be calculated if the force gauge and a protractor are used to measure force after breakout for at least 25% of the total displacement capability.	
3.a.(5) Handling Qualities. Static Control Checks. Rudder Pedal Steering Calibration.	X	X	Data may be acquired through the use of force pads on the rudder pedals and a pedal position measurement device, together with design data for nose wheel position.	
3.a.(6) Handling Qualities. Static Control Checks. Pitch Trim Calibration (Indicator vs. Computed) and Rate.	X	X	Data may be acquired through calculations.	
3.a.(7) Handling Qualities. Static Control Checks. Alignment of Power Lever Angle vs Selected Engine Parameter (e.g., EPR, N_1, Torque, etc.).	X	X	Data may be acquired through the use of a temporary throttle quadrant scale to document throttle position. Use a synchronized video to record steady state instrument readings or hand-record steady state engine performance readings.	
3.a.(8) Handling Qualities. Static Control Checks. Brake Pedal Position vs. Force and Brake System Pressure.	X	X	Use of design or predicted data is acceptable. Data may be acquired by measuring deflection at ''zero'' and ''maximum'' and calculating deflections between the extremes using the airplane design data curve.	
3.c.(1) Handling Qualities. Longitudinal. Power Change Dynamics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and throttle position.	
3.c.(2) Handling Qualities. Longitudinal. Flap/Slat Change Dynamics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: calibrated airplane instruments and flap/slat position.	

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION INFORMATION—Continued

Table of objective test—test reference number and title	Sim level		Aternative data sources, procedures, and instrumentation	Notes and reminders
	A	B		
3.c.(3) Handling Qualities. Longitudinal. Spoiler/Speedbrake Change.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and spoiler/speedbrake position.	
3.c.(4) Handling Qualities. Longitudinal. Gear Change Dynamics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and gear position.	
3.c.(5) Handling Qualities. Longitudinal. Alternate Landing Gear and Alternate Flap/Slat Operating Times.	X	X	May use design data, production flight test schedule, or maintenance specification, together with an SOC.	
3.c.(6) Handling Qualities. Longitudinal. Longitudinal Trim.	X	X	Data may be acquired through use of an inertial measurement system and a synchronized video of: the cockpit controls position (previously calibrated to show related surface position) and the engine instrument readings.	
3.c.(7) Handling Qualities. Longitudinal. Longitudinal Maneuvering Stability (Stick Force/g).	X	X	Data may be acquired through the use of an inertial measurement system and a synchronized video of: the calibrated airplane instruments; a temporary, high resolution bank angle scale affixed to the attitude indicator; and column force measurement indication.	
3.c.(8) Handling Qualities. Longitudinal. Longitudinal Static Stability.	X	X	Data may be acquired through the use of a synchronized video of: the airplane flight instruments and a hand held force gauge.	
3.c.(9) Handling Qualities. Longitudinal. Stick Shaker, Airframe Buffet, Stall Speeds.	X	X	Data may be acquired through a synchronized video recording of: a stop watch and the calibrated airplane airspeed indicator. Hand-record the flight conditions and airplane configuration—Airspeeds may be cross checked with those in the TIR and AFM.	
3.c.(10) Handling Qualities. Longitudinal. Phugoid Dynamics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplaine instruments and the force/position measurements of cockpit controls.	
3.c.(11) Handling Qualities. Longitudinal. Short Period Dynamics.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	
3.d.(1) Handling Qualities. Lateral Directional. Minimum Control Speed, Air (V_{mca}), per Applicable Airworthiness Standard or Low Speed Engine. Inoperative Handling Characteristics in Air.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	
3.d.(3) Handling Qualities. Lateral Directional. Roll Response to Cockpit Roll Controller Step Input.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION INFORMATION—Continued

Table of objective test—test reference number and title	Sim level		Aternative data sources, procedures, and instrumentation	Notes and reminders
	A	B		
3.d.(4) Handling Qualities. Lateral Directional. Spiral Stability.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls; and a stop watch.	
3.d.(5) Handling Qualities. Lateral Directional. Engine Inoperative Trim.	X	X	Data may be hand recorded in-flight using high resolution scales affixed to trim controls that have been calibrated on the ground using protractors on the control/trim surfaces with winds less than 5 kts OR Data may be acquired during second segment climb (with proper pilot control input for an engine-out condition) by using a synchronized video of: the calibrated airplane instruments; and the fore/position measurements of cockpit controls.	Trimming during second segment climb is not a certification task and should not be conducted until a safe altitude is reached.
3.d.(6) Handling Qualities. Lateral Directional. Rudder Response.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of rudder pedals.	
3.d.(7) Handing Qualities. Lateral Directional. Dutch Roll, (Yaw Damper OFF).	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: a calibrated airplane instruments; the force/position measurements of cockpit controls.	
3.d.(8) Handling Qualities. Laterial Directional. Steady State Sideslip.	X	X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls. Ground track and wind corrected heading may be used for sideslip angle.	
3.e.(1) Handling Qualities. Landings Normal Landing.		X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls.	
3.e.(3) Handling Qualities. Landings. Crosswind Landing.		X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls.	
3.e.(4) Handling Qualities. Landings. One Engine Inoperative Landing (Not required for Single-engine airplanes.).		X	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls. Normal and laterial acceleration may be recorded in lieu of AOA and sideslip.	
3.f. Handling Qualities. Ground Effect. Demonstrate Longitudinal Ground Effect.		X	Data may be acquired by using an calibrated airplane instruments, an inertial measurement system, and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls.	

Attachment 3 to Appendix A to Part 60—Simulator Subjective Tests

1. Discussion

Begin Information

a. The subjective tests provide a basis for evaluating the capability of the simulator to perform over a typical utilization period; determining that the simulator satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and verifying correct operation of the simulator controls, instruments, and systems. The items in the list of operations tasks are for simulator evaluation purposes only. They must not be used to limit or exceed the authorizations for use of a given level of simulator as found in the Pilot Qualification Performance Standards or as may be approved by the TPAA. All items in the following paragraphs are subject to an examination of function.

b. The List of Operations Tasks in paragraph 2 of this attachment addresses pilot functions, including maneuvers and procedures (called flight tasks), and is divided by flight phases. The performance of these tasks by the NSPM includes an operational examination of the visual system and special effects. There are flight tasks included to address some features of advanced technology airplanes and innovative training programs. For example, ''high angle-of-attack maneuvering'' is included to provide a required alternative to ''approach to stalls'' for airplanes employing flight envelope protection functions.

c. The List of Simulator Systems in paragraph 3 of this attachment addresses the overall function and control of the simulator including the various simulated environmental conditions; simulated airplane system operation (normal, abnormal, and emergency); visual system displays; and special effects necessary to meet flightcrew training, evaluation, or flight experience requirements.

d. All simulated airplane systems functions will be assessed for normal and, where appropriate, alternate operations. Normal, abnormal, and emergency operations associated with a flight phase will be assessed during the evaluation of flight tasks or events within that flight phase. Simulated airplane systems are listed separately under ''Any Flight Phase'' to ensure appropriate attention to systems checks. Operational navigation systems (including inertial navigation systems, global positioning systems, or other long-range systems) and the associated electronic display systems will be evaluated if installed. The NSP pilot will include in his report to the TPAA, the effect of the system operation and any system limitation.

e. Simulators demonstrating a satisfactory circling approach will be recommended for approval for the circling approach maneuver as determined by the TPAA in the sponsor's FAA-approved flight training program. To be considered satisfactory here, the circling approach will be flown at maximum gross weight for landing, with minimum visibility, and must allow proper alignment with a landing runway at least 90° different from the instrument approach course while allowing the pilot to keep an identifiable portion of the airport in sight throughout the maneuver (reference—14CFR, § 91.175(e)).

f. At the request of the TPAA, the NSP Pilot may assess the simulator for a special aspect of a sponsor's training program during the functions and subjective portion of an evaluation. Such an assessment may include a portion of a Line Oriented Flight Training (LOFT) scenario or special emphasis items in the sponsor's training program. Unless directly related to a requirement for the qualification level, the results of such an evaluation would not affect the qualification of the simulator.

End Information

2. List of Operations Tasks

Begin QPS Requirements

The NSPM will evaluate the simulator in the following Operations Tasks, as applicable to the airplane and simulator level, using the sponsor's approved manuals and checklists.

a. Preparation for Flight

Preflight. Accomplish a functions check of all installed switches, indicators, systems, and equipment at all crewmembers' and instructors' stations, and determine that the cockpit design and functions replicate the appropriate airplane.

b. Surface Operations (Pre-Takeoff)

(1) Engine start.
(a) Normal start.
(b) Alternate start operations.
(c) Abnormal starts and shutdowns (hot start, hung start, *etc.*).
(2) Pushback / Powerback.
(3) Taxi
(a) Thrust response.
(b) Power lever friction.
(c) Ground handling.
(d) Nosewheel scuffing.
(e) Brake operation (normal and alternate/emergency).
(f) Ground hazard.
(g) Surface Movement and Guidance System (SMGS).
(h) Other.

c. Takeoff

(1) Normal. (Day, Night, Dusk (or Twilight))
(a) Propulsion system checks (*e.g.*, engine parameter relationships; propeller and mixture controls).
(b) Airplane acceleration characteristics.
(c) Nosewheel and rudder steering.
(d) Crosswind (maximum demonstrated).
(e) Special performance.
(f) Lowest visibility takeoff.
(g) Landing gear, wing flap, leading edge device operation.
(h) Other.
(2) Abnormal/Emergency.
(a) Rejected, with brake fade (if applicable) due to rising brake temperature.
(b) Rejected, special performance.
(c) With propulsion system malfunction:
(i) Prior to V_1 (decision) speed.
(ii) Between V_1 and V_r (rotation speed).
(iii) Between V_r and 500 feet above ground level.
(d) Flight control system failure modes.
(e) Other.

d. Inflight Operation

(1) Climb.
(a) Normal.
(b) One engine inoperative operations.
(c) Other.
(2) Cruise.
(a) Performance characteristics (speed vs. power).
(b) Normal turns and turns with/without spoilers (speed brake) deployed.
(c) High altitude handling.
(d) High indicated airspeed handling, over-speed warning.
(e) Mach effects on control and trim.
(f) Normal and steep turns.
(g) Performance turns.
(h) Approach to stalls in the following configurations:
(i) Cruise;
(ii) Takeoff or approach; and
(iii) Landing.
(a) High angle of attack maneuvers in the following configurations:
(i) Cruise;
(ii) Takeoff or approach; and
(iii) Landing.
(j) Inflight engine shutdown.
(k) Inflight engine restart.
(l) Maneuvering with one or more engines inoperative, as applicable.
(m) Slow flight.
(n) Specific flight characteristics.
(o) Manual flight control reversion (*i.e.*, loss of all flight control power).
(p) Other flight control system failure modes.
(q) Holding.
(r) Airborne hazard.
(s) Operations during icing conditions.
(t) Upset / disturbance recovery.
(u) Unusual attitude recovery.
(v) Traffic alert and collision avoidance.
(w) Effects of airframe icing.
(x) Other.
(3) Descent.
(a) Normal.
(b) Maximum rate (clean, with speedbrake extended, etc.) and recovery.
(c) Flight Control System Failure Modes (*e.g.*, manual flight control reversion; split controls, *etc.*).
(d) High rate of sink and recovery.
(a) Other.

e. Approaches

(1) Instrument Approach Maneuvers.
(a) Non-precision:
(i) Non-Directional Beacon (NDB).
(ii) VHF Omni-Range (VOR), Area Navigation (RNAV), Tactical Air Navigation (TACAN).
(iii) Distance Measuring Equipment, Arc (DME ARC).
(iv) ILS Localizer Back Course (LOC/BC).
(v) Localizer Directional Aid (LDA), ILS Front Course Localizer (LOC), Simplified Direction Facility (SDF).
(vi) Airport Surveillance Radar (ASR).
(vii) Global Positioning System (GPS).
(viii) With one engine inoperative.

(ix) Missed approach.
(b) Precision:
(i) Instrument Landing System (ILS)
A. Category I published:
1. Manually controlled with and without flight director to 100 feet below published decision height.
2. With maximum demonstrated crosswind.
3. With windshear.
4. One engine inoperative.
B. Category II published:
1. With and without use of autopilot, autothrottle, and autoland, as applicable.
2. One engine inoperative.
C. Category III published:
1. With minimum/standby electrical power.
2. With generator/alternator failure (transient).
3. With 10 knot tail wind.
4. With 10 knot crosswind.
5. Rollout.
6. One engine inoperative.
D. Missed approach.
1. All engines operating.
2. One engine inoperative.
(ii) Precision Approach Radar (PAR)
A. Normal.
B. With crosswind.
C. With one engine inoperative.
D. Missed approach.
(iii) Digital Global Positioning System (DGPS)
A. Normal.
B. With crosswind.
C. With one engine inoperative.
D. Missed approach.
(iv) Microwave landing system (MLS).
A. Normal.
B. With crosswind.
C. With one engine inoperative.
D. Missed approach.
(v) Steep Glide Path.
A. Normal.
B. With crosswind.
C. With one engine inoperative.
D. Missed approach.
(2) Visual Approach Maneuvers.
(a) Abnormal wing flaps/slats.
(b) Without glide slope guidance or visual vertical flightpath aid.
(3) Abnormal/emergency.
(a) With one engine inoperative.
(b) With standby (or minimum) electric/hydraulic power.
(c) With longitudinal trim malfunction.
(d) With jammed or mis-trimmed horizontal stabilizer.
(e) With lateral-directional trim malfunction.
(f) With worst case failure of flight control system (most significant degradation of the computer controlled airplane which is not extremely improbable).
(g) Other flight control system failure modes as dictated by training program.
(h) Land and hold short operations.
(i) Other.

f. Missed Approach

(1) Manual.
(2) Automatic (if applicable).

g. Visual Segment and Landing

(1) Normal (Night visual scene for Level A and Level B simulators; Night and Dusk (or Twilight) visual scenes for Level C simulators; and Night, Dusk (or Twilight), and Daylight visual scenes for Level D simulators.)
(a) From visual traffic pattern.
(b) From non-precision approach.
(c) From precision approach.
(d) With maximum demonstrated crosswind.
(e) From circling approach.
(2) Abnormal/emergency.
(a) With engine(s) inoperative—
(i) For 2-engine airplanes, one engine inoperative.
(ii) For 3-engine airplanes, one wing-mounted and the center engine inoperative.
(iii) For other multi-engine airplanes, a 50% power loss on one side of the airplane.
(b) Rejected landing.
(c) With standby (or minimum) electric/hydraulic power.
(d) With longitudinal trim malfunction
(e) With jammed or mis-trimmed horizontal stabilizer.
(f) With lateral-directional trim malfunction.
(g) With worst case failure of flight control system (most significant degradation of the computer controlled airplane which is not extremely improbable).
(h) Other flight control system failure modes as dictated by training program.
(i) Land and hold short operations.
(j) Other.

h. Windshear

(1) Takeoff.
(2) Climb.
(3) Approach.

i. Surface Operations (Post Landing)

(1) Landing roll.
(2) Spoiler operation.
(3) Reverse thrust operation.
(4) Wheel brake operation.
(5) Ground hazard.
(6) Surface Movement and Guidance System (SMGS).
(7) Other.

J. Any Flight Phase

(1) Air conditioning.
(2) Anti-icing/deicing.
(3) Auxiliary powerplant.
(4) Communications.
(5) Electrical.
(6) Fire detection and suppression.
(7) Flaps/Slats.
(8) Flight controls (including spoiler/speedbrake).
(9) Fuel and oil.
(10) Hydraulic.
(11) Landing gear.
(12) Oxygen.
(13) Pneumatic.
(14) Propulsion System.
(15) Pressurization.
(16) Flight management and guidance systems.
(17) Automatic landing aids.
(18) Automatic pilot.
(19) Thrust management/auto-throttle.
(20) Flight data displays.
(21) Flight management computers.
(22) Flight director/system displays.
(23) Flight Instruments.
(24) Heads-up flight guidance system.
(25) Navigation systems.
(26) Weather radar system.
(27) Stall warning/avoidance.
(28) Stability and control augmentation.
(29) ACARS.
(30) Other

k. Engine Shutdown and Parking

(1) Systems operation.
(2) Parking brake operation.

3. List of Simulator Systems

a. Instructor Operating Station (IOS)

(1) Power switch(es).
(2) Airplane conditions.
(a) Gross weight, center of gravity, fuel loading and allocation, *etc.*
(b) Airplane systems status.
(c) Ground crew functions (*e.g.*, external power connections, push back, *etc.*)
(d) Other.
(3) Airports.
(a) Number and selection.
(b) Runway selection.
(c) Runway surface condition (*e.g.*, rough, smooth, icy, wet, dry, *etc.*)
(d) Preset positions (*e.g.* ramp, gate, #1 for takeoff, takeoff position, over FAF, *etc.*)
(e) Lighting controls.
(f) Other.
(4) Environmental controls.
(a) Clouds (base and tops).
(b) Visibility (statute miles (kilometers)).
(c) Runway visual range (in feet (meters)).
(d) Temperature.
(e) Climate conditions (*e.g.*, ice, snow, rain, *etc.*).
(f) Wind speed and direction.
(g) Windshear.
(h) Other.
(5) Airplane system malfunctions.
(a) Insertion/deletion.
(b) Problem clear.
(c) Other
(6) Locks, Freezes, and repositioning.
(a) Problem (all) freeze/release.
(b) Position (geographic) freeze/release.
(c) Repositioning (locations, freezes, and releases).
(d) Two times or one-half ground speed control.
(e) Other
(7) Remote IOS.
(8) Other.

b. Sound Controls—On/Off/Rheostat

c. Motion/Control Loading System

(1) On/off/emergency stop.
(2) Crosstalk (motion response in a given degree of freedom not perceptible in other degrees of freedom).
(3) Smoothness (no perceptible ''turn-around bump'' as the direction of motion reverses with the simulator being ''flown'' normally).

d. Observer Stations

(1) Position.
(2) Adjustments.
(3) Positive seat restraint system.

End QPS Requirements

Attachment 4 to Appendix A to Part 60—Definitions and Abbreviations

1. Definitions

Begin Regulatory Language (14 CFR Part 1 and § 60.3)

(From Part 1—Definitions)

Flight simulation device (FSD) means a flight simulator or a flight training device.

Flight simulator means a full size replica of a specific type or make, model, and series aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent the aircraft in ground and flight operations, a visual system providing an out-of-the-cockpit view, a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standards (QPS) for a specific qualification level.

Flight training device (FTD) means a full size replica of aircraft instruments, equipment, panels, and controls in an open flight deck area or an enclosed aircraft cockpit replica. It includes the equipment and computer programs necessary to represent the aircraft or set of aircraft in ground and flight conditions having the full range of capabilities of the systems installed in the device as described in part 60 of this part and the qualification performance standard (QPS) for a specific qualification level.

(From Part 60—Definitions)

Certificate holder. A person issued a certificate under parts 119, 141, or 142 of this chapter or a person holding an approved course of training for flight engineers in accordance with part 63 of this chapter.

Flight test data. Actual aircraft performance data obtained by the aircraft manufacturer (or other supplier of data acceptable to the NSPM) during an aircraft flight test program.

FSD Directive. A document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD.

Master Qualification Test Guide (MQTG). The FAA-approved Qualification Test Guide with the addition of the FAA-witnessed test, performance, or demonstration results, applicable to each individual FSD.

National Simulator Program Manager (NSPM). The FAA manager responsible for the overall administration and direction of the National Simulator Program (NSP), or a person approved by the NSPM .

Objective test. A quantitative comparison of simulator performance data to actual or predicted aircraft performance data to ensure FSD performance is within the tolerances prescribed in the QPS.

Predicted data. Aircraft performance data derived from sources other than direct physical measurement of, or flight tests on, the subject aircraft. Predicted data may include engineering analysis and simulation, design data, wind tunnel data, estimations or extrapolations based on existing flight test data, or data from other models.

Qualification level. The categorization of the FSD, based on its demonstrated technical and operational capability as set out in the QPS.

Qualification Performance Standard (QPS). The collection of procedures and criteria published by the FAA to be used when conducting objective tests and subjective tests, including general FSD requirements, for establishing FSD qualification levels.

Qualification Test Guide (QTG). The primary reference document used for evaluating an aircraft FSD. It contains test results, performance or demonstration results, statements of compliance and capability, the configuration of the aircraft simulated, and other information for the evaluator to assess the FSD against the applicable regulatory criteria.

Set of aircraft. Aircraft that share similar handling and operating characteristics and similar operating envelopes and have the same number and type of engines or power plants.

Sponsor. A certificate holder who seeks or maintains FSD qualification and is responsible for the prescribed actions as set out in this part and the QPS for the appropriate FSD and qualification level.

Subjective test. A qualitative comparison to determine the extent to which the FSD performs and handles like the aircraft being simulated.

Training Program Approval Authority (TPAA). A person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used.

Upgrade. The improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.

End Regulatory Language (14 CFR Part 1 and § 60.3)

Begin QPS Requirements

1st Segment—is that portion of the takeoff profile from liftoff to gear retraction.

2nd Segment—is that portion of the takeoff profile from after gear retraction to initial flap/slat retraction.

3rd Segment—is that portion of the takeoff profile after flap/slat retraction is complete.

Airspeed—is calibrated airspeed unless otherwise specified and is expressed in terms of nautical miles per hour (knots).

Altitude—is pressure altitude (meters or feet) unless specified otherwise.

Automatic Testing—is simulator testing wherein all stimuli are under computer control.

Bank—is the airplane attitude with respect to or around the longitudinal axis, or roll angle (degrees).

Breakout—is the force required at the pilot's primary controls to achieve initial movement of the control position.

Closed Loop Testing—is a test method for which the input stimuli are generated by controllers which drive the simulator to follow a pre-defined target response.

Control Sweep—is movement of the appropriate pilot controller from neutral to an extreme limit in one direction (Forward, Aft, Right, or Left), a continuous movement back through neutral to the opposite extreme position, and then a return to the neutral position.

Computer Controlled Airplane—is an airplane where all pilot inputs to the control surfaces are transferred and augmented by computers.

Convertible Flight Simulator—is a simulator in which hardware and software can be changed so that the simulator becomes a replica of a different model, usually of the same type airplane. The same simulator platform, cockpit shell, motion system, visual system, computers, and necessary peripheral equipment can thus be used in more than one simulation.

Critical Engine Parameter—is the parameter which is the most accurate measure of propulsive force.

Deadband—is the amount of movement of the input for a system for which there is no reaction in the output or state of the system observed.

Distance—is the length of space between two points and is expressed in terms of nautical miles unless specified otherwise.

Driven—is a test method where the input stimulus or variable is positioned by automatic means, generally a computer input.

Free Response—is the response of the simulator after completion of a control input or disturbance.

Frozen—is a test condition where one or more variables are held constant with time.

Fuel used—is the amount or mass of fuel used (kilograms or pounds).

Ground Effect—is the change in aerodynamic characteristics due to modification of the air flow past the aircraft caused by the proximity of the earth's surface to the airplane.

Hands Off—is a test maneuver conducted or completed without pilot control inputs.

Hands On—is a test maneuver conducted or completed with pilot control inputs as required.

Heave—is simulator movement with respect to or along the vertical axis.

Height—is the height above ground level (or AGL) expressed in meters or feet.

Integrated Testing—is testing of the simulator such that all airplane system models are active and contribute appropriately to the results where none of the models used are substituted with models or other algorithms intended for testing only.

Irreversible Control System—is a control system in which movement of the control surface will not backdrive the pilot's control in the cockpit.

Locked—is a test condition where one or more variables are held constant with time.

Manual Testing—is simulator testing wherein the pilot conducts the test without computer inputs except for initial setup and all modules of the simulation are active.

Medium—is the normal operational weight for a given flight segment.

Nominal—is the normal operational weight, configuration, speed, etc., for the flight segment specified.

Non-Normal Control—is a term used in reference to Computer Controlled Airplanes

and is the state where one or more of the intended control, augmentation, or protection functions are not fully working. **Note:** Specific terms such as ALTERNATE, DIRECT, SECONDARY, BACKUP, etc., may be used to define an actual level of degradation.

Normal Control—is a term used in reference to Computer Controlled Airplanes and is the state where the intended control, augmentation, and protection functions are fully working.

Pitch—is the airplane attitude with respect to or around the lateral axis expressed in degrees.

Power Lever Angle—is the angle of the pilot's primary engine control lever(s) in the cockpit. This may also be referred to as PLA, THROTTLE, or POWER LEVER.

Protection Functions—are systems functions designed to protect an airplane from exceeding its flight maneuver limitations.

Pulse Input—is a step input to a control followed by an immediate return to the initial position.

Reversible Control System—is a control system in which movement of the control surface will backdrive the pilot's control in the cockpit.

Roll—is the airplane attitude with respect to or around the longitudinal axis expressed in degrees.

Sideslip—is the angular difference between the airplane heading and the direction of movement in the horizontal plane.

Simulation Data—are the various types of data used by the simulator manufacturer and the applicant to design, manufacture, and test the simulator.

Simulator Approval—is the extent to which a simulator may be used by a certificate holder as authorized by the FAA. It takes account of airplane to simulator differences and the training ability of the organization.

Simulator Latency—is the additional time beyond that of the response time of the airplane due to the response of the simulator.

Snapshot—is a presentation of one or more variables at a given instant of time.

Source Data—are, for the purpose of this document, performance, stability and control, and other necessary test parameters electrically or electronically recorded in an airplane using a calibrated data acquisition system of sufficient resolution and verified as accurate by the company performing the test to establish a reference set of relevant parameters to which like simulator parameters can be compared.

Statement of Compliance and Capability (SOC)—is a declaration that specific requirements have been met. It must declare that compliance with the requirement is achieved and explain how the requirement is met (*e.g.*, gear modeling approach, coefficient of friction sources, *etc.*). It must also describe the capability of the simulator to meet the requirement (*e.g.*, computer speed, visual system refresh rate, *etc.*). In doing this, the statement must provide references to needed sources of information for showing compliance, rationale to explain how the referenced material is used, mathematical equations and parameter values used, and conclusions reached.

Step Input—is an abrupt control input held at a constant value.

Surge—is simulator movement with respect to or along the longitudinal axis.

Sway—is simulator movement with respect to or along the lateral axis.

Time History—is a presentation of the change of a variable with respect to time.

Training Program Approval Authority (TPAA)—is the person who exercises authority on behalf of the Administrator in approving the aircraft flight training program for the appropriate airplane in which the simulator will be used. This person is the principal operations inspector (POI) for programs approved under 14 CFR parts 63, 121, 125, or 135; or the training center program manager (TCPM) for programs approved under 14 CFR part 141 or 142.

Transport Delay or "Throughput"—is the total simulator system processing time required for an input signal from a pilot primary flight control until motion system, visual system, or instrument response. It is the overall time delay incurred from signal input until output response. It does not include the characteristic delay of the airplane simulated.

Validation Data—are data used to determine if the simulator performance corresponds to that of the airplane.

Validation Test—is a test by which simulator parameters are compared to the relevant validation data.

Visual System Response Time—is the interval from a control input to the completion of the visual display scan of the first video field containing the resulting different information.

Yaw—is airplane attitude with respect to or around the vertical axis expressed in degrees.

End QPS Requirements

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2. Abbreviations

Begin QPS Requirements

AFM—Approved Flight Manual.
AGL—Above Ground Level (meters or feet).
AOA—Angle of Attack (degrees).
APD—Aircrew Program Designee.
CCA—Computer Controlled Airplane.
cd/m^2 candela/meter^2, 3.4263 candela/m^2 = 1 ft-Lambert.
CFR—Code of Federal Regulations.
cm(s)—centimeter, centimeters.
daN—decaNewtons, one (1) decaNewton = 2.27 pounds.
deg(s) degree, degrees.
DOF—Degrees-of-freedom
EPR—Engine Pressure Ratio.
FAA—Federal Aviation Administration (U.S.).
fpm—feet per minute.
ft—foot/feet, 1 foot = 0.304801 meters.\
ft-Lambert—foot-Lambert, 1 ft-Lambert = 3.4263 candela/m^2.
g—Acceleration due to Gravity (meters or feet/sec^2); 1g = 9.81 m/sec^2 or 32.2 feet/sec^2.
G/S—Glideslope.
IATA—International Airline Transport Association.
ICAO—International Civil Aviation Organization.
ILS—Instrument Landing System.
IQTG—International Qualification Test Guide.
km—Kilometers 1 km = 0.62137 Statute Miles.
kPa—KiloPascal (Kilo Newton/Meters2). 1 psi = 6.89476 kPa.
Kts—Knots calibrated airspeed unless otherwise specified, 1 knot = 0.5148 m/sec or—1.689 ft/sec.
lb(s)—pound(s), one (1) pound = 0.44 decaNewton.
M,m—Meters, 1 Meter = 3.28083 feet.
Min(s)—Minute, minutes.
MLG—h;Main Landing Gear.
Mpa—MegaPascals (1 psi = 6894.76 pascals).
ms—millisecond(s).
N—NORMAL CONTROL Used in reference to Computer Controlled Airplanes.
N1—Low Pressure Rotor revolutions per minute, expressed in percent of maximum.
N2—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
N3—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
nm—Nautical Mile(s) 1 Nautical Mile = 6,080 feet.
NN—NON-NORMAL CONTROL Used in reference to Computer Controlled Airplanes.
NWA—Nosewheel Angle (degrees).
PAPI—Precision Approach Path Indicator System.
PLA—Power Lever Angle.
Pf—Impact or Feel Pressure, often expressed as "q.".
PLF—Power for Level Flight.
psi—pounds per square inch.
QPS—Qualification Performance Standard.
RAE—Royal Aerospace Establishment.
R/C—Rate of Climb (meters/sec or feet/min).
R/D—Rate of Descent (meters/sec or feet/min).
REIL—Runway End Identifier Lights.
RVR—Runway Visual Range (meters or feet).
s—second(s).
sec(s)—second, seconds.
sm—Statute Mile(s) 1 Statute Mile = 5,280 feet.
SOC—Statement of Compliance and Capability.
Tf—Total time of the flare maneuver duration.
Ti—Total time from initial throttle movement until a 10% response of a critical engine parameter.
TIR—Type Inspection Report.
T/O—Takeoff.
Tt—Total time from Ti to a 90% increase or decrease in the power level specified.
VASI—Visual Approach Slope Indicator System.
VGS—Visual Ground Segment.
Vmc—Minimum Control Speed.
Vmca—Minimum Control Speed in the air.
Vmcg—Minimum Control Speed on the ground.
Vmcl—Minimum Control Speed—Landing.
Vmu—The speed at which the last main landing gear leaves the ground.
Vr—Rotate Speed.

Vs—Stall Speed or minimum speed in the stall.
WAT—Weight, Altitude, Temperature.

End QPS Requirements

Attachment 5 to Appendix A to Part 60—Sample Documents

Table of Contents

Title of Sample

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Figure 2. Sample Qualification Test Guide Cover Page
Figure 3. Sample Simulator Information Page
Figure 4. Sample Statement of Qualification
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4B Sample Statement of Qualification; Qualified/Non-Qualified Tasks
Figure 5. Sample Recurrent Evaluation Requirements Page
Figure 6. Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date
Figure 7. Sample MQTG Index of Effective FSD Directives

BILLING CODE 4910–13–P

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 1 – Sample Letter of Request.

INFORMATION

Date

Name, POI. _____(Certificate Holder)

FAA FSDO _____

Address

City, State, Zip

Dear Mr./Ms. _____:

(Sponsor's name) _____ requests evaluation of our (type) _____ airplane simulator for Level _____ qualification. The (name) _____ simulator with (name) _____visual system is fully defined on page _____ of the accompanying qualification test guide (QTG). We have completed tests of the simulator and confirm that it meets all applicable requirements of Title 14 of the Code of Federal Regulation (14 CFR) part 60 and the requirements of the Airplane Flight Simulator Qualification Performance Standards (QPS). Appropriate hardware and software configuration control procedures have been established.

Our pilot(s) (name) _____ [and (name)_____], who is(are) qualified on (type) _____ airplane, has(have) assessed the simulator and found that it conforms to the (sponsor name) _____ (type) _____ airplane cockpit configuration and that the simulated systems and subsystems have been evaluated and found to function equivalently to those in the airplane. The above named pilot(s) has(have) found that the simulator represents the respective airplane in accordance with the attached Configuration List. He/She(They) has(have) also subjectively assessed the performance and flying qualities of the simulator and state that it represents the airplane. He/She(They) has(have) not subjectively tested the simulator for those tasks on the attached Restrictions-to-Qualification list and we do not seek qualification in these areas.

(Added comments as desired.)

Sincerely,

(Signature of Appropriate Person)

ATTACHMENT 5 TO APPENDIX A TO PART 60--

Figure 2 – Sample Qualification Test Guide Cover Page

INFORMATION

SPONSOR NAME

SPONSOR ADDRESS

FAA QUALIFICATION TEST GUIDE

(SPECIFIC AIRPLANE MODEL)
for example
Stratos BA797-320A

(Type of Simulator)

(Simulator Identification Including Manufacturer, Serial Number, Visual System Used)

(Simulator Level)

(Qualification Performance Standard Used)

(Simulator Location)

FAA Initial Evaluation

Date: _____

_____ Date: _____
(Sponsor)

_____ Date: _____
Manager, National
Simulator Program, FAA

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 3 – Sample Simulator Information Page

INFORMATION

SPONSOR NAME	
SPONSOR SIMULATOR CODE:	BA-797 #1
AIRPLANE MODEL:	Stratos BA797-320A
AERODYNAMIC DATA REVISION:	BA797-320, CPX-8D, January 1988
ENGINE MODEL(S) AND REVISION:	CPX-8D; RPT-6, January 1988 DRQ-4002, RPT-3, April 1991
FLIGHT CONTROLS DATA REVISION:	BA707-320; May 1988
FLIGHT MANAGEMENT SYSTEM:	Berry XP
SIMULATOR MODEL AND MANUFACTURER:	MTD-797, Tinker Simulators, Inc.
DATE OF SIMULATOR MANUFACTURE:	1988
SIMULATOR COMPUTER:	CIA
VISUAL SYSTEM MODEL, MANUFACTURER, and DISPLAY TYPE:	ClearView, Inc. "Real World T2;" 5 Channel, 6-window CRT display
VISUAL SYSTEM COMPUTER:	LMB-6
MOTION SYSTEM:	Tinker 6 DOF

Information on this page must be updated and kept current with any modifications or changes made to the simulator and reflected on the log of revisions and the list of effective pages.

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 4 – Sample Statement of Qualification

INFORMATION

(subject to change)

Federal Aviation Administration
National Simulator Program

Statement of Qualification

This is to certify that representatives of the
National Simulator Program
Completed an evaluation of the

Go-Fast Training Center
Stratos BA-797 Flight Simulator

FAA Identification Number 701

And found it to meet the standards set forth
In the Qualification Performance Standards
For a simulator at

Level C

(date) for the NSPM

Subject to the attached
Configuration List and Restrictions

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 4A – Sample Statement of Qualification; Configuration List

INFORMATION

STATEMENT of QUALIFICATION
CONFIGURATION LIST
Go-Fast Training Center Stratos BA-797-232 -- Level C -- FAA ID# 701

Configuration		Date Qualified
Airplane Model:.....	BA-797-232.....	July 12, 1988
Re-configurable to:.....	BA-797-287 (see FAA ID#722)	
Engine Model(s) and Revision:...	☐ CPX-8D, RPT-6.....	July 12, 1988
	☐ DRQ-4002, RPT-3.....	April 1, 1991
Flight Management System:.....	Berry XP.....	July 12, 1988
Visual System / Manufacturer:	Real World T2, Clear View, Inc.	
☐ CRT Installation:.....	5 Channel, 6 Window.....	July 12, 1988
☐ Projected System:.....	__° Horizontal Viewing Angle.....	
Flight Instruments:		
☐ Electro-Mechanical:.....	.....	July 12, 1988
☐ Display (CRT, LCD, etc.).....		
☐ Combination		
☐ Heads-Up Display.....	Jones Industries.....	December 1, 1993
Flight Director:		
☐ Single Cue.....		
☐ Dual Cue.....	Sperry.....	July 12, 1988
☐ None.....		
Engine Instruments:		
☐ Electro-Mechanical.....	.....	July 12, 1988
☐ Display (CRT, LCD, etc.).....		
☐ Combination.....		
Navigation Type(s):		
☐ ADF.....	.....	July 12, 1988
☐ VOR/ILS.....	.....	July 12, 1988
☐ GPS.....		
☐ INS.....	.....	October 10, 1991
☐ IRS.....		
Weather Radar:	Jones Industries, Inc.	August 3, 1996
Windshear Equipment		
TCAS		
ACARS		

(Continue as Necessary)

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 4B – Sample Statement of Qualification; Qualified/Non-Qualified Tasks

INFORMATION

STATEMENT of QUALIFICATION
Qualified/Non-Qualified Tasks
Go-Fast Training Center
Stratos BA-797 -- Level C -- FAA ID# 701

The following are those items listed in the Airplane Flight Simulator Qualification Performance Standards (QPS), FAA-S-120-40C, dated (May 1, 2000) Appendix 3, Subjective Tests, indicating what tasks and systems are qualified **(Q)** *and what tasks and systems are not qualified* **(NQ).**

NQ	Q	TASK		NQ	Q	TASK
		A. Preparation for Flight.				2. Abnormal/Emergency.
	X	Preflight.			X	(a) Rejected, with brake fade
		B. Surface Ops (Pre-Takeoff).		X		(b) Rejected, special perf.
		1. Engine start.				(c) Propulsion system malfunction.
	X	(a) Normal start.			X	(i) prior to V_1
	X	(b) Alternate start operations.			X	(ii) between V_1 and V_r
	X	(c) Abnormal starts			X	(iii) between V_r and 500' AGL
	X	2. Pushback		X		(d) Flight control system failure.
X		3. Powerback.			X	(e) Other.
		4. Taxi				**D. In-flight Operation.**
	X	(a) Thrust response.				1. Climb.
	X	(b) Power lever friction.			X	(a) Normal.
	X	(c) Ground handling.			X	(b) One engine inoperative.
	X	(d) Nosewheel scuffing.			X	(c) Other.
	X	(e) Brake operation				2. Cruise.
	X	(f) Ground hazard.			X	(a) Performance (speed vs. power).
X		(g) SMGS			X	(b) Turns w/wo spoilers
	X	(h) Other.			X	(c) High altitude handling.
		C. Takeoff.			X	(d) High airspeed handling
		1. Normal. (Day/Dusk/Night)		X		(e) Mach effects
X		(a) Day			X	(f) Normal and steep turns.
	X	(b) Dusk (or Twilight)		X		(g) Performance turns.
	X	(c) Night				(h) Approach to stalls
	X	(d) Propulsion system checks			X	1) cruise
	X	(e) Airplane acceleration			X	2) takeoff or approach
	X	(f) Nosewheel/rudder steering			X	3) landing
	X	(g) Crosswind (max. demo)				(i) High AOA maneuvers
X		(h) Special performance.		X		1) cruise
	X	(i) Lowest visibility.		X		2) takeoff or approach
	X	(j) Landing gear, flap/slat ops.		X		3) landing
	X	(k) Other.			X	(j) In-flight engine shutdown

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	TASK (Con't.)		NQ	Q	TASK (Con't.)
	X	(k) In-flight engine restart				(ii) ILS Category II
	X	(l) Maneuver w/ engine(s) inop.			X	A. W/Wo Auto-Couple
X		(m) Slow flight.			X	B. Engine inoperative..
X		(n) Spec flight characteristics.				(iii) ILS Category III
X		(o) Manual flight control		X		A. Min./stnby. electrical power.
X		(p) Other flight control failures		X		B. Generator/alternator failure
	X	(q) Holding.		X		C. Tail wind 10 knots
	X	(r) Airborne hazard.		X		D. Crosswind 10 knots
	X	(s) Ops. in icing conditions		X		E. Rollout.
	X	(t) Upset / disturbance recovery		X		F. Engine inoperative.
	X	(u) Unusual attitude recovery				(iv). Missed approach
X		(v) TCAS			X	A. All engines operating.
	X	(w) Effects of airframe icing.			X	B. One engine inoperative.
	X	(x) Other.				(v) PAR
		3. Descent.		X		A. Normal
	X	(a) Normal.		X		B. With crosswind.
	X	(b) Max. rate and recovery		X		C. With one engine inoperative.
X		(c) Flight control failure		X		D. Missed approach.
	X	(d) High sink rate and recovery.				(vi) DGPS
	X	(e) Other.		X		A. Normal
		E. Approaches.		X		B. With crosswind.
		1. Instrument Approach		X		C. With one engine inoperative.
		(a) Non-precision:		X		D. Missed approach.
	X	(i) NDB				(vi) MLS.
	X	(ii) VOR,		X		A. Normal
X		(iii)RNAV,		X		B. With crosswind.
X		(iv)TACAN		X		C. With one engine inoperative.
	X	(v) DME Arc		X		D. Missed approach.
	X	(vi) LOC/FC.				(vii) Steep Glide Path.
	X	(vii) LOC/BC,		X		A. Normal
X		(viii) LDA,		X		B. With crosswind.
X		(ix) SDF		X		C. With one engine inoperative.
X		(x) ASR.		X		D. Missed approach.
X		(xi) GPS.				2. Visual Approach Maneuvers.
	X	(xii) With engine inoperative			X	(a) Abnormal wing flaps/slats
	X	(xiii) Missed approach.			X	(b) No G/S or visual flightpath aid.
		(b) Precision:		X		(c) Circling Approach.
		(i) ILS Category I				3. Abnormal/emergency.
	X	A. Manual w/wo flight director			X	(a) One engine inoperative.
	X	B. Max. crosswind			X	(b) Min. electric/hydraulic power.
	X	C. Windshear.			X	(c) Pitch trim malfunction.
	X	D. Engine inoperative.			X	(d) Jammed horizontal stabilizer.

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	TASK (Con't.)		NQ	Q	TASK (Con't.)
	X	(e) Roll/Yaw trim malfunction.			X	5. Ground hazard.
X		(f) Worst Flt Cont fail. (+CCA).		X		6. SMGS.
X		(g) Other failures / trng. prog.			X	7. Other.
X		(h) LAHSO ops.				**J. Any Flight Phase.**
	X	(i) Other.			X	1. Air conditioning.
		F. Missed approach.			X	2. Anti-icing/deicing.
	X	1. Manual.			X	3. Auxiliary powerplant.
X		2. Automatic (if applicable).			X	4. Communications.
		G. Visual Segment / Landing.			X	5. Electrical.
		1. Normal			X	6. Fire detection and suppression.
X		(a) Day			X	7. Flaps/Slats.
	X	(b) Dusk (or Twilight)			X	8. Flight cont (+ spoiler/spdbrake).
	X	(c) Night			X	9. Fuel and oil.
	X	(b) From visual traffic pattern.			X	10. Hydraulic.
	X	(c) From NP approach.			X	11. Landing gear.
	X	(d) From precision approach			X	12. Oxygen.
	X	(e) Max. crosswind.			X	13. Pneumatic.
X		(f) From circling approach.			X	14. Propulsion System.
		2. Abnormal/emergency.			X	15. Pressurization.
		(a) With engine(s) inoperative –			X	16. Flt mgmt / guidance systems.
X		(i) 2-eng airpl, one inop.			X	17. Auto landing aids.
X		(ii) 3-eng airpl, wing+ctr. inop.			X	18. Auto-pilot.
	X	(iii) 4+eng airpl, 50%, one side.			X	19. Auto-throttle.
	X	(b) Rejected landing.			X	20. Flight data displays.
	X	(c) Min. elect./hyd. power.			X	21. Flight mgmt computers.
	X	(d) Pitch trim malfunction			X	22. Flight Director.
	X	(e) Jammed horizontal stab.			X	23. Flight Instruments.
	X	(f) Roll/Yaw trim malfunction.			X	24. HUD system.
X		(g) Worst Flt Cont fail.(+CCA).			X	25. Navigation systems.
X		(h) Other failures in trng. prog.			X	26. Weather radar.
X		(i) LAHSO ops.			X	27. Stall warning/avoidance.
	X	(j) Other.		X		28. Stability augmentation.
		H. Windshear.		X		29. ACARS.
	X	1. Takeoff.			X	30. Other.
	X	2. Climb.				**K. Eng. Shutdown and Parking.**
	X	3. Approach.			X	1. Systems operation.
		I. Surface Ops (Post Landing).			X	2. Parking brake operation.
	X	1. Landing roll.				
	X	2. Spoiler operation.				
	X	3. Reverse thrust operation.				
	X	4. Wheel brake operation.				

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	SIMULATOR SYSTEM		NQ	Q	SIMULATOR SYSTEM
		A. Inst. Ops. Station (IOS).				**B. Sound Controls.**
	X	1. Power switch(es).			X	-- On / off / rheostat
		2. Airplane conditions.				**C. Motion/Cont. Load. System.**
	X	(a) GW, CG, Fuel weight, etc.			X	1. On / off / emergency stop.
	X	(b) Airplane systems status.			X	2. Crosstalk
	X	(c) Ground crew functions			X	3. Smoothness
	X	(d) Other.				**D. Observer Stations.**
		3. Airports.			X	1. Position.
	X	(a) Number and selection.				
	X	(b) Runway selection.				
	X	(c) Runway surface condition				
	X	(d) Preset positions				
	X	(e) Lighting controls.				
	X	(f) Other.				
		4. Environmental controls.				
	X	(a) Clouds (base and tops).				
	X	(b) Visibility				
	X	(c) Runway visual range				
	X	(d) Temperature.				
	X	(e) Climate conditions				
	X	(f) Wind speed and direction.				
X		(g) Windshear.				
	X	(h) Other.				
		5. Airplane system malfunctions.				
	X	(a) Insertion / deletion.				
	X	(b) Problem clear.				
	X	(c) Other				
		6. Locks, freezes, repositioning.				
	X	(a) Problem freeze / release.				
	X	(b) Position freeze / release.				
	X	(c) Repositioning				
	X	(d) Ground speed control				
	X	(e) Other				
X		7. Remote IOS.				
	X	8. Other.				

Initials _____ Date_____ -- End --

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 5 – Sample Recurrent Evaluation Requirements Page

INFORMATION

Recurrent Evaluation Requirements ***Completed at conclusion of Initial Evaluation***	
Recurrent Evaluations to be conducted each _(fill in)__ months Allotting _____ hours of FTD time. Signed: _____ NSPM / Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

(Repeat as Necessary)

ATTACHMENT 6 TO APPENDIX A TO PART 60—

Figure 6 – Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date

INFORMATION

Mr. Edward Cook
Manager, National Simulator Program
Federal Aviation Administration
P.O. Box 20636 (AFS-205)
Atlanta, GA 30320

Dear Mr. Cook:

RE: Request for Initial [Upgrade / Reinstatement] Evaluation Date

This is to advise you of our intent to request an evaluation of our (Aircraft Type/Level) Simulator located in (City/State) at the (Facility) on (proposed evaluation date). [The proposed evaluation date shall not be more than 180 days following the date of this letter.] This simulator [has / has not] been previously qualified by the FAA [and had been issued FAA identification number XXX]. [The history of this simulator is as follows: _____.]

We agree to provide a Qualification Test Guide (QTG) to your staff not later than 45 days prior to the proposed evaluation date (if tests not run at training site, an additional "1/3 on-site" tests must be provided not later than 14 days prior the proposed evaluation date). If we are unable to meet the above date for the evaluation, this may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation.

[Added comments from Operator/Sponsor, if any]

Please contact (Name and Telephone Number of Sponsor's Contact) to confirm the date for this initial evaluation. We understand a member of your National Simulator Program staff will respond to this request within 14 days.

A copy of this letter of intent has been provided to our Principal Operations Inspector (POI) and/or Training Center Program Manager (TCPM).

Sincerely,

(Signature)

Acknowledgement:

____ We concur with your proposed dates.

____ The date requested is not available, however, we propose the following date:

____ Please provide us with the following information:

_____ _____
Scheduler, National Simulator Program Date

ATTACHMENT 5 TO APPENDIX A TO PART 60—

Figure 7 – Sample MQTG Index of Effective FSD Directives.

INFORMATION

Index of Effective FSD Directives Filed in this Section

Notification Number	Received From: (TPAA/NSPM)	Date of Notification	Date of Modification Completion

Continue as Necessary....

BILLING CODE 4910–13–C

Attachment 6 to Appendix A to Part 60—Simulator Qualification Requirements for Windshear Training Program Use

1. Applicability

Begin QPS Requirements

This attachment applies to all simulators used to satisfy the training requirements of 14 CFR part 121 that pertain to the sponsor's approved low-altitude windshear flight training program, or the training permitted in accordance with an FAA-approved training program under 14 CFR part 121, 135, or 142, that addresses low-altitude windshear encounters.

End QPS Requirements

2. Statement of Compliance and Capability (SOC)

Begin QPS Requirements

a. The sponsor must submit an SOC that confirms that the aerodynamic model is based on flight test data supplied by the airplane manufacturer, or other approved source, and that any change to environmental wind parameters, including variances in those parameters for windshear conditions, once inserted for computation, result in the correct simulated performance. This statement must also include examples of where environmental wind parameters are currently evaluated in the simulator (such as crosswind takeoffs, crosswind approaches, and crosswind landings).

b. For those simulators where windshear warning, caution, or guidance hardware was not provided as original equipment, the SOC must also state that the simulation of the added simulator hardware and/or software, including associated cockpit displays and annunciations, function the same or equivalent to the system(s) installed in the airplane and be accompanied by a block diagram that depicts the input and output signal flow, comparing that signal flow to the equipment installed in the airplane being simulated.

End QPS Requirements

3. Models

Begin QPS Requirements

The windshear models installed in the simulator software that will be used for the qualification evaluation must do the following:

a. Provide cues necessary for recognition of the onset of a windshear phenomena and potential performance degradation that would require a pilot to initiate recovery procedures. The cues must include all of the following, as may be appropriate for the appropriate portion of the flight envelope:

(1) Rapid airspeed change of at least ±15 knots (kts).

(2) Stagnation of airspeed during the takeoff roll.

(3) Rapid vertical speed change of at least ±500 feet per minute (fpm).

(4) Rapid pitch change of at least ±5°.

b. Be adjustable in intensity (or other parameter to achieve an intensity effect) to at least two (2) levels so that upon encountering the windshear the pilot may identify its presence by the cues described above, and that when the pilot applies the recommended procedures for escape from such a windshear:

(1) If the intensity is lesser, the performance capability of the simulated airplane in the windshear permits the pilot to maintain a satisfactory flightpath; and

(2) If the intensity is greater, the performance capability of the simulated airplane in the windshear does not permit

the pilot to maintain a satisfactory flightpath (crash).

Note: The means used to accomplish the ''nonsurvivable'' scenario of paragraph 3.b(2), of this attachment, that involve operational elements of the simulated airplane, must reflect parameters that fall within the dispatch limitations of the airplane.

c. Be available for use in the FAA-approved windshear flight training program.

End QPS Requirements

4. Demonstrations

Begin QPS Requirements

a. The sponsor must identify two of the required, survivable training windshear models—one takeoff and one approach. The sponsor must identify the wind components of the two models selected and present this information in graphical format so that all components of the windshear are shown, including initiation point, variance in magnitude, and either time or distance correlation as may be appropriate. The simulator must be operated at the same gross weight, airplane configuration, and initial airspeed in all of the following situations:

(1) Takeoff—through calm air.

(2) Takeoff—through the first selected survivable windshear.

(3) Approach—through calm air.

(4) Approach—through the second selected survivable windshear.

b. In each of these four situations, at an ''initiation point'' (that point being where the onset of windshear conditions is, or would have been recognized, depending on the test being run), the recommended procedures for windshear recovery are applied, and the results are recorded, as specified in paragraph 5 of this attachment.

c. These recordings are made without the presence of programmed random turbulence. Turbulence that results from the windshear model is to be expected, and no attempt may be made to neutralize turbulence from this source.

d. The definition of the models and the results of the demonstrations of all four (4) cases described in paragraph 4.a of this attachment, must be made a part of the MQTG.

End QPS Requirements

5. Recording Parameters

Begin QPS Requirements

a. In each of the four MQTG cases, an electronic recording (time history) must be made of the following parameters:

(1) Indicated or calibrated airspeed.

(2) Indicated vertical speed.

(3) Pitch attitude.

(4) Indicated or radio altitude.

(5) Angle of attack.

(6) Elevator position.

(7) Engine data (thrust, N_1, or throttle position).

(8) Wind magnitudes (simple windshear model assumed).

b. These recordings shall be initiated at least 10 seconds prior to the initiation point and continued until recovery is complete or ground contact is made.

End QPS Requirements

6. Equipment Installation and Operation

Begin QPS Requirements

All windshear warning, caution, or guidance hardware installed in the simulator must operate as it operates in the airplane being simulated. For example: If the simulator encounters a rapidly changing wind speed and/or direction that would have resulted in a windshear warning in the airplane were the same conditions encountered, the simulator must respond equivalently, without instructor/evaluator intervention.

End QPS Requirements

7. Qualification Test Guide

Begin QPS Requirements

a. All QTG material (performance demonstration recordings, etc.) will be forwarded to the NSPM.

b. The simulator will be scheduled for an evaluation in accordance with normal procedures. Use of recurrent evaluation schedules will be used to the maximum extent possible.

c. During the on-site evaluation, the evaluator will ask the operator to run the performance tests and record the results. The results of these on-site tests will be compared to those results previously approved and placed in the QTG or MQTG, as appropriate.

d. QTG's for new (or MQTG's for upgraded) simulators must contain or reference the information described in paragraphs 2, 3, 4, and 5 of this attachment.

End QPS Requirements

8. Subjective Evaluation

Begin Information

The NSPM will fly the simulator in at least two of the available windshear scenarios to examine the function of the simulator and the simulated airplane and to evaluate subjectively the performance of the simulator as it encounters the programmed windshear conditions according to the following:

a. One scenario will include parameters that enable the pilot to maintain a satisfactory flightpath.

b. One scenario will include parameters that will not enable the pilot to maintain a satisfactory flightpath (crash).

c. Other scenarios may be examined at the discretion of the NSPM.

End Information

9. Qualification Basis

Begin Information

The addition of windshear programming to a simulator in order to comply with the qualification for required windshear training does not change the original qualification basis of the simulator.

End Information

10. Demonstration Repeatability

Begin Information

For the purposes of demonstration repeatability, it is recommended that the simulator be flown by means of the simulator's autodrive function (for those simulators that have autodrive capability) during the demonstrations.

End Information

Attachment 7 to Appendix A to Part 60—Record of FSD Directives

Begin QPS Requirements

When the FAA determines that modification of a simulator is necessary for safety reasons, all affected simulators must be modified accordingly, regardless of the original qualification standards applicable to any specific simulator.

a. A copy of the notification to the sponsor from the TPAA or NSPM that a modification is necessary will be filed in and maintained as part of this attachment.

b. The effective FSD Directives, including the date of the directive, the direction to make these changes, and the date of completion of any resulting modification must be maintained in a separate section of the MQTG and indexed accordingly. The MQTG must also be updated to include the information described in § 60.15(b)(4) as may be appropriate as a result of the FSD Directive. See Attachment 5 for a sample Index of Effective FSD Directives.

End QPS Requirements

Appendix B to Part 60—Qualification Performance Standards for Airplane Flight Training Devices

Begin Information

This appendix establishes the standards for Airplane Flight Training Device (FTD) evaluation and qualification at one of the established levels. The Flight Standards Service, National Simulator Program (NSP) staff, under the direction of the NSP Manager (NSPM), is responsible for the development, application, and interpretation of the standards contained within this appendix.

The procedures and criteria specified in this document will be used by the NSPM, or a person or persons assigned by the NSPM (*e.g.*, FAA pilots and/or FAA aeronautical engineers, assigned to and trained under the direction of the NSP—referred to as NSP pilots or NSP engineers, other FAA

personnel, etc.) when conducting airplane FTD evaluations.

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Attachment 6 to Appendix B to Part 60—Record of FSD Directives

1. Introduction

a. This appendix contains background information as well as information that is either directive or guiding in nature. Information considered directive is described in this document in terms such as ''will,'' ''shall,'' and ''must,'' and means that the actions are mandatory. Guidance information is described in terms such as ''should,'' or ''may,'' and indicate actions that are desirable, permissive, or not mandatory and provide for flexibility.

b. To assist the reader in determining what areas are directive or required and what areas are guiding or permissive—

(1) The text in this appendix is contained within sections, separated by horizontal lines; headings associated with these horizontal lines will indicate that a particular section begins or ends. All of the text falls into one of three sections: a direct quote or a paraphrasing of the Part 60 rule language; additional requirements that are also regulatory but are found only in this appendix; and advisory or informative material.

(2) The text presented between horizontal lines beginning with the heading ''Begin Rule Language'' and ending with the heading ''End Rule Language,'' is a direct quote or is paraphrased from Part 60 of the regulations. For example: The rule uses the terms ''flight simulation device (FSD)'' and ''aircraft;'' however, in this appendix the rule is paraphrased and the term ''simulator'' is used instead of FSD, and ''airplane'' is used instead of aircraft. Additionally, the rule uses the terms ''this part'' and ''appropriate QPS;'' however, in this appendix the rule is paraphrased and the terms ''Part 60'' and ''this appendix,'' respectively, are used instead. (Definitions are not paraphrased or modified in any way.) For ease of referral, the Part 60 reference is noted at the beginning and the end of the bordered area.

(3) The text presented between horizontal lines beginning with the heading ''Begin QPS Requirements'' and ending with the heading ''End QPS Requirements,'' is also regulatory but is found only in this appendix.

(4) The text presented between horizontal lines beginning with the heading ''Begin Information'' and ending with the heading ''End Information,'' is advisory or informative.

(5) The tables in this appendix have rows across the top of each table—

(a) The data presented in columns under the heading ''QPS REQUIREMENTS'' is regulatory but is found only in this appendix.

(b) The data presented in columns under the heading ''INFORMATION'' is advisory or informative.

Important Note: While this appendix contains quotes and paraphrasing directly from the rule, the reader is cautioned *not* to rely solely on this appendix for regulatory requirements regarding flight simulators. For regulatory references for airplane flight simulators, the reader is referred to paragraphs 3.a through h of this appendix.

c. Questions regarding the contents of this publication should be sent to: U.S. Department of Transportation, Federal Aviation Administration, Flight Standards Service, National Simulator Program Staff, AFS–205, PO Box 20636, Atlanta, Georgia 30320. Telephone contact numbers are: Phone, 404–305–6100; fax, 404–305–6118. The National Simulator Program Internet Web site address is: *www.faa.gov/nsp.* On this Web Site you will find an NSP personnel list with contact information, a list of qualified flight simulation devices, advisory circulars, a description of the qualification process, NSP policy, and an NSP ''In-Works'' section. Also linked from this site are additional information sources, handbook bulletins, frequently asked questions, a listing and text of the Federal Aviation Regulations, Flight Standards Inspector's handbooks, and other FAA links.

d. The NSPM encourages the use of electronic media for communication and the gathering, storage, presentation, or transmission of any record, report, request, test, or statement required by this QPS provided the media used has adequate provision for security and is acceptable to the NSPM. The NSPM recommends inquiries on system compatibility prior to any such activity. Minimum System requirements may be found on the NSP Website.

End Information

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2. Definitions

Begin Information

See attachment 4 of this appendix for a list of definitions and abbreviations. Attachment 4 contains definitions directly quoted from 14 CFR part 1 or part 60, contained within a bordered area with Red-colored left hand columns, indicating they are quoted from 14 CFR part 1 or part 60 and are regulatory. Additional definitions and abbreviations used in reading and understanding this document are contained within bordered areas with Blue-colored left hand columns, indicating they are also regulatory but appear only within this document. For purposes of accuracy, the definitions listed are directly quoted, and are not paraphrased.

End Information

---

3. Related Reading References

Begin Information

a. 14 CFR part 60
b. 14 CFR part 61.
c. 14 CFR part 63.
d. 14 CFR part 121.
e. 14 CFR part 125
f. 14 CFR part 135.
g. 14 CFR part 141
h. 14 CFR part 142
i. Advisory Circular (AC) 120–28C, Criteria for Approval of Category III Landing Weather Minima.
j. AC 120–29, Criteria for Approving Category I and Category II Landing Minima for part 121 operators.
k. AC 120–35B, Line Operational Simulations: Line-Oriented Flight Training, Special Purpose Operational Training, Line Operational Evaluation.
l. AC 120–41, Criteria for Operational Approval of Airborne Wind Shear Alerting and Flight Guidance Systems.
m. AC 120–57A, Surface Movement Guidance and Control System (SMGS).
n. AC 150/5300–13, Airport Design.
o. AC 150/5340–1G, Standards for Airport Markings.
p. AC 150/5340–4C, Installation Details for Runway Centerline Touchdown Zone Lighting Systems.
q. AC 150/5340–19, Taxiway Centerline Lighting System.
r. AC 150/5340–24, Runway and Taxiway Edge Lighting System.
s. AC 150/5345–28D, Precision Approach Path Indicator (PAPI) Systems
t. International Air Transport Association document, ''Flight Simulator Design and Performance Data Requirements, Fifth Edition (1996).

u. AC 25–7, Flight Test Guide for Certification of Transport Category Airplanes.

v. AC 23–8A, Flight Test Guide for Certification of Part 23 Airplanes.

w. International Civil Aviation Organization (ICAO) Manual of Criteria for the Qualification of Flight Simulators, First Edition, 1994 Doc 9625–AN/938.

x. Airplane Flight Simulator Evaluation Handbook, Volume I (February, 1995) and Volume II (July, 1996), The Royal Aeronautical Society, London, UK.

y. Airplane Flight Simulator Evaluation Handbook, Volume I (February, 1995) and Volume II (July, 1996), The Royal Aeronautical Society, London, UK.

z. FAA Publication FAA-S–8081 series (Practical Test Standards for Airline Transport Pilot Certificate, Type Ratings, Commercial Pilot, and Instrument Ratings).

End Information

4. Background

Begin Information

a. The primary objective of flight training continues to be one of providing a means for flightcrew members to acquire the skills and knowledge necessary to perform to a desired safe standard. By the same measure, flight simulation continues to provide the most effective, viable environment for the instruction, demonstration, and practice of the maneuvers and procedures (called training events) pertinent to a particular airplane and crew member position. The complexity, operating costs, and operating environment of modern airplanes, together with the steady technological advances in flight simulation, have continued to encourage, and, in fact, have demanded, the expanded use of flight simulation (both FTDs and simulators) in the training and checking of flightcrew members.

b. The FAA has traditionally recognized the value of training devices and has awarded credit for their use in the completion of specific training and checking events in both general aviation and air carrier flight training programs and in pilot certification activities. Such credits are delineated in 14 CFR parts 61 and 121; and in other appropriate sources such as handbooks and guidance documents. These CFR sources, however, have, in the past, referred only to a ''training device'' or to a ''flight training device,'' with no further descriptive information. Other sources had referred to flight training devices in several categories such as Cockpit Procedures Trainers, Cockpit Systems Simulators, Fixed Base Simulators, and other descriptors. Prior to the advent of the predecessor to this document, these categories and names had no standard definition or design criteria within the industry and no single source guidance document had existed to categorize these devices, to provide qualification standards for each category, or to relate one category to another in terms of capability or technical complexity. As a result, approval of these devices for use in training programs had not always been equitable. This circumstance has changed. The recognizable and understood technical definitions and descriptions in previous documents has provided a foundation. Knowledge of the FAA-authorized uses of FTDs built on this foundation and has significantly influenced the flight training industry to increase the use of FTDs and has garnered support for multiplying that use in the future.

c. For information purposes, the following is a chronological listing of the documents preceding this document that have addressed the qualification criteria for airplane flight training device (FTD) evaluation and qualification by the FAA, including the effective dates of those documents: AC 120–45—05/11/87 to 02/05/92; AC 120–45A––02/05/92 to (date TBD).

End Information

5. Quality Assurance Program

Begin Rule Language (§ 60.5)

a. After [date 6 months after the effective date of the final rule], no sponsor may use or allow the use of or offer the use of an FTD for flightcrew member training or evaluation or for obtaining flight experience to meet any requirement of this chapter unless the sponsor has established and follows a quality assurance (QA) program, acceptable to the NSPM, for the continuing surveillance and analysis of the sponsor's performance and effectiveness in providing a satisfactory FTD for use on a regular basis as described in this QPS.

b. The QA program must provide a process for identifying deficiencies in the program and for documenting how the program will be changed to address these deficiencies.

c. Whenever the NSPM finds that the QA program does not adequately address the procedures necessary to meet the requirements of this part, the sponsor must, after notification by the NSPM, change the program so the procedures meet the requirements of this part.

d. Each sponsor of an FTD must identify to the NSPM and to the TPAA, by name, one individual, who is an employee of the sponsor, to be the management representative (MR) and the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that FTD as provided for in this part.

End Rule Language (§ 60.5)

Begin QPS Requirements

e. The Director of Operations for a Part 119 certificate holder, the Chief Instructor for a Part 141 certificate holder, or the equivalent for a Part 142 or Flight Engineer School sponsor must designate a management representative (MR) who has the responsibility and authority to establish and modify the sponsor's policies, practices, and procedures regarding the QA program for the recurring qualification of, and the day-to-day use of, each FTD.

f. An acceptable Quality Assurance (QA) Program must contain a complete, accurate, and clearly defined written description of and/or procedures for—

(1) The method used by management to communicate the importance of meeting the regulatory standards contained in Part 60 and this QPS and the importance of establishing and meeting the requirements of a QA Program as defined in this paragraph.

(2) The method(s) used by management to determine that the regulatory standards and the QA program requirements are being met, and if or when not met, what actions are taken to correct the deficiency and prevent its recurrence.

(3) The method used by management to determine that the sponsor is, on a timely and regular basis, presenting a qualified FTD.

(4) The criteria for and a definition or description of the workmanship expected for normal upkeep, repair, parts replacement, modification, etc., on the FTD and how, when, and by whom such workmanship is determined to be satisfactorily accomplished.

(5) The method used to maintain and control appropriate technical and reference documents, appropriate training records, and other documents for—

(a) Continuing FTD qualification; and

(b) The QA program.

(6) The criteria the sponsor uses (*e.g.*, training, experience, etc.) to determine who may be assigned to duties of inspection, testing, and maintenance (preventive and corrective) on FTDs.

(7) The method used to track inspection, testing, and maintenance (preventive and corrective) on each FTD.

(8) The method used by the sponsor to inform the TPAA in advance of each scheduled NSPM-conducted evaluation and, after completion, the results of each such evaluation.

(9) The method used to ensure that FTD instructors, check airmen, and those who conduct the daily preflight are capable of determining what circumstance(s) constitute(s) a discrepancy regarding the FTD and its operation.

(10) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, record in the FTD discrepancy log each FTD discrepancy and each missing, malfunctioning, or inoperative FTD component.

(11) The method used to ensure that instructors and check airmen are completely and accurately logging the number of disruptions and time not available for training or for obtaining flight experience during a scheduled FTD use-period, including the cause(s) of the disruption.

(12) The method used by the sponsor to notify users of the FTD of missing, malfunctioning, or inoperative components that restrict the use of the FTD.

(13) The method of recording NSPM-conducted evaluations and other inspections (*e.g.*, daily preflight inspections, NASIP inspections, sponsor conducted quarterly inspections, etc.), including the evaluation or inspection date, test results, discrepancies and recommendations, and all corrective actions taken.

(14) The method for ensuring that the FTD is configured the way the airplane it represents is configured and that if the configuration is authorized to be changed that the newly configured system(s) function(s) correctly.

(15) The method(s) for:

(a) Determining whether or not proposed modifications to the airplane will affect the performance, handling, or other functions or characteristics of the airplane;

(b) Determining whether or not proposed modifications to the FTD will affect the performance, handling, or other functions or characteristics of the FTD; and

(c) Coordinating and communicating items 5.f.(15)(a) and (b) of this appendix, as appropriate, with the sponsor's training organization, other users (*e.g.*, lease or service contract users), the TPAA, and the NSPM.

(16) How information found in the discrepancy log is used to correct discrepancies and how this information is used to review and, if necessary, modify existing procedures for FTD maintenance.

(17) The method for how and when software or hardware modifications are accomplished and tracked, documenting all changes made from the initial submission.

(18) The method used for determining that the FTD meets appropriate standards each day that it is used.

(19) The method for acquiring independent feedback regarding FTD operation (from persons recently completing training or obtaining flight experience; instructors and check airmen using the FTD for training or flight experience sessions; and FTD technicians and maintenance personnel) including a description of the process for addressing these comments.

(20) How devices used to test, measure, and monitor correct FTD operation are calibrated and adjusted for accuracy, including traceability of that accuracy to a recognized standard, and how these devices are maintained in good operating condition.

(21) How, by whom, and how frequently internal audits of the QA program are conducted and where and how the results of such audits are maintained and reported to Responsible Management, the NSPM, and the TPAA.

End QPS Requirements

Begin Information

g. Additional Information.

(1) In addition to specifically designated QA evaluations, the NSPM will evaluate the sponsor's QA program as part of regularly scheduled recurrent FTD evaluations and no-notice FTD evaluations, focusing in large part on the effectiveness and viability of the QA program and its contribution to the overall capability of the FTD to meeting the requirements of this part.

(2) The sponsor, through the MR, may delegate duties associated with maintaining the qualification of the FTD (*e.g.*, corrective and preventive maintenance, scheduling for and the conducting of tests and/or inspections, functional preflight checks, etc.) but retains the responsibility and authority for the initial and day-to-day qualification and quality of the FTD. One person may serve in this capacity for more than one FTD, but one FTD would not have more than one person serving in this capacity.

(3) Should a sponsor include a ''foreign FTD'' (*i.e.*, one maintained by a non-US certificate holder) under their sponsorship, the sponsor remains responsible for the QA program for that FTD. However, if that foreign FTD is maintained under a QA program accepted by that foreign regulatory authority and that authority and the NSPM have agreed to accept each other's QA programs (*e.g.*, the Joint Aviation Authorities, JAA, of Europe), the sponsor will be required only to perform an ''external audit'' of the non-US certificate holder's compliance with the accepted foreign QA program, with the results of that audit submitted to and accepted by the NSPM.

End Information

---

6. Sponsor Qualification Requirements

Begin Rule Language (§ 60.7)

a. A person is eligible to apply to be a sponsor of an FTD if the following conditions are met:

(1) The person holds, or is an applicant for, a certificate under part 119, 141, or 142 of this chapter; or holds, or is an applicant for, an approved flight engineer course in accordance with part 63 of this chapter.

(2) The FTD will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the airplane being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA.

b. A person is a sponsor of the FTD if the following conditions are met:

(1) The person is a certificate holder under part 119, 141, or 142 of this chapter or has an approved flight engineer course in accordance with part 63 of this chapter.

(2) The person has operations specifications authorizing the use of the airplane type or set of airplanes being simulated by the FTD or has training specifications or a course of training authorizing the use of an FTD for that airplane type or set of airplanes.

(3) The person has an approved quality assurance program in accordance with § 60.5.

(4) The NSPM has approved the person as the sponsor of the FTD and that approval has not been withdrawn by the FAA.

c. A person continues to be a sponsor of an FTD, if the following conditions are met:

(1) Beginning 12 calendar months after the initial qualification and every 12 calendar months thereafter, the FTD must have been used within the sponsor's FAA-approved flight training program for the airplane type or set of airplanes for a minimum of 600 hours.

(2) The use of the FTD described in paragraph (c)(1) of this section must be dedicated to meeting the requirements of parts 61, 63, 91, 121, or 135 of this chapter.

(3) If the use requirements of paragraphs (c)(1) and (2) of this section are not met, the person will continue to sponsor the FTD on a provisional basis for a period not longer than 12 calendar months; and—

(i) If the FTD is used as described in paragraphs (c)(1) and (2) of this section within this additional 12 calendar month period, the provisional status will be removed and regular sponsorship resumed; or

(ii) If the FTD is not used as described in paragraphs (c)(1) and (2) of this section within the additional 12 calendar month period, the FTD is not qualified and the sponsor will not be eligible to apply to sponsor that FTD for at least 12 calendar months.

End Rule Language (§ 60.7)

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7. Additional Responsibilities of the Sponsor

Begin Rule Language (§ 60.9)

a. The sponsor must not allow the FTD to be used for flightcrew member training or evaluation or for attaining flight experience for the flightcrew member to meet any of the requirements under this chapter unless the sponsor, upon request, allows the NSPM to inspect immediately the FTD, including all records and documents relating to the FTD, to determine its compliance with this part.

b. The sponsor must, for each FTD—

(1) Establish a mechanism for the following persons to provide comments regarding the FTD and its operation and provide for receipt of those comments:

(i) Flightcrew members recently completing training or evaluation or recently obtaining flight experience in the FTD;

(ii) Instructors and check airmen using the FTD for training, evaluation, or flight experience sessions; and

(iii) Simulator technicians and maintenance personnel performing work on the FTD.

(2) Examine each comment received under paragraph (b)(1) of this section for content and importance and take appropriate action.

(3) Maintain a liaison with the manufacturer of the airplane being simulated by the FTD to facilitate compliance with § 60.13(f) when necessary.

(4) Post in or adjacent to the FTD the Statement of Qualification issued by the NSPM.

End Rule Language (§ 60.9)

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8. FTD Use

Begin Rule Language (§ 60.11)

No person may use or allow the use of or offer the use of an FTD for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless, in accordance with the QPS for the specific device—

a. It has a single sponsor who is qualified under § 60.9. The sponsor may arrange with another person for services of document preparation and presentation, as well as FTD inspection, maintenance, repair, and servicing; however, the sponsor remains responsible for ensuring that these functions are conducted in a manner and with a result of continually meeting the requirements of this part.

b. It is qualified as described in the Statement of Qualification that is required to be posted pursuant to § 60.9(b)(4)—

(1) For the make, model, and series of airplane or set of airplanes; and

(2) For all tasks and configurations.

c. It remains qualified, through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with this part and the appropriate QPS.

d. Its software and active programming used during the training, evaluation, or flight experience is the same as the software and active programming that was evaluated by the NSPM.

End Rule Language (§ 60.11)

Begin QPS Requirements

e. Only those FTDs that are used by a certificate holder (as defined for use in Part 60 and this QPS) will be evaluated by the NSPM. However, other FTD evaluations may be conducted on a case-by-case basis as the Administrator deems appropriate, but only in accordance with applicable agreements.

End QPS Requirements

Begin Information

f. Each FTD must be evaluated as completely as possible. To ensure a thorough and uniform evaluation, each FTD is subjected to the objective tests listed in attachment 2 of this appendix and the subjective tests listed in attachment 3 of this document. The evaluation(s) described herein will include, but not necessarily be limited to the following, as appropriate, for the qualification level of the FTD:

(1) Aerodynamic responses, including longitudinal and lateral-directional control responses (see attachment 2 of this appendix);

(2) Performance in authorized portions of the simulated airplane's, or set of airplanes'', operating envelope, to include tasks suitable to the NSPM in the areas of ground operations, takeoff, climb, cruise, descent, approach, and landing (see paragraph 22 of this appendix) as well as abnormal and emergency operations (see paragraph 23 and attachment 2 of this appendix);

(3) Control checks (see attachment 1 and attachment 2 of this appendix);

(4) Cockpit configuration (see attachment 1 of this appendix);

(5) Pilot, flight engineer, and instructor station functions checks (see attachment 1 and attachment 3 of this appendix);

(6) Airplane, or set of airplanes, systems and sub-systems (as appropriate) as compared to the airplane or set of airplanes simulated (see attachment 1 and attachment 3 of this appendix);

(7) FTD systems and sub-systems, including force cueing (motion), visual, and aural (sound) systems, as appropriate (see attachment 1 and attachment 2 of this appendix); and

(8) Certain additional requirements, depending upon the complexity of the FTD qualification level sought, including equipment or circumstances that may become hazardous to the occupants. The sponsor may be subject to Occupational Safety and Health Administration requirements.

g. The NSPM administers the objective and subjective tests, which includes an examination of functions. The tests include a qualitative assessment of the FTD by an NSP pilot. The NSP evaluation team leader may assign other qualified personnel to assist in accomplishing the functions examination and/or the objective and subjective tests performed during an evaluation when required.

(1) Objective tests are used to compare FTD and airplane data objectively to ensure that the FTD performance and handling qualities are within specified tolerances.

(2) Subjective tests provide a basis for:

(a) evaluating the capability of the FTD to perform over a typical utilization period;

(b) determining that the FTD satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and

(c) verifying correct operation of the FTD controls, instruments, and systems.

h. The tolerances for the test parameters listed in attachment 2 of this appendix are the maximum acceptable to the NSPM for FTD validation and are not to be confused with design tolerances specified for FTD manufacture. In making decisions regarding tests and test results, the NSPM relies on the use of operational and engineering judgment in the application of data (including consideration of the way in which the flight test was flown and way the data was gathered and applied) data presentations, and the applicable tolerances for each test.

i. In addition to the scheduled recurrent evaluation (see paragraph 13 of this appendix), each FTD is subject to evaluations conducted by the NSPM at any time with no prior notification to the sponsor. Such evaluations would be accomplished in a normal manner (i.e., requiring exclusive use of the FTD for the conduct of objective and subjective tests and an examination of functions) if the FTD is not being used for flightcrew member training, testing, or checking. However, if the FTD were being used, the evaluation would be conducted in a non-exclusive manner. This non-exclusive evaluation will be conducted by the FTD evaluator accompanying the check airman, instructor, Aircrew Program Designee (APD), or FAA inspector aboard the FTD along with the student(s) and observing the operation of the FTD during the training, testing, or checking activities. While the intent is to observe the operation and interaction of the device and not the check airman, instructor, APD, FAA inspector, or student(s), the FTD evaluator is a qualified FAA operations inspector and must, without question, report any obvious lack of proficiency to the appropriate POI or TCPM.

End Information

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9. FTD Objective Data Requirements

Begin Rule Language (§ 60.13)

a. Except as provided in paragraphs (b) and (c) of this section, for the purposes of validating FTD performance and handling qualities during evaluation for qualification, the sponsor must submit the airplane manufacturer's flight test data to the NSPM.

b. The sponsor may submit flight test data from a source in addition to or independent of the airplane manufacturer's data to the NSPM in support of an FTD qualification, but only if this data is gathered and developed by that source in accordance with flight test methods, including a flight test plan, as described in the appropriate QPS.

c. The sponsor may submit alternative data acceptable to the NSPM for consideration, approval and possible use in particular applications for FTD qualification.

d. Data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

e. The NSPM may require additional flight testing to support certain FTD qualification requirements.

f. When an FTD sponsor learns, or is advised by an airplane manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate an FTD used in the sponsor's training program is available, the sponsor must immediately notify the NSPM.

End Rule Language (§ 60.13)

Begin QPS Requirements

g. Flight test data used to validate FTD performance and handling qualities must have been gathered in accordance with a flight test program containing the following:

(1) A flight test plan, that contains:

(a) The required maneuvers and procedures.

(b) For each maneuver or procedure —

(i) The procedures and control input the flight test pilot and/or engineer are to use.

(ii) The atmospheric and environmental conditions.

(iii) The initial flight conditions.

(iv) The airplane configuration, including weight and center of gravity.

(v) The data that is to be gathered.

(vi) Any other appropriate factors.

(2) Appropriately qualified flight test personnel.

(3) An understanding of the accuracy of the data to be gathered.

(4) Appropriate and sufficient data acquisition equipment or system(s), including appropriate data reduction and analysis methods and techniques, as would be acceptable to the FAA's Aircraft Certification Service.

(5) Calibration of data acquisition equipment and airplane performance instrumentation must be current and traceable to a recognized standard.

h. The data presented, regardless of source, must be presented:

(1) in a format that supports the FTD validation process;

(2) in a manner that is clearly readable and annotated correctly and completely;

(3) with resolution sufficient to determine compliance with the tolerances set forth in attachment 2 of this appendix.

(4) with any necessary guidance information provided; and

(5) without alteration, adjustments, or bias; however the data may be re-scaled, digitized, or otherwise manipulated to fit the desired presentation.

i. After completion of any additional flight test, a flight test report must be submitted in support of the objective data. The report must contain sufficient data and rationale to support qualification of the FTD at the level requested.

End QPS Requirements

Begin Information

j. Any necessary data and the flight test plan should be reviewed with the NSP staff well in advance of commencing the flight test.

End Information

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10. Special Equipment and Personnel Requirements for Qualification of the FTD

Begin Rule Language (§ 60.14)

a. When notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish or assist in the accomplishment of tests during initial, recurrent, or special evaluations.

End Rule Language (§ 60.14)

Begin Information

b. Examples of a special evaluation would be an evaluation conducted at the request of the TPAA or as a result of comments received from users of the FTD that, upon analysis and confirmation, might cause a question as to the continued qualification or use of the FTD.

c. The NSPM will notify the sponsor at least 24 hours in advance of the evaluation if special equipment or personnel will be required to conduct the evaluation. Examples of special equipment include spot photometers, flight control measurement devices, sound analyzer, etc. Examples of special personnel would be those specifically qualified to install or use any special equipment when its use is required.

End Information

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11. Initial (and Upgrade) Qualification Requirements

Begin Rule Language (§ 60.15)

a. For each FTD, the sponsor must submit a request through the TPAA to have the NSPM evaluate the FTD for initial qualification at a specific level. The request must be submitted in the form and manner described in the appropriate QPS.

b. The request must include all of the following:

(1) A statement that the FTD meets all of the applicable provisions of this part.

(2) A statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification will be maintained, except where modified as authorized in § 60.23. The statement must include a description of the procedure.

(3) A statement signed by at least one pilot who meets the requirements of paragraph (c) of this section asserting that each pilot so approved has determined that the following requirements have been met:

(i) The FTD systems and sub-systems function equivalently to those in the airplane or set of airplanes.

(ii) The performance and flying qualities of the FTD are equivalent to those of the airplane or set of airplanes.

(iii) For type specific FTD's, the cockpit configuration conforms to the configuration of the airplane make, model, and series being simulated.

(4) A list of all of the operations tasks or FTD systems in the subjective test appendix of the appropriate QPS for which the FTD has not been subjectively tested (*e.g.*, circling approaches, windshear training, etc.) and for which qualification is not sought.

(5) A qualification test guide (QTG) that includes all of the following:

(i) Objective data obtained from airplane testing or another approved source.

(ii) Correlating objective test results obtained from the performance of the FTD as prescribed in the appropriate QPS.

(iii) The general FTD performance or demonstration results prescribed in the appropriate QPS.

(iv) A description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification.

c. The pilot or pilots who make the statement required by paragraph (b)(3) of this section must—

(1) Be designated by the sponsor;

(2) Be approved by the TPAA; and

(3) Be qualified in —

(i) The airplane or set of airplanes being simulated; or

(ii) For airplane types not yet issued a type certificate, an airplane type similar in size and configuration.

d. The subjective tests that form the basis for the statements described in paragraph (b)(3) of this section and the objective tests referenced in paragraph (b)(5) of this section must be accomplished at the sponsor's training facility except as provided for in the appropriate QPS.

e. The person seeking to qualify the FTD must provide the NSPM access to the FTD for the length of time necessary for the NSPM to complete the required evaluation of the FTD for initial qualification, which includes the conduct and evaluation of objective and subjective tests, including general FTD requirements, as described in the appropriate QPS, to determine that the FTD meets the standards in that QPS.

f. When the FTD passes an evaluation for initial qualification, the NSPM issues a Statement of Qualification that includes all of the following:

(1) Identification of the sponsor.

(2) Identification of the make, model, and series of the airplane or set of airplanes being simulated.

(3) Identification of the configuration of the airplane of set or airplanes being simulated (*e.g.*, engine model or models, flight instruments, navigation or other systems, etc.).

(4) A statement that the FTD is qualified as a flight training device.

(5) Identification of the qualification level of the FTD.

(6) A list of all of the operations tasks or FTD systems in the subjective test appendix of the appropriate QPS for which the FTD has not been subjectively tested and for which the FTD is not qualified (*e.g.*, circling approaches, windshear training, etc.).

g. After the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG, with the results of the FAA-witnessed tests and demonstrations together with the results of all the objective tests and demonstrations described in the appropriate QPS.

h. Upon issuance of the Statement of Qualification the updated QTG becomes the MQTG and must then be made available to the FAA upon request.

End Rule Language (§ 60.15)

Begin QPS Requirement

i. The QTG described in paragraph 11.b.(4) of this appendix, must provide the documented proof of compliance with the FTD objective tests in attachment 2 of this appendix.

j. The QTG is prepared and submitted by the sponsor, or the sponsor's agent on behalf of the sponsor, through the TPAA to the NSPM for review and approval, and must include, for each objective test:

(1) parameters, tolerances, and flight conditions;

(2) pertinent and complete instructions for the conduct of automatically and manually conducted tests;

(3) a means of comparing the FTD's test results to the objective data;

(4) statements of how a particular test was accomplished or that certain requirements have been met (see appendices to this document for additional information);

(5) other information appropriate to the qualification level of the FTD.

k. The QTG described in paragraph 11.b.(4) of this appendix, must include the following:

(1) A QTG cover page with sponsor and FAA approval signature blocks (see attachment 5, Figure 2, of this appendix for a sample QTG cover page).

(2) A recurrent evaluation schedule requirements page '' to be used by the NSPM to establish and record the frequency with which recurrent evaluations must be conducted and any subsequent changes that may be determined by the NSPM. See attachment 5, Figure 4, of this appendix for a sample Recurrent Evaluation Schedule Requirements page.

(3) An FTD information page that provides the information listed below (see attachement 5, Figure 3, of this appendix for a sample FTD information page). For convertible FTDs, a separate page is submitted for each configuration of the FTD.

(a) The sponsor's FTD identification number or code.

(b) The airplane model and series, or set of airplanes, being simulated.

(c) The aerodynamic data revision number or reference.

(d) The engine model(s) and its data revision number or reference.

(e) The flight control data revision number or reference.

(f) The flight management system identification and revision level.

(g) The FTD model and manufacturer.

(h) The date of FTD manufacture.

(i) The FTD computer identification.

(j) The visual system model and manufacturer, including display type.

(k) The motion system type and manufacturer, including degrees of freedom.

(4) A Table of Contents.

(5) A log of revisions and a list of effective pages.

(6) The source data.

(7) A glossary of terms and symbols used (including sign conventions and units).

(8) Statements of compliance and capability (SOC's) with certain requirements. SOC's must provide references to the sources of information for showing the capability of the FTD to comply with the requirement, a rationale explaining how the referenced material is used, mathematical equations and parameter values used, and the conclusions reached; *i.e.* that the FTD complies with the requirement. Refer to the ''Additional Details'' column in attachment 1 of this appendix, ''FTD Standards,'' or in the ''Test Details'' column in attachment 2 of this appendix, ''FTD Objective Tests,'' to see when SOC's are required.

(9) Recording procedures or equipment required to accomplish the objective tests.

(10) The following information for each objective test designated in attachment 2 of this appendix, as applicable to the qualification level sought.

(a) Name of the test.

(b) Objective of the test.

(c) Initial conditions.

(d) Manual test procedures.

(e) Automatic test procedures (if applicable).

(f) Method for evaluating FTD objective test results.

(g) List of all parameters driven or constrained during the automatically conducted test(s).

(h) List of all parameters driven or constrained during the manually conducted test(s).

(i) Tolerances for relevant parameters.

(j) Source of Airplane Test Data (document and page number).

(k) Copy of the Airplane Test Data (if located in a separate binder, a cross reference for the identification and page number for pertinent data location must be provided).

(l) FTD Objective Test Results as obtained by the sponsor. Each test result must reflect the date completed and must be clearly labeled as a product of the device being tested.

l. Form and manner of presentation of objective test results in the QTG:

(1) The sponsor's FTD test results must be recorded in a manner, acceptable to the NSPM, that will allow easy comparison of the FTD test results to airplane test data (*e.g.*, use of a multi-channel recorder, line printer, cross plotting, overlays, transpariencies, etc.).

(2) FTD results must be labeled using terminology common to airplane parameters as opposed to computer software identifications.

(3) Airplane data documents included in a QTG may be photographically reduced only if such reduction will not alter the graphic scaling or cause difficulties in scale interpretation or resolution.

(4) Scaling on graphical presentations must provide the resolution necessary to evaluate the parameters shown in attachment 2 of this appendix.

(5) For tests involving time histories, flight test data sheets (or transparencies thereof) and FTD test results must be clearly marked with appropriate reference points to ensure an accurate comparison between FTD and airplane with respect to time. Time histories recorded via a line printer are to be clearly identified for cross-plotting on the airplane data. Over-plots must not obscure the reference data.

m. The sponsor may elect to complete the QTG objective tests at the manufacturer's facility. Tests performed at this location must be conducted after assembly of the FTD has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate FTD performance at the sponsor's training facility by repeating a representative sampling of all the objective tests in the QTG and submitting these repeated test results to the NSPM. This sample must consist of at least one-third of the QTG objective tests. The QTG must be clearly annotated to indicate when and where each test was accomplished.

n. The sponsor may elect to complete the subjective tests at the manufacturer's facility. Tests performed at this location will be conducted after assembly of the FTD has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate FTD performance at the sponsor's training facility by having the pilot(s) who performed these tests originally (or similarly qualified pilot(s)), repeat a representative sampling of these subjective tests and submit a statement to the NSPM that the FTD has not changed from the original determination. The report must clearly indicate when and where these repeated tests were completed, but need not take more than one normal FTD period (*e.g.,* 4 to 8 hours) to complete.

o. The sponsor must maintain a copy of the MQTG at the FTD location. After [date 6 years from the effective date of the final rule] all MQTG's, regardless of initial qualification date of the FTD, must be available in an electronic format, acceptable to the NSPM. The electronic MQTG must include all objective data obtained from airplane testing, or another approved source (reformatted or digitized), together with correlating objective test results obtained from the performance of the FTD (reformatted or digitized) as prescribed in this document, the general FTD performance or demonstration results (reformatted or digitized) prescribed in this document, and a description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification. This electronic MQTG must include the original airplane flight test data used to validate FTD performance and handling qualities in either the original digitized format from the data supplier or an electronic scan of the original flight test time-history plots that were provided by the data supplier. An electronic copy of MQTG must be provided to the NSPM.

End QPS Requirements

Begin Information

p. Problems with objective test results are handled according to the following:

(1) If a problem with an objective test result is detected by the NSP evaluation team during an evaluation, the test may be repeated and/or the QTG may be amended.

(2) If it is determined that the results of an objective test do not support the level requested but do support a lower level, the NSPM may qualify the FTD at that lower level. For example, if a Level 6 evaluation is requested and the FTD fails to meet the Level 6 Spiral Stability test tolerances but does meet the Level 5 tolerances, it could be qualified at Level 5.

q. After the NSPM issues a statement of qualification to the sponsor when an FTD is successfully evaluated, the FTD is recommended to the TPAA, who will exercise authority on behalf of the Administrator in approving the FTD in the appropriate airplane flight training program.

r. Under normal circumstances, the NSPM establishes a date for the initial or upgrade evaluation within 10 working days after determining that a complete QTG is acceptable. Unusual circumstances may warrant establishing an evaluation date before this determination is made; however, once a schedule is agreed to, any slippage of the evaluation date at the sponsor's request may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation. A sponsor may commit to an initial evaluation date under this early process, in coordination with and the agreement of the NSPM, but the request must be in writing and must include an acknowledgment of the potential schedule impact if the sponsor slips the evaluation from this early-committed date. See attachment 5, figure 5 of this appendix, Sample Request for Initial Evaluation Date.

s. A convertible FTD is addressed as a separate FTD for each model and series airplane or set of airplanes to which it will be converted and for the FAA qualification level sought. An NSP evaluation is required for each configuration. For example, if a sponsor seeks qualification for two models of an airplane type using a convertible FTD, two QTG's, or a supplemented QTG, and two evaluations are required.

t. The numbering system used for objective test results in the QTG should closely follow the numbering system set out in attachment 2 of this appendix, FTD Objective Tests.

End Information

12. Additional Qualifications for Currently Qualified FTD's

Begin Rule Language (§ 60.16)

a. A currently qualified FTD is required to undergo an additional qualification process if a user intends to use the FTD for meeting training, evaluation, or flight experience requirements of this chapter beyond the qualification issued to the sponsor. This process consists of the following—

(1) The sponsor:

(i) Must submit to the NSPM all modifications to the MQTG that are required to support the additional qualification.

(ii) Must describe to the NSPM all modifications to the FTD that are required to support the additional qualification.

(iii) Must submit a statement to the NSPM that a pilot, designated by the sponsor in accordance with § 60.15(c) and approved by the TPAA for the user, has subjectively evaluated the FTD in those areas not previously evaluated.

(2) The FTD must successfully pass an evaluation—

(i) For initial qualification, in accordance with § 60.15, in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification (e.g., objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

b. In making the determinations described in paragraph (a)(2) of this section, the NSPM considers factors including the existing qualification of the FTD, any modifications to the FTD hardware or software that are involved, and any additions or modifications to the MQTG.

c. The FTD is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with § 60.15(f).

d. The sponsor may not modify the FTD except as described in § 60.23.

End Rule Language (§ 60.16)

13. Previously Qualified FTDs

Begin Rule Language (§ 60.17)

a. Unless otherwise specified by an FSD Directive, further referenced in the appropriate QPS, or as specified in paragraph (e) of this section, an FTD qualified before [the effective date of the final rule] will retain its qualification as long as it continues to meet the standards, including the performance demonstrations and the objective test results recorded in the MQTG, under which it was originally evaluated, regardless of sponsor, and as long as the sponsor complies with the applicable provisions of this part.

b. If the FTD qualification is lost under § 60.27 and not restored under § 60.27 for two (2) years or more, the qualification basis for the re-qualification will be those standards in effect and current at the time of re-qualification application.

c. Except as provided in paragraph (d) of this section, any change in FTD qualification level initiated on or after [the effective date of the final rule] requires an evaluation for initial qualification in accordance with this part.

d. The NSPM may downgrade a qualified FTD without requiring and without conducting an initial evaluation for the new qualification level. Subsequent recurrent evaluations will use the existing MQTG, modified as necessary to reflect the new qualification level.

e. When the sponsor has appropriate validation data available and receives approval from the NSPM, the sponsor may adopt tests and associated tolerances described in the current qualification standards as the tests and tolerances applicable for the continuing qualification of a previously qualified FTD. The updated test(s) and tolerance(s) must be made a permanent part of the MQTG.

End Rule Language (§ 60.17)

Begin Information

f. Other certificate holders or persons desiring to use an FTD may contract with FTD sponsors to use those FTDs already qualified at a particular level for an airplane type or set of airplanes and approved for use within an FAA-approved flight training program. Such FTDs are not required to undergo an additional qualification process, except as described in paragraph 12, of this appendix.

Note: The reader is reminded of the requirement that each FTD user obtain approval for use of each FTD in an FAA-approved flight training program from the appropriate TPAA.

End Information

14. Inspection, Maintenance, and Recurrent Evaluation Requirements

Begin Rule Information (§ 60.19)

a. Inspection. No sponsor may use or allow the use of or offer the use of an FTD for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless the sponsor does the following:

(1) Accomplishes all appropriate QPS Appendix 1 performance demonstrations and all appropriate QPS Appendix 2 objective tests each year. To do this, the sponsor must conduct a minimum of four evenly spaced inspections throughout the year, as approved by the NSPM. The performance demonstrations and objective test sequence and content of each inspection in this sequence will be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM looks for a balance and a mix from the performance demonstrations and objective test requirement areas listed as follows:

(i) Performance.

(ii) Handling qualities.

(iii) Motion system (where appropriate).

(iv) Visual system (where appropriate).

(v) Sound system (where appropriate).

(vi) Other FTD systems.

(2) Completes a functional preflight check in accordance with the appropriate QPS each calendar day prior to the start of the first FTD period of use that begins in that calendar day.

(3) Completes at least one functional preflight check in accordance with the appropriate QPS in every 7 consecutive calendar days.

(4) Maintains a discrepancy log.

(5) Ensures that, when a discrepancy is discovered, the following requirements are met:

(i) Each discrepancy entry must be maintained in the log until the discrepancy is corrected as specified in § 60.25(b) and for at least 30 days thereafter.

(ii) The corrective action taken for each discrepancy and the date that action is taken must be entered in the log. This entry concerning the corrective action must be maintained for at least 30 days thereafter.

(iii) The discrepancy log is kept in a form and manner acceptable to the Administrator and is kept in or immediately adjacent to the FTD.

b. Recurrent evaluation.

(1) This evaluation consists of performance demonstrations, objective tests, and subjective tests, including general FTD requirements, as described in the appropriate QPS or as may be amended by an FSD Directive.

(2) The sponsor must contact the NSPM to schedule the FTD for recurrent evaluations not later than 60 days before the recurrent evaluation is due.

(3) The sponsor must provide the NSPM access to the objective test results and general FTD performance or demonstration results in the MQTG, and access to the FTD for the length of time necessary for the NSPM to complete the required recurrent evaluations, weekdays between 6 o'clock AM (local time) and 6 o'clock PM (local time).

(4) No sponsor may use, or allow the use of, or offer the use of, an FTD for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless the FTD has passed an NSPM-conducted recurrent evaluation within the previous 12 calendar months or as otherwise provided for in the MQTG.

(5) Recurrent evaluations conducted in the calendar month before or after the calendar month in which these recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

c. Maintenance. The sponsor is responsible for continuing corrective and preventive maintenance on the FTD to ensure that it continues to meet the requirements of § 60.15(b).

End Rule Language (§ 60.19)

Begin QPS Requirement

d. The preflight inspections described in paragraphs 14.a.(2) and (3) of this appendix, must consist of, as a minimum—

(1) An exterior inspection of the FTD for appropriate hydraulic (if applicable), pneumatic, and electrical connections (*e.g.*, in place, not leaking, appear serviceable);

(2) A check that the area around the FTD is free of potential obstacles throughout the motion system range (if applicable);

(3) A review of the FTD discrepancy log;

(4) A functional check of the major FTD systems and simulated airplane, or set of airplanes, systems (*e.g.*, cockpit instrumentation, control loading, and adequate air flow for equipment cooling) by doing the following:

(a) Turn on main power, including motion system (if applicable), and allow to stabilize.

(b) Connect airplane power. This may be connected through ''quick start'' of airplane engines, auxiliary power unit, or ground power. Airplane operations will require operating engines.

(c) A general look for light bulb function, lighted instruments and switches, etc., as well as inoperative ''flags'' or other such indications.

(d) Check Flight Management System(s) (and other date-critical information) for proper date range.

(e) Select takeoff position and from either pilot position, if applicable, observe the visual system, for proper operation (including light-point color balance and convergence, edge-matching and blending, etc.).

(f) If applicable, adjust visibility value to inside of the far end of the runway and release ''position freeze or flight freeze.'' From either pilot position, advance power to taxi down the runway (if applicable, observe visual system; check sound system and engine instrument response) and apply spoiler/speed brake, if applicable, and wheel brakes (to check spoiler/speed brake and wheel brake operation); select reverse thrust, if applicable, to check normal operation and continued deceleration.

(g) Select position on final approach, at least five (5) miles out (if applicable, observe visual scene). From either pilot position, adjust airplane configuration appropriately (if applicable, check for normal gear and flap operation). If applicable, adjust visibility to see entire airport. Release ''position freeze'' or ''flight freeze.'' Make a rapid left and right bank (check control feel and freedom; observe proper airplane response; and exercise motion system, if applicable). Observe simulated airplane systems operation.

(h) Extend gear and flaps,

(i) Fly to and land at airport, or select takeoff position.

(j) Shut down engines, turn off lights, turn off main power supply and motion system, as applicable.

(k) Record ''functional preflight'' in the FTD discrepancy log book, including any item found to be missing, malfunctioning, or inoperative.

End QPS Requirements

Begin Information

e. If the NSP evaluator plans to accomplish specific tests during a normal recurrent evaluation that requires the use of special equipment or technicians, the sponsor will be notified as far in advance of the evaluation as practical; usually not less than 24 hours. These tests include latencies, control dynamics, sounds and vibrations, motion, and/or some visual system tests as may be applicable.

f. The recurrent evaluations described in paragraph 13.a.(7) of this appendix, require approximately eight (8) hours of FTD time and consist of the following:

(1) A review of the results of the objective tests and all the designated FTD performance demonstrations conducted by the sponsor since the last scheduled recurrent evaluation.

(2) At the discretion of the evaluator, a selection of approximately 20 percent of those objective tests conducted since the last scheduled recurrent evaluation and a selection of approximately 10 percent of the remaining objective tests in the MQTG. The tests chosen will be performed either automatically or manually, at the discretion of the evaluator.

(3) A subjective test of the FTD to perform a representative sampling of the tasks set out in appendix 3 of this document, selected at the discretion of the evaluator.

(4) An examination of the functions of the FTD, including, but not necessarily limited to the motion, visual, and sound system as applicable, and the instructor operating station, including the normal and simulated malfunctions of the simulated airplane systems.

End Information

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15. Logging FTD Discrepancies

Begin Rule Language (§ 60.20)

Each instructor, check airman, or representative of the Administrator conducting training or evaluation, or observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the FSD, must write or cause to be written a description of that discrepancy into the discrepancy log at the end of the FSD preflight or FSD use session.

End Rule Language (§ 60.20)

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16. [Reserved]

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17. Modifications to FTDs

Begin Rule Language (§ 60.23)

a. When the sponsor or the FAA determines that any of the following circumstances exist and the FAA determines that the FTD cannot be used adequately to train, evaluate, or provide flight experience for flightcrew members, the sponsor must modify the FTD accordingly:

(1) The airplane manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the airplane or set of airplanes being simulated;

(2) A change in airplane performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs; or

(4) Other circumstances as determined by the NSPM.

b. When the FAA determines that FTD modification is necessary for safety of flight reasons, the sponsor of each affected FTD must ensure that the FTD is modified according to the FSD Directive regardless of the original qualification standards applicable to any specific FTD.

c. Before modifying a qualified FTD, the sponsor must notify the NSPM and the TPAA as follows:

(1) The notification must include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the FTD.

(2) The notification must be submitted in a form and manner as specified in the appropriate QPS.

d. If the sponsor intends to add additional equipment or devices intended to simulate airplane appliances; modify hardware or software which would affect flight or ground dynamics, including revising FTD programming or replacing or modifying the host computer; or if the sponsor is changing or modifying the control loading system (or motion, visual, or sound system for FTD levels requiring these tests and measurements), the following applies:

(1) The sponsor must meet the notification requirements of paragraph (c) of this section and must include in the notification the results of all objective tests that have been re-run with the modification incorporated, including any necessary updates to the MQTG.

(2) However, the sponsor may not use, or allow the use of, or offer the use of, the FTD with the proposed modification for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless or until the sponsor receives written notification from the NSPM approving the proposed modification. Prior to approval, the NSPM may require that the modified FTD be evaluated in accordance with the standards for an evaluation for initial qualification or any part thereof before it is placed in service.

e. The sponsor may not modify a qualified FTD until one of the following has occurred:

(1) For circumstances described in paragraph (b) or (d) of this section, the sponsor receives written approval from the NSPM that the modification is authorized.

(2) For circumstances other than those described in paragraph (b) or (d) of this section, either:

(i) Twenty-one days have passed since the sponsor notified the NSPM and the TPAA of the proposed modification and the sponsor

has not received any response from the NSPM or TPAA; or

(ii) The NSPM or TPAA approves the proposed modification in fewer than 21 days since the sponsor notified the NSPM and the TPAA of the proposed modification.

f. When a modification is made to an FTD, the sponsor must notify each certificate holder planning to use that FTD of that modification prior to that certificate holder using that FTD the first time after the modification is complete.

g. The MQTG must be updated with current objective test results in accordance with § 60.15(b)(5) and appropriate flight test data in accordance with § 60.13, each time an FTD is modified and an objective test is affected by the modification. If this update is initiated by an FSD Directive, the direction to make the modification and the record of the modification completion must be filed in the MQTG.

End Rule Language (§ 60.23)

Begin QPS Requirements

h. The notification described in paragraph 17.c.(1) of this appendix, will include a statement signed by a pilot, qualified in the airplane type, or set of airplanes, being simulated and designated by the sponsor, that, with the modification proposed—

(1) the FTD systems and sub-systems function equivalently to those in the airplane, or set of airplanes, being simulated;

(2) the performance and flying qualities of the FTD are equivalent to those of the airplane, or set of airplanes, being simulated; and

(3) the cockpit configuration conforms to the configuration of the airplane, or set of airplanes, being simulated.

End QPS Requirements

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18. Operation With Missing, Malfunctioning, or Inoperative Components

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Begin Rule Language (§ 60.25)

a. No person may use or allow the use of or offer the use of an FTD with a missing, malfunctioning, or inoperative component for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification during maneuvers, procedures, or tasks that require the use of the correctly operating component.

b. Each missing, malfunctioning, or inoperative component must be repaired or replaced within 30 calendar days unless otherwise authorized by the NSPM. Failure to repair or replace this component within the prescribed time may result in loss of FTD qualification.

c. Each missing, malfunctioning, or inoperative component must be placarded as such on or adjacent to that component in the FTD and a list of the currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the FTD for review by users of the device.

End Rule Language (§ 60.25)

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19. Automatic Loss of Qualification and Procedures for Restoration of Qualification

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Begin Rule Language (§ 60.27)

a. An FTD is not qualified if any of the following occurs:

(1) The FTD is not used in the sponsor's FAA-approved flight training program in accordance with § 60.9(b)(4).

(2) The FTD is not maintained and inspected in accordance with § 60.19.

(3) The FTD is physically moved from one location to another, regardless of distance.

(4) The FTD is disassembled (*e.g.,* for repair or modification) to such an extent that it cannot be used for training, evaluation, or experience activities.

(5) The MQTG is missing or otherwise not available and a replacement is not made within 30 days.

b. If FTD qualification is lost under paragraph (a) of this section, qualification is restored when either of the following provisions are met:

(1) The FTD successfully passes an evaluation:

(i) For initial qualification, in accordance with § 60.15 in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification approved as necessary by the NSPM.

(2) The NSPM or the TPAA advises the sponsor that an evaluation is not necessary.

c. In making the determinations described in paragraph (b) of this section, the NSPM considers factors including the number of inspections and recurrent evaluations missed, the amount of disassembly and re-assembly of the FTD that was accomplished, and the care that had been taken of the device since the last evaluation.

End Rule Language (§ 60.27)

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20. Other Losses of Qualification and Procedures for Restoration of Qualification

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Begin Rule Language (§ 60.29)

a. Except as provided in paragraph (c) of this section, when the NSPM or the TPAA notifies the sponsor that the FTD no longer meets qualification standards, the following procedure applies:

(1) The NSPM or the TPAA notifies the sponsor in writing that the FTD no longer meets some or all of its qualification standards.

(2) The NSPM or the TPAA sets a reasonable period (but not less than 7 days) within which the sponsor may submit written information, views, and arguments on the FTD qualification.

(3) After considering all material presented, the NSPM or the TPAA notifies the sponsor of the FTD qualification.

(4) If the NSPM or the TPAA notifies the sponsor that some or all of the FTD is no longer qualified, it becomes effective not less than 30 days after the sponsor receives notice of it unless—

(i) The NSPM or the TPAA find under paragraph© of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce; or

(ii) The sponsor petitions for reconsideration of the NSPM or the TPAA finding under paragraph (b) of this section.

b. When a sponsor seeks reconsideration of a decision from the NSPM or the TPAA concerning the FTD qualification, the following procedure applies:

(1) The sponsor must petition for reconsideration of that decision within 30 days of the date that the sponsor receives a notice that some or all of the FTD is no longer qualified.

(2) The sponsor must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of the determination by the NSPM or the TPAA that the FTD is no longer qualified unless the NSPM or the TPAA has found, under paragraph (c) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

c. If the NSPM or the TPAA find that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The NSPM or the TPAA withdraws qualification of some or all of the FTD and makes the withdrawal of qualification effective on the day the sponsor receives notice of it.

(2) In the notice to the sponsor, the NSPM or the TPAA articulates the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

End Rule Language (§ 60.29)

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21. Recordkeeping and Reporting

Begin Rule Language (§ 60.31)

a. The FTD sponsor must maintain the following records for each FTD it sponsors:

(1) The MQTG and each amendment thereto.

(2) A copy of the programming used during the evaluation of the FTD for initial qualification and for any subsequent upgrade qualification, and a copy of all programming changes made since the evaluation for initial qualification.

(3) A copy of all of the following:

(i) Results of the evaluations for the initial and each upgrade qualification.

(ii) Results of the quarterly objective tests and the approved performance demonstrations conducted in accordance with § 60.19(a) for a period of 2 years.

(iii) Results of the previous three recurrent evaluations, or the recurrent evaluations from

the previous 2 years, whichever covers a longer period.

(iv) Comments obtained in accordance with § 60.9(b)(1) for a period of at least 18 months.

(4) A record of all discrepancies entered in the discrepancy log over the previous 2 years, including the following:

(i) A list of the components or equipment that were or are missing, malfunctioning, or inoperative.

(ii) The action taken to correct the discrepancy.

(iii) The date the corrective action was taken.

(5) A record of all modifications to FTD hardware configurations made since initial qualification.

b. The FTD sponsor must keep a current record of each certificate holder using the FTD. The sponsor must provide a copy of this list to the NSPM at least semiannually.

c. The records specified in this section must be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM.

d. The sponsor must submit an annual report, in the form of a comprehensive statement signed by the quality assurance primary contact point, certifying that the FTD continues to perform and handle as qualified by the NSPM.

End Rule Language (§ 60.31)

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22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements

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Begin Rule Language (§ 60.33)

a. No person may make, or cause to be made, any of the following:

(1) A fraudulent or intentionally false statement in any application or any amendment thereto, or any other report or test result required by this part or the QPS.

(2) A fraudulent or intentionally false statement in or omission from any record or report that is kept, made, or used to show compliance with this part or the QPS, or to exercise any privileges under this chapter.

(3) Any reproduction or alteration, for fraudulent purpose, of any report, record, or test result required under this part or the QPS.

b. The commission by any person of any act prohibited under paragraph (a) of this section is a basis for any one or any combination of the following:

(1) A civil penalty.

(2) Suspension or revocation of any certificate held by that person that was issued under this chapter.

(3) The removal of FTD qualification and approval for use in a training program.

c. The following may serve as a basis for removal of qualification of an FTD including the withdrawal of authorization for use of an FTD; or denying an application for a qualification:

(1) An incorrect statement, upon which the FAA relied or could have relied, made in support of an application for a qualification or a request for approval for use.

(2) An incorrect entry, upon which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for an FTD qualification or an approval for use.

End Rule Language (§ 60.33)

23. [Reserved]

24. Levels of FTD.

Begin Information

a. The following is a general description of each level of FTD. Detailed standards and tests for the various levels of FTDs are fully defined in attachments 1 through 3 of this appendix.

(1) *Level 1.* Currently Reserved for possible future use.

(2) *Level 2.* A device that may have an open flight deck area, or an enclosed cockpit; a generic aero program that is representative of the simulated airplane, or set of airplanes; at least one fully functional system; and control loading that, as a minimum, is representative of the simulated airplane, or set of airplanes, only at an approach speed.

(3) *Level 3.* A device that has an enclosed generic cockpit with a generic aerodynamic program; all applicable operating systems; control loading that is representative of the simulated airplane, or set of airplanes, throughout it's ground and flight envelope; and significant sound representation.

(4) *Level 4.* A device that may have an open, airplane-specific, flight deck area, or an enclosed, airplane-specific cockpit; at least one operating system; and possessing at least air/ground logic (no aerodynamic programming required).

(5) *Level 5.* A device that may have an open, airplane-specific, flight deck area, or an enclosed, airplane-specific cockpit, with a generic aerodynamic program; at least one operating system; and control loading that as a minimum is representative of the simulated airplane only at an approach speed.

(6) *Level 6.* A device that has an enclosed, airplane-specific cockpit and aerodynamic program; all airplane systems operating; control loading that is representative of the simulated airplane throughout it's ground and flight envelope; and significant sound representation.

b. Non-visual simulators have been placed into Level 6 for reference purposes. The placement of these unique simulators into this level has not affected the standards or criteria of Level 6 FTDs, nor will these FTDs affect the standards or criteria of these simulators.

End Information

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25. [Reserved]

Attachment 1 to Appendix B to Part 60—General FTD Requirements

1. General

Begin QPS Requirements

a. Requirements

Certain FTD requirements included in this appendix must be supported with a Statement of Compliance and Capability (SOC) and, in designated cases, FTD performance must be recorded and the results made part of the QTG. In the following tabular listing of FTD standards, requirements for SOC's are indicated in the ''Additional Details'' column.

End QPS Requirements

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b. Discussion

Begin Information

(1) This attachment describes the minimum requirements for qualifying Level 2 through Level 6 flight training devices (information regarding Level 1 FTDs is found in paragraph 24 in the body of this QPS). To determine the complete requirements for a specific level FTD, the objective tests in attachment 2 and the subjective tests listed in attachment 3 for this QPS must be consulted.

(2) The material contained in this attachnment is divided into the following categories:

(a) General cockpit configuration.

(b) Simulator programming.

(c) Equipment operation.

(d) Equipment and facilities for instructor/evaluator functions.

(e) Sound system.

End Information

TABLE OF MINIMUM FLIGHT TRAINING DEVICE REQUIREMENTS INFORMATION

QPS Requirement	FTD level						Additional details	Notes
General FTD Standards	1	2	3	4	5	6		
2. General Cockpit Configuration:								
a. The FTD must have a cockpit that is a full-scale replica of the airplane, or set of airplanes, simulated with controls, equipment, observable cockpit indicators, circuit breakers, and bulkheads properly located, functionally accurate and replicating the airplane or set of airplanes. The direction of movement of controls and switches must be identical to that in the airplane or set of airplanes.			X			X	Level 3 must be representative of a single set of airplanes, and must have navigation controls, displays, and instrumentation as set out in 14 CFR Part 91, § 91.33 for operation in accordance with instrument flight rules (IFR). Crewmember seats must afford the capability for the occupant to be able to achieve the design ''eye position'' for specific airplanes, or to approximate such a position for a generic set of airplanes.	For FTD purposes, the cockpit consists of all that space forward of a cross section of the fuselage at the most extreme aft setting of the pilots' seats including additional, required crewmember duty stations and those required bulkheads aft of the pilot seats.
b. The FTD must have equipment (*i.e.*, instruments, panels, systems, and controls) simulated sufficiently for the authorized training/checking events to be accomplished. The installed equipment, must be located in a spatially correct configuration, and may be in a cockpit or an open flight deck area. Actuation of this equipment must replicate the appropriate function in the airplane.		X		X	X		Level 2 must be representative of a single set of airplanes.	
c. Circuit breakers must function accurately when they are involved in operating procedures or malfunctions requiring or involving flight crew response.		X	X		X	X	Level 6 devices must have installed circuit breakers properly located in the FTD cockpit.	
3. Programming:								
a. The FTD must provide the proper effect of aerodynamic changes for the combinations of drag and thrust normally encountered in flight. This must include the effect of change in airplane attitude, thrust, drag, altitude, temperature, and configuration.		X	X		X	X	Levels 3 and 6 additionally require the effects of change in gross weight and center of gravity. Levels 2, 3, and 5 require only generic aerodynamic programming.	
b. The FTD must have the computer (analog or digital) capability (*i.e.*, capacity, accuracy, resolution, and dynamic response) needed to meet the qualification level sought.		X	X	X	X	X		

TABLE OF MINIMUM FLIGHT TRAINING DEVICE REQUIREMENTS INFORMATION—Continued

QPS Requirement	FTD level						Additional details	Notes
General FTD Standards	1	2	3	4	5	6		
c. The FTD hardware and programming must be updated within 6 months of any airplane modifications or data releases (or any such modification or data releases applicable to the set of airplanes) unless, with prior coordination, the NSPM authorizes otherwise.		X	X	X	X	X		
d. Relative responses of the cockpit instruments (and the visual and motion systems, if installed and training, testing, or checking credits are being sought) must be coupled closely to provide integrated sensory cues. The instruments (and the visual and motion systems, if installed, and training, testing, or checking credits are being sought) must respond to abrupt input at the pilot's position within the allotted time, but not before the time, when the airplane or set of airplanes would respond under the same conditions. If a visual system is installed and training, testing, or checking credits are sought, the visual scene changes from steady state disturbance must occur within the appropriate system dynamic response limit but not before the instrument response (and not before the motion system onset if a motion system is installed).		X	X		X	X	A demonstration is required and must simultaneously record: the analog output from the pilot's control column, wheel, and pedals; and the output signal to the pilot's attitude indicator. These recordings must be compared to airplane response data in the following configurations: takeoff, cruise, and approach or landing. The results must be recorded in the QTG. Additionally, if a visual system is installed and training, testing, or checking credits are sought, the output signal to the visual system display (including visual system analog delays must be recorded); and if a motion system is installed and training, testing, or checking credits are sought, the output from an accelerometer attached to the motion system platform located at an acceptable location near the pilots' seats is also required.	
4. Equipment Operation:								
a. All relevant instrument indications involved in the simulation of the airplane (or set of airplanes) must automatically respond to control movement or external disturbances to the simulated airplane or set of airplanes; *e.g.*, turbulence or winds.		X	X		X	X		
b. Navigation equipment must be installed and operate within the tolerances applicable for the airplane or set of airplanes.		X	X		X	X	Levels 2 and 5 need have only that navigation equipment necessary to fly an instrument approach. Levels 3 and 6 must also include communication equipment (inter-phone and air/ground) like that in the airplane, or set of airplanes, and, if appropriate to the operation being conducted, an oxygen mask microphone system.	

TABLE OF MINIMUM FLIGHT TRAINING DEVICE REQUIREMENTS INFORMATION—Continued

QPS Requirement	FTD level						Additional details	Notes
General FTD Standards	1	2	3	4	5	6		
c. Installed systems must simulate the applicable airplane (or set of airplanes) system operation, both on the ground and in flight. At least one airplane system must be represented. Systems must be operative to the extent that applicable normal, abnormal, and emergency operating procedures included in the sponsor's training programs can be accomplished.		X	X	X	X	X	Level 6 must simulate all applicable airplane flight, navigation, and systems operation. Level 3 must have flight and navigational controls, displays, and instrumentation for powered aircraft as set out in part 91,§ 91.205 for IFR operation. Levels 2 and 5 must have functional flight and navigational controls, displays, and instrumentation.	
d. The lighting environment for panels and instruments must be sufficient for the operation being conducted.		X	X	X	X	X		
e. The FTD must provide control forces and control travel that correspond to the replicated airplane, or set of airplanes. Control forces must react in the same manner as in the airplane, or set of airplanes, under the same flight conditions.			X			X		
f. The FTD must provide control forces and control travel of sufficient precision to manually fly an instrument approach. The control forces must react in the same manner as in the airplane, or set of airplanes, under the same flight conditions.		X			X			
5. Instructor or Evaluator Facilities:								
a. In addition to the flight crewmember stations, suitable seating arrangements for an instructor/check airman and FAA Inspector must be available. These seats must provide adequate view of crewmember's panel(s).		X	X	X	X	X	.....	These seats need not be a replica of an aircraft seat and may be as simple as an office chair placed in an appropriate position.
b. The FTD must have instructor controls that permit activation of normal, abnormal, and emergency conditions, as may be appropriate. Once activated, proper system operation must result from system management by the crew and not require input from the instructor controls.		X	X	X	X	X		
6. Motion System:								

TABLE OF MINIMUM FLIGHT TRAINING DEVICE REQUIREMENTS INFORMATION—Continued

QPS Requirement	FTD level						Additional details	Notes
General FTD Standards	1	2	3	4	5	6		
a. The FTD may have a motion system; if desired, although it is not required.		X	X	X	X	X	If installed, the motion system operation may not be distracting. The motion system standards set out in QPS FAA-S–120–40C for at least Level A simulators is acceptable.	
7. Visual System:								
a. The FTD may have a visual system; if desired, although it is not required. If a visual system is installed, it must meet the following criteria: (1) Single channel, uncollimated display is acceptable (2) Minimum field of view: 18° vertical/ 24° horizontal for the pilot flying (3) Maximum paralax error: 10° per pilot (4) Scene content may not be distracting (5) Minimum distance from the pilot's eye position to the surface of a direct view display may not be less than the distance to any front panel instrument (6) Minimum resolution of 5 arc-min. for both computed and displayed pixel size (7) Maximum latency or through-put must not exceed 300 milliseconds		X	X	X	X	X	A statement of capability is required. A demonstration of latency or through-put is required. Visual system standards set out in QPS FAA–S–120–40C, for at least Level A simulators is acceptable. However, if additional authorizations (training, testing, or checking credits) are sought that require the use of a visual system, these standards apply.	
8. Sound System:								
a. The FTD must simulate significant cockpit sounds resulting from pilot actions that correspond to those heard in the airplane.			X			X		

Attachment 2 to Appendix B to Part 60—Flight Training Device (FTD) Objective Tests

1. General

Begin QPS Requirements

a. Test Requirements

(1) The ground and flight tests required for qualification are listed in the following Table of Objective Tests. Computer generated FTD test results must be provided for each test. If a flight condition or operating condition is required for the test but which does not apply to the airplane being simulated or to the qualification level sought, it may be disregarded (for example: an engine out missed approach for a single-engine airplane; a maneuver using reverse thrust for an airplane without reverse thrust capability; etc.). Each test result is compared against Flight Test Data described in § 60.13, and Paragraph 9 of this attachment. (See paragraph 1.b, of this attachment for additional information.) Although use of a driver program designed to automatically accomplish the tests is authorized, each test must be able to be accomplished manually while recording all appropriate parameters. The results must be produced on a multi-channel recorder, line printer, or other appropriate recording device acceptable to the NSPM. Time histories are required unless otherwise indicated in the Table of Objective Tests. All results must be labeled using the tolerances and units given.

(2) The Table of Objective Tests in this attachment sets out the test results required, including the parameters, tolerances, and flight conditions for FTD validation. Tolerances are provided for the listed tests because aerodynamic modeling and acquisition/development of reference data are often inexact. All tolerances listed in the following tables are applied to FTD performance. When two tolerance values are given for a parameter, the less restrictive may be used unless otherwise indicated.

(3) Certain tests included in this appendix must be supported with a Statement of Compliance and Capability (SOC). In the following tabular listing of FTD tests, requirements for SOC's are indicated in the ''Test Details'' column.

(4) When operational or engineering judgment is used in making assessments for flight test data applications for FTD validity, such judgment must not be limited to a single parameter. For example, data that exhibit rapid variations of the measured parameters may require interpolations or a ''best fit'' data section. All relevant parameters related to a given maneuver or flight condition must be provided to allow overall interpretation. When it is difficult or impossible to match FTD to airplane data throughout a time history, differences must be justified by providing a comparison of other related variables for the condition being assessed.

(5) It is not sufficient, nor is it acceptable, to program the FTD so that the aerodynamic modeling is correct only at the validation test points. Unless noted otherwise, tests must represent airplane performance and handling qualities at normal operating weights and centers of gravity (CG). If a test is supported by aircraft data at one extreme weight or CG, another test supported by aircraft data at mid-conditions or as close as possible to the other extreme is necessary. Certain tests that are relevant only at one extreme CG or weight condition need not be repeated at the other extreme. The results of the tests for Levels 3 and 6 are expected to be indicative of the device's performance and handling qualities throughout the following:

(a) the airplane weight and CG envelope;

(b) the operational envelope; and

(c) varying atmospheric ambient and environmental conditions— including the extremes authorized for the respective airplane or set of airplanes.

(6) When comparing the parameters listed to those of the airplane, sufficient data must also be provided to verify the correct flight condition and airplane configuration changes. For example: to show that control force is within ±5 pounds (2.2 daN) in a static stability test, data to show the correct airspeed, power, thrust or torque, airplane configuration, altitude, and other appropriate datum identification parameters must also be given. If comparing short period dynamics, normal acceleration may be used to establish a match to the airplane, but airspeed, altitude, control input, airplane configuration, and other appropriate data must also be given. If comparing landing gear change dynamics, pitch, airspeed, and altitude may be used to establish a match to the airplane, but landing gear position must also be provided. All airspeed values must be clearly annotated as to indicated, calibrated, etc., and like values used for comparison.

(7) The QTG provided by the sponsor must describe clearly and distinctly how the FTD will be set up and operated for each test. Overall integrated testing of the FTD must be accomplished to assure that the total FTD system meets the prescribed standards; i.e., it is not acceptable to test only each FTD subsystem independently. A manual test procedure with explicit and detailed steps for completion of each test must also be provided.

(8) In those cases where the objective test results authorize a ''snapshot'' result in lieu of a time-history result, the sponsor must ensure that a steady state condition exists from 5 seconds prior to, through 2 seconds after, the instant of time captured by the ''snapshot.''

(9) For previously qualified FTDs, the tests and tolerances of this appendix may be used in subsequent recurrent evaluations for any given test providing the sponsor has submitted a proposed MQTG revision to the NSPM and has received NSPM approval.

(10) FTDs are evaluated and qualified with an engine model simulating the airplane manufacturer's flight test engine. For qualification of alternate engine models (either variations of the flight test engines or other manufacturer's engines) additional FTD tests with the alternate engine models are required. Where thrust is different by more than 5% from the flight test engine, flight test data from an airplane equipped with the alternate engine is required. Where the airplane manufacturer certifies that the only impact on the FTD model is thrust, and that other variables related to the alternate engine (such as drag and thrust vector) are unchanged or are insignificantly changed, additional FTD tests may be run with the same initial conditions using the thrust from the flight test data as a driven parameter for the alternate engine model.

(11) Tests of handling qualities must include validation of augmentation devices. FTDs for highly augmented airplanes will be validated both in the unaugmented configuration (or failure state with the maximum permitted degradation in handling qualities) and the augmented configuration. Where various levels of handling qualities result from failure states, validation of the effect of the failure is necessary. Requirements for testing will be mutually agreed to between the sponsor and the NSPM on a case-by-case basis.

End QPS Requirements

b. Discussion

Begin Information

(1) If relevant winds are present in the objective data, the wind vector (magnitude and direction) should be clearly noted as part of the data presentation, expressed in conventional terminology, and related to the runway being used for the test.

End Information

TABLE OF OBJECTIVE TESTS

QPS requirement										Info notes
Test	Tolerance	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
2. Performance a. Takeoff										

TABLE OF OBJECTIVE TESTS—Continued

QPS requirement										Info notes
Test	Tolerance	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(1) Ground Acceleration Time	±5% Time or ±1 Second	Ground/Takeoff			X			X	Record acceleration time for a minimum of 80% of the total segment from brake release to V_r. Preliminary aircraft certification data may be used.	
b. Climb										
(1) Normal Climb	±3 Kts Airspeed, ±5% or ±100 FPM (0.5 Meters/Sec) Climb Rate	All Engines Operating		X	X		X	X	Record results at nominal climb speed and at nominal altitude. Manufacturer's gross climb gradient may be used for flight test data. May be a snapshot test result.	
c. Ground Deceleration										
(1) Deceleration time, using manual application of wheel Brakes; no reverse thrust	±5% time or ±1 Second	Landing Dry Runway			X			X	Record time for at least 80% of the segment from initiation of the Rejected Takeoff to full stop.	
(2) Deceleration time, using reverse thrust and no wheel brakes	±5% time or ±1 Second	Landing Dry Runway			X			X	Record time for at least 80% of the segment from initiation of Rejected Takeoff to full stop.	
d. Engines										
(1) Acceleration	±10% time	Approach or Landing		X	X		X	X	Record engine power (N_1, N_2, EPR, Torque, etc.) from idle to go-around power for a rapid (slam) throttle movement. Tolerance of ±1 second authorized for Levels 2, 3, and 5.	
(2) Deceleration	±10% Time	Ground/Takeoff		X	X		X	X	Record engine power (N_1, N_2, EPR, Torque, etc.) from Max T/O power to 90% decay of Max T/O power for a rapid (slam) throttle movement. Tolerance of ±1% second authorized for Levels 2, 3, and 5.	
3. Handling Qualities										

Note: For FTDs requiring Static or Dynamic tests at the controls, special test fixtures will not be required during initial or upgrade evaluations if the sponsor's QTG/MQTG shows both test fixture results and the result of an alternative method during the initial or upgrade evaluation would then satisfy this test requirement. Contact the NSPM for clarification of any issue regarding airplanes with reversible controls.

a. Static Control Checks										
(1)(a) Column Position vs. Force and Surface Position Calibration.	±2 lbs. (0.9daN) Breakout, ±5 lbs. (2.2 daN) or ±10% Force, ±2° Elevator.	Ground						X	Record results for an uninterrupted control sweep to the stops. (CCA: Position vs. force not required if cockpit controller is installed in the FTD.).	
(1)(b) Column Position vs. Force.	±2 lbs. (0.9daN) Breakout, ±5 lbs. (2.2 daN) or ±10% Force.	Ground		X	X				Record results for an uninterrupted control sweep to the stops. (CCA: Position vs. force not required if cockpit controller is installed in the FTD.).	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirement										Info notes
Test	Tolerance	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(2)(a) Wheel Position vs. Force and Surface Position Calibration.	±2 lbs. (0.9daN) Breakout, ±3 lbs. (1.34 daN) or ±10% Force, ±1° Aileron, ±27° Spoiler.	Ground						X	Record results for an uninterrupted control sweep to the stops. (CCA: Position vs. force not required if cockpit controller is installed in the FTD.).	
(2)(b) Wheel Position vs. Force.	±2 lbs. (0.9daN) Breakout, ±3 lbs. (1.3 daN) or ±10% Force.	Ground		X	X		X		Record results for an uninterrupted control sweep to the stops. (CCA: Position vs. force not required if cockpit controller is installed in the FTD.).	
(3)(a) Pedal Position vs. Force and Surface Position Calibration.	±5 lbs. (2.2 daN) Breakout, ±5 lbs. (2.2 daN) or ±10% Force, ±2° Rudder.	Ground						X	Record results for an uninterrupted control sweep to the stops.	
(3)(b) Pedal Position vs. Force.	±5 lbs. (2.2 daN) Breakout, ±5 lbs. (2.2 daN) or ±10% Force.	Ground		X	X		X		Record results for an uninterrupted control sweep to the stops.	
(4) Nosewheel Steering Force.	±2 lbs. (0.9 daN) Breakout, ±3 lbs. (1.3 daN) or ±10% Force.	Ground			X			X		
(5) Rudder Pedal Steering Calibration.	±2° Noswheel Angle	Ground			X			X		
(6) Pitch Trim Calibration Indicator vs. Computed.	±0.5° of Computed Trim Angle.	Ground						X		
(7) Alignment of Power Lever (or Cross Shaft Angle) vs Selected Engine Parameter (e.g., EPR, N1, Torque, Manifold Pressure, etc.).	±5° of Power Lever Angle or Cross Shaft Angle or Equivalent.	Ground						X	Requires recording for all engines. No simulator throttle position may be more than 5° (in either direction) from the airplane throttle position. Also, no simulator throttle position may differ from any other simulator throttle position by more than 5°. Where power levers do not have angular travel, a tolerance of ± 0.8 in (2 cm) applies. In the case of propeller powered airplanes, if a propeller lever is present, it must also be checked. May be a serious of snapshot test results.	
(8) Brake Pedal Position vs. Force.	±2° Pedal Position, ±5 lbs. (2.2 daN) or 10% Force.	Ground			X			X	Two data points are required (zero and maximum deflection). Computer output results may be used to show compliance.	
b. Longitudinal										
(1) Power Change Force	±5 lbs. (2.2 daN) or ±20% Force.	Cruise or Approach		X	X		X	X	May be a series of snapshot test results. Power change dynamics will be accepted. (CCA: Test in Normal and Non-normal control state).	
(2) Flap/slat Change Force	±5 lbs. (2.2 daN) or ±20% Force.	Takeoff and Approach		X	X		X	X	May be a series of snapshot test results. Flap change dynamics will be accepted. (CCA: Test in Normal and Non-normal control state).	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirement										Info notes
Test	Tolerance	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(3) Gear Change Force	±5 lbs. (2.2 daN) or ±20% Force.	Takeoff and Approach		X	X		X	X	May be a series of snapshot test results. Gear change dynamics will be accepted. (CCA: Test in Normal and Non-normal control state).	
(4) Gear and Flap Operating Times.	±3 Seconds or ±10% of Time.	Takeoff and Approach		X	X		X	X		
(5) Longitudinal Trim	±1° Pitch Control (Stab and Elevator); ±1° Pitch Angle, ±2% Net Thrust or equivalent in Cruise; ±5% Net Thrust, or equivalent in Approach and Landing.	Cruise, Approach, Landing		X	X		X	X	May be a series of snapshot test results. Levels 2,3, and 5 may use equivalent stick and trim controllers in lieu of stabilizer and elevator. (CCA: Test in Normal and Non-normal control state).	
(6) Longitudinal Maneuvering Stability (Stick Force/g).	±5 lbs. (2.2. daN) or ±10% Column Force or Equivalent Surface position.	Cruise, Approach, Landing						X	May be a series of snapshot test results. Force or surface deflection must be in the correct direction. (CCA: Test in Normal and Non-normal control state).	
(7) Longitudinal Static Stability.	±5 lbs. (2.2 daN) or ±10% Column Force or Equivalent Surface position.	Approach		X	X		X	X	May be a series of snapshot test results. Levels 2,3, and 5 must exhibit positive static stability, but need not comply with the numerical tolerance. (CCA: Test Normal and Non-normal control state).	
(8) Stall Warning (actuation of stall warning device).	±3 Kts Airspeed, ±2° Bank	Second Segment Climb and Approach or Landing.		X	X		X	X		
(9)(a) Phugoid Dynamics ...	±10% of Period, ±10% of Time to 1/2 Amplitude or ±.02 of Damping Ratio.	Cruise						X	Results must include whichever is less of the following: Three (3) full cycles (6 overshoots after the input is completed), or the number of cycles sufficient to determine time to ½ or double amplitude. (CCA: Test in Normal and Non-normal control state.).	
(9)(b) Phugoid Dynamics ...	±10% of Period with Representative Damping.	Cruise		X	X		X		CCA: Test in Normal and Non-normal control state.	
(10) Short Period Dynamics	±1.5° Pitch or ±2°/sec Pitch Rate, ±0.10g Normal Acceleration.	Cruise						X	CCA: Test in Normal and Non-normal control state.	
c. Lateral Directional										
(1) Roll Response	±10% or ±2°/sec Roll Rate	Cruise and Approach or Landing.		X	X		X	X		
(2) Response to Roll Controller Step Input.	±10% or ±2°/sec Roll Rate	Approach or Landing			X			X	CCA: Test in Normal and Non-normal control state.	
(3)(a) Spiral Stability	Correct Trend	Cruise		X			X		CCA: Test in Normal and Non-normal control state.	
(3)(b) Spiral Stability	Correct Trend, and ±3° of Bank Angle or ±10% at 20 sec.	Cruise			X			X	Data averaged from direction may be used. (CCA: Test in Normal and Non-normal control state.).	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirement										Info notes
Test	Tolerance	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(4)(a) Rudder Response	±2°/sec, or ±10% Yaw Rate or ±10% Rate of Heading Change for small pitch attitudes.	Approach or Landing						X	CCA: Test in Normal and Non-normal control state. May be deleted if rudder input and response is shown in Dutch roll test.	
(4)(b) Rudder Response	Yaw Rate ±2°/sec, Bank Angle ±3°.	Approach or Landing		X	X		X		May be roll response to a given rudder deflection. (CCA: Test in Normal and Non-normal control state.).	
(5)(a) Dutch Roll, Yaw Damper Off.	(1) ±10% of Period (2a)±10% of Time to ½ Amplitude or Double Amplitude, or (2b) ±.02 of Damping Ratio.	Cruise, and Approach or Landing.						X	Record results for at least 6 cycles with stability augmentation off. (CCA: Test in Normal and Non-normal control state.).	
(5)(b) Dutch Roll, Yaw Damper Off.	±10% of Period With Correct Trend and Number of Cycles.	Cruise, and Approach or Landing.			X				CCA: Test in Normal and Non-normal control state.	
(6) Steady State Sideslip ...	For given rudder position; ±2° Bank, ±1° Sideslip, ±10% or ±2° Aileron, ±10% or ±5° Spoiler or Equivalent Wheel Position or Force.	Approach or Landing		X	X		X	X	May be a series of snapshot test results. Propeller driven airplanes must test in each direction.	

4. Control Dynamics

Begin Information

a. The characteristics of an airplane flight control system have a major effect on the handling qualities. A significant consideration in pilot acceptability of an airplane is the ''feel'' provided through the cockpit controls. Considerable effort is expended on airplane feel system design in order to deliver a system with which pilots will be comfortable and consider the airplane desirable to fly. In order for a simulator to be representative, it too must present the pilot with the proper feel; that of the respective airplane. Aircraft control feel dynamics shall duplicate the airplane simulated. This shall be determined by comparing a recording of the control feel dynamics of the simulator to airplane measurements in the takeoff, cruise, and landing configuration.''

b. Recordings such as free response to an impulse or step function are classically used to estimate the dynamic properties of electromechanical systems. In any case, it is only possible to estimate the dynamic properties as a result of only being able to estimate true inputs and responses. Therefore, it is imperative that the best possible data be collected since close matching of the simulator control loading system to the airplane systems is essential. The required control feel dynamic tests are described in 2.b. of this attachment. For initial and upgrade evaluations, it is required that control dynamic characteristics be measured at and recorded directly from the cockpit controls. This procedure is usually accomplished by measuring the free response of the controls using a step or pulse input to excite the system. The procedure must be accomplished in takeoff, cruise, and landing flight conditions and configurations.

c. For airplanes with irreversible control systems, measurements may be obtained on the ground if proper pitot-static inputs are provided to represent airspeeds typical of those encountered in flight. Likewise, it may be shown that for some airplanes, takeoff, cruise, and landing configurations have like effects. Thus, one may suffice for another. If either or both considerations apply, engineering validation or airplane manufacturer rationale must be submitted as justification for ground tests or for eliminating a configuration. For simulators requiring static and dynamic tests at the controls, special test fixtures will not be required during initial and upgrade evaluations if the sponsor's QTG shows both test fixture results and the results of an alternative approach, such as computer plots that were produced concurrently and show satisfactory agreement. Repeat of the alternative method during the initial evaluation would then satisfy this test requirement.

(1) Control Dynamics Evaluations. The dynamic properties of control systems are often stated in terms of frequency, damping, and a number of other classical measurements that can be found in texts on control systems. In order to establish a consistent means of validating test results for simulator control loading, criteria are needed that will clearly define the interpretation of the measurements and the tolerances to be applied. Criteria are needed for both the underdamped system and the overdamped system, including the critically damped case. In the case of an underdamped system with very light damping, the system may be quantified in terms of frequency and damping. In critically damped or overdamped systems, the frequency and damping is not readily measured from a response time history. Therefore, some other measurement must be used.

(2) Tests to verify that control feel dynamics represent the airplane must show that the dynamic damping cycles (free response of the control) match that of the airplane within specified tolerances. The method of evaluating the response and the tolerance to be applied are described below for the underdamped and critically damped cases.

d. Tolerances. (1) Underdamped Response. (a) Two measurements are required for the period, the time to first zero crossing (in case a rate limit is present) and the subsequent frequency of oscillation. It is necessary to measure cycles on an individual basis in case there are nonuniform periods in the response. Each period will be independently compared to the respective period of the airplane control system and, consequently, will enjoy the full tolerance specified for that period.

(b) The damping tolerance will be applied to overshoots on an individual basis. Care must be taken when applying the tolerance to small overshoots since the significance of such overshoots becomes questionable. Only those overshoots larger than 5 percent of the total initial displacement will be considered significant. The residual band, labeled $T(A_d)$ on Figure 1 of this attachment is ±5 percent of the initial displacement amplitude A_d from the steady state value of the oscillation. Oscillations within the residual band are considered insignificant. When comparing

simulator data to airplane data, the process would begin by overlaying or aligning the simulator and airplane steady state values and then comparing amplitudes of oscillation peaks, the time of the first zero crossing, and individual periods of oscillation. To be satisfactory, the simulator must show the same number of significant overshoots to within one when compared against the airplane data. This procedure for evaluating the response is illustrated in Figure 1 of this attachment.

(2) Critically Damped and Overdamped Response. Due to the nature of critically damped responses (no overshoots), the time to reach 90 percent of the steady state (neutral point) value must be the same as the airplane within ±10 percent. The simulator response must be critically damped also. Figure 2 of this attachment illustrates the procedure.

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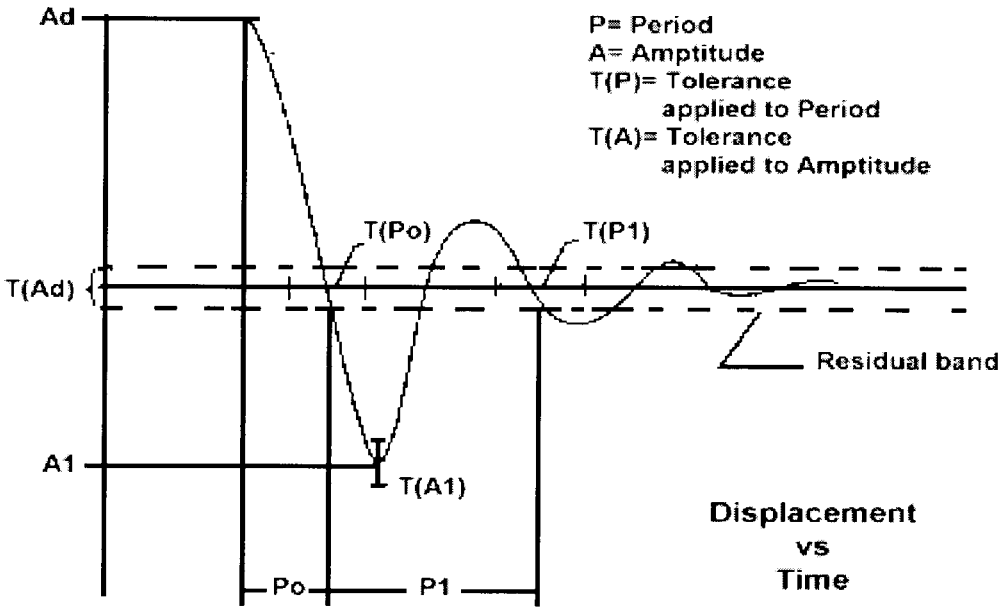
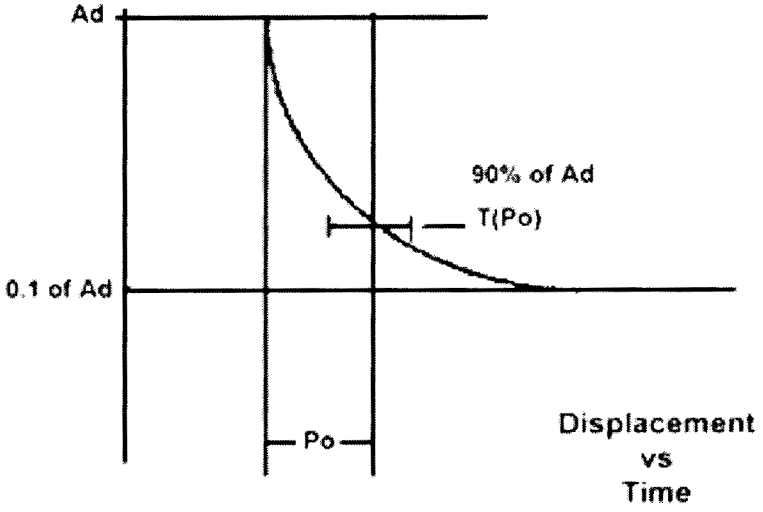


ATTACHMENT 2 TO APPENDIX B TO PART 60—

FIGURE 1. UNDER-DAMPED STEP RESPONSE



ATTACHMENT 2 TO APPENDIX B TO PART 60—

FIGURE 2. CRITICALLY-DAMPED STEP RESPONSE

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Begin Information

(3)(a) The following summarizes the tolerances, T, for an illustration of the referenced measurements (See Figures 1 and 2 of this attachment)

$T(P_0)$ ±10% of P_0
$T(P_1)$ ±20% of P_1
T(A) ±10% of A_1, ±20% of Subsequent Peaks
$T(A_d)$ ±10% of A_d = Residual Band
Overshoots ±1

(b) In the event the number of cycles completed outside of the residual band, and thereby significant, exceeds the number depicted in figure 1 of this attachment, the following tolerances (T) will apply:

$T(P_n)$ ±10%(n+1)% of P_n, where ''n'' is the next in sequence.

e. Alternative Method for Control Dynamics. (1) An alternative means for dealing with control dynamics applies to airplanes with hydraulically powered flight controls and artificial feel systems. Instead of free response measurements, the system would be validated by measurements of control force and rate of movement.

(2) For each axis of pitch, roll, and yaw, the control shall be forced to its maximum extreme position for the following distinct rates. These tests shall be conducted at typical taxi, takeoff, cruise, and landing conditions.

(a) Static Test—Slowly move the control such that approximately 100 seconds are required to achieve a full sweep. A full sweep is defined as movement of the controller from neutral to the stop, usually aft or right stop, then to the opposite stop, then to the neutral position.

(b) Slow Dynamic Test—Achieve a full sweep in approximately 10 seconds.

(c) Fast Dynamic Test—Achieve a full sweep in approximately 4 seconds.

Note: Dynamic sweeps may be limited to forces not exceeding 100 lb.

f. Tolerances.

(1) Static Test—Items 2.a.(1) (2) and (3) of this appendix.

(2) Dynamic Test—2 lb. or 10 percent on dynamic increment above static test.

g. The FAA is open to alternative means such as the one described above. Such alternatives, however, would have to be justified and found appropriate to the application. For example, the method described here may not apply to all manufacturers' systems and certainly not to airplanes with reversible control systems. Hence, each case must be considered on its own merit on an ad hoc basis. If the FAA finds that alternative methods do not result in satisfactory simulator performance, then more conventionally accepted methods must be used.

End Information

5. Alternative Objective Data for FTD Levels 2, 3, and 5

Begin QPS Requirements

a. This paragraph 5 (including the following tables) is relevant only to FTD Levels 2, 3, and 5 and is provided due to the fact that these levels are required to perform and handle similarly to a set of airplanes having similar performance (normal airspeed/altitude operating envelope), that have similar handling characteristics, and have the same number and type of propulsion systems (engines).

b. The following tables reflect the performance range typical for the stated set of airplanes and may be used without having to acquire flight test data or gather validation data from any other source. However, if the performance of the device does not fall within the established range (according to the following tables) for a specific table entry, and the sponsor has airplane flight test data, acceptable to the NSPM, that matches the performance of the device within the tolerances established in the Table of Objective Tests, this flight test data may be used for that specific table entry requirement. The reader is reminded that Level 3 devices require testing in more areas than Level 2 and Level 5 devices. Therefore, as the following tables contain information for all three FTD levels, some of the data in these tables may not be pertinent to a Level 2 or Level 5 FTD.

c. The following applies to those wishing to pursue this alternative approach:

(1) The sponsor will submit a complete QTG including the following:

(a) If this alternate source of data method is used, recordings that demonstrate that the performance of the FTD is within the allowable performance range.

(b) Results from the objective tests appropriate to the level of qualification sought.

(2) The QTG test results must include all appropriate parameters for which tolerances are established in the Table of Objective Tests, and must include all relevant information concerning the conditions under which the test was conducted; *e.g.*, gross weight, center of gravity, airspeed, power setting, altitude (climbing, descending, or level), temperature, configuration, and any other parameter that would have an impact on the conduct of the test.

(3) One reviewed and accepted by the NSPM, these test results are the validation

data against which the initial and all subsequent recurrent evaluations will be compared. These subsequent evaluations will use the tolerances listed in the Table of Objective Tests.

(4) Subjective testing of the device must be performed to determine that the device performs and handles acceptably like an airplane within the appropriate set of airplanes.

End QPS Requirements

Begin Information

d. The alternative source data contained in the following tables have been derived from a consensus of aviation professionals, including simulator and flight training device manufacturers; pilots and instructors familiar with the various sets of airplanes, and airplane manufacturer's representatives for airplanes fitting the appropriate set of airplanes.

e. The reader is encouraged to consult the Airplane Flight Simulator Evaluation Handbook, Volumes I and II, published by the Royal Aeronautical Society, London, UK, in February 1995 and July 1996, respectively, and FAA Advisory Circulars (AC) 25–7, Flight Test Guide for Certification of Transport Category Airplanes, and (AC) 23–8A, Flight Test Guide for Certification of Part 23 Airplanes, for references and examples regarding flight testing requirements and techniques.

End Information

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5

[Small, Single Engine (Reciprocating) Airplane]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
2. Performance	
a. Takeoff	
(1) Ground acceleration time; brake release to liftoff Speed	20–30 Seconds.
b. Climb	
(1) Normal climb with nominal gross weight, at best rate-of-climb airspeed.	Climb rate = 500–1200 fpm (2.5–6 m/sec).
c. Ground Deceleration	
(1) Deceleration time from 60 knots to zero; with a nominal gross weight; using wheel brakes on a dry runway.	5–15 Seconds.
d. Engines	
(1) Acceleration; idle to takeoff power	2–4 Seconds.
(2) Deceleration; takeoff power to idle	2–4 Seconds.
3. Handling Qualities	
a. Static Control Checks	
(1)(b) Column position vs. force	Plot of Column Position vs. Force must fall within the shaded areas shown in Figure 3 of this attachment (Small, Single Engine Airplanes).
(2)(b) Wheel position vs. force	Plot of Wheel Position vs. Force must fall within the shaded areas shown in Figure 3a of this attachment (Small, Single Engine Airplanes).
(3)(b) Pedal position vs. force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 3b of this attachment (Small, Single Engine Airplanes).
(4) Nosewheel steering force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 3b of this attachment (Small, Single Engine Airplanes).
(5) Rudder pedal steering calibration with full rudder pedal travel	10–30 degrees of nosewheel angle, both sides of neutral.
(8) Brake pedal position vs. force; at maximum pedal deflection	30–100 lbs (13.2–44 daN) of force.
b. Longitudinal	
(1) Power change force.	
(a) Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Reduce power to flight idle. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(a) 5–15 lbs (2.2–6.6 daN) of force (Pull).
OR	
(b) Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Add power to maximum setting. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(b) 5–15 lbs (2.2–6.6 daN) of force (Push).
(2) Flap/slat change force	
(a) Trim for straight and level flight with flaps fully retracted at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Extend the flaps to 50% of full flap travel. After stabilized, record stick force necessary to maintain original airspeed.	(a) 5–15 lbs (2.2–6.6 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with flaps extended to 50% of full flap travel, at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Retract the flaps to zero. After stabilized, record stick force necessary to maintain original airspeed.	(b) 5–15 lbs (2.2–6.6 daN) of force (Push).
(3) Gear change force	

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5—Continued

[Small, Single Engine (Reciprocating) Airplane]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
(a) Trim for straight and level flight with landing gear retracted at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Extend the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(a) 2–12 lbs (0.88–5.3 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with landing gear extended, at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Retract the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(b) 2–12 lbs (0.88–5.3 daN) of force (Push).
(4) Gear and flap operating times	
(a) Extend gear	(a) 2–12 seconds.
(b) Retract gear	(b) 2–12 seconds.
(c) Extend flaps, zero to 50% travel	(c) 3–13 seconds.
(d) Retract flaps, 50% travel to zero	(d) 3–13 seconds.
(5) Longitudinal trim	Must be able to trim longitudinal stick force to ''zero'' in each of the following configurations: cruise; approach; and landing.
(7) Longitudinal static stability	Must exhibit positive static stability.
(8) Stall warning (actuation of stall warning device) with nominal gross weight; wings level; and a deceleration rate of approximately one (1) knot per second.	
(a) Landing configuration	(a) 40–60 knots; ± 5° of bank.
(b) Clean configuration	(b) Landing configuration speed + 10–20 percent.
(9)(b) Phugoid dynamics	Must have a phugoid with a period of 30–60 seconds. May not reach ½ or double amplitude in less than 2 cycles.
c. Lateral Directional	
(1) Roll response	
Roll rate must be measured through at least 30 degrees of roll. Aileron control must be deflected 50 percent of maximum travel.	Must have a roll rate of 6–40 degrees/second.
(2) Response to roll controller step input	
Trim for straight and level flight at nominal gross weight and approach airspeed. Roll into a 30 degree bank turn and stabilize. When ready, input a 50 percent aileron control opposite to the direction of turn. When reaching zero bank angle, rapidly neutralize the aileron control and release. Record the response from at least 2 seconds prior to the initiation of control input opposite to the direction of turn until at least 20 seconds after neutralization of the controls.	Roll rate must decrease to not more than 10 percent of the roll rate achieved, within 1–3 seconds of control release.
(3)(a) and (b) Spiral stability	
Cruise configuration and normal cruise airspeed. Establish a 20–30 degree bank. When stabilized, neutralize the aileron control and release. Must be completed in both directions of turn.	Initial bank angle (± 5 degrees) after 20 seconds.
(4)(b) Rudder response	
Use 50 percent of maximum rudder deflection	6–12 degrees/second yaw rate.
Applicable to approach or landing configuration	
(5)(b) Dutch roll, yaw damper off	A period of 2–5 seconds; and ½–2 cycles.
Applicable to cruise and approach configurations	
(6) Steady state sideslip	2–10 degrees of bank; 4–10 degrees of sideslip; and
Use 50 percent rudder deflection	2–10 degrees of aileron.
Applicable to approach and landing configurations	
4. Cockpit Instrument Response.	
Instrument systems response to an abrupt pilot controller input. One test is required in each axis (pitch, roll, and yaw).	300 milliseconds or less.

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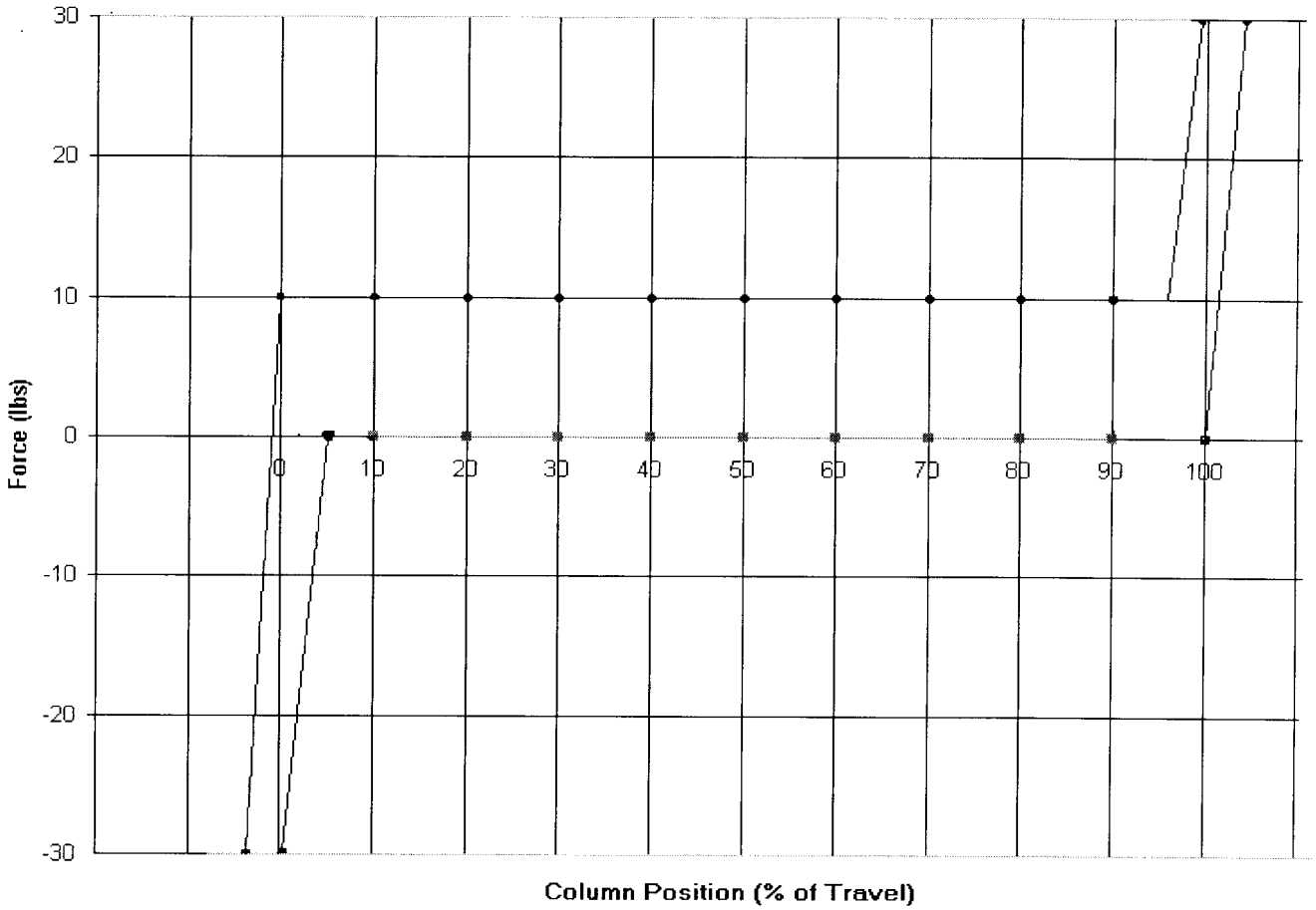
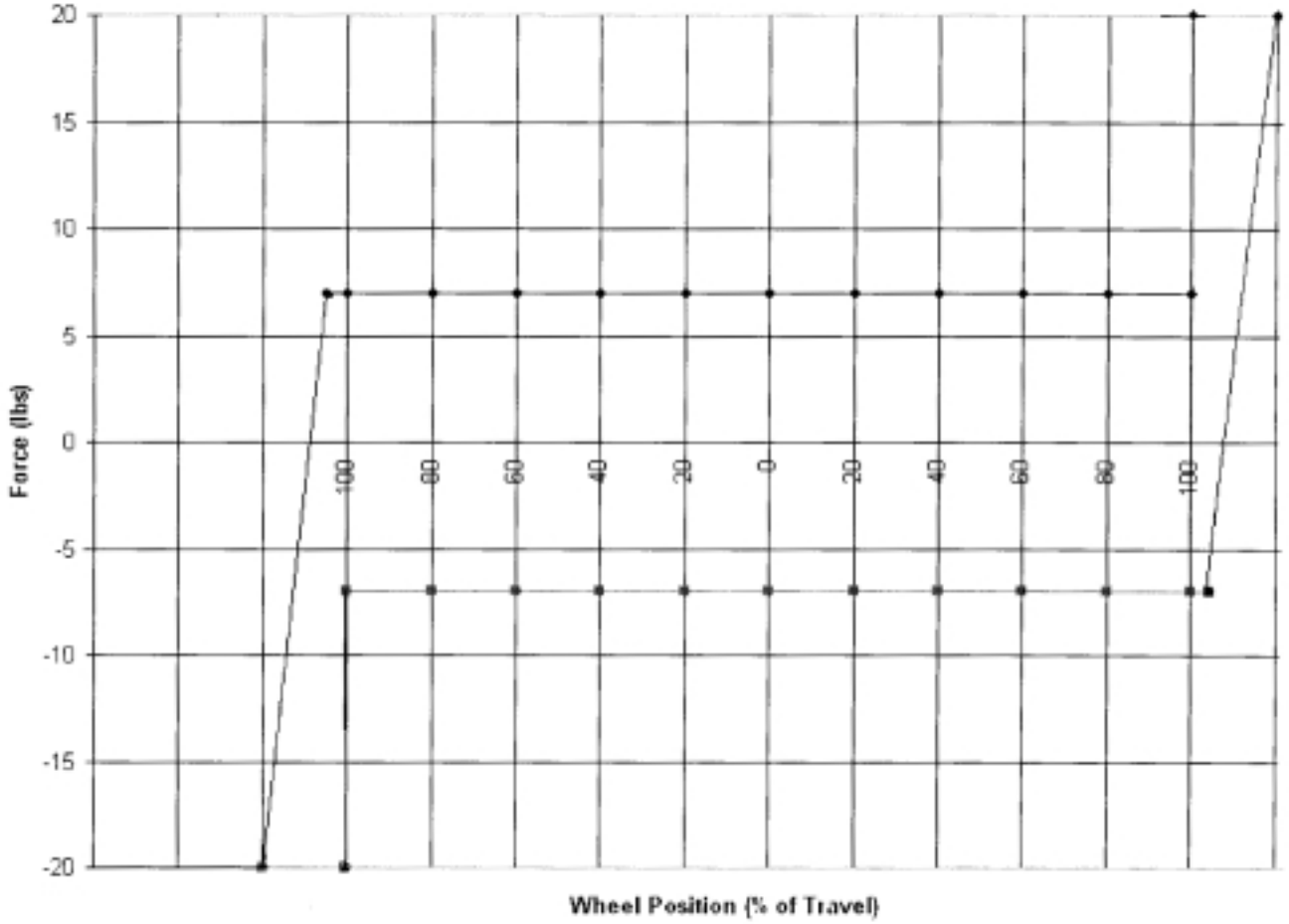


ATTACHMENT 2 TO APPENDIX B TO PART 60—

FIGURE 3. SMALL SINGLE ENGINE (RECIPROCATING) AIRPLANE

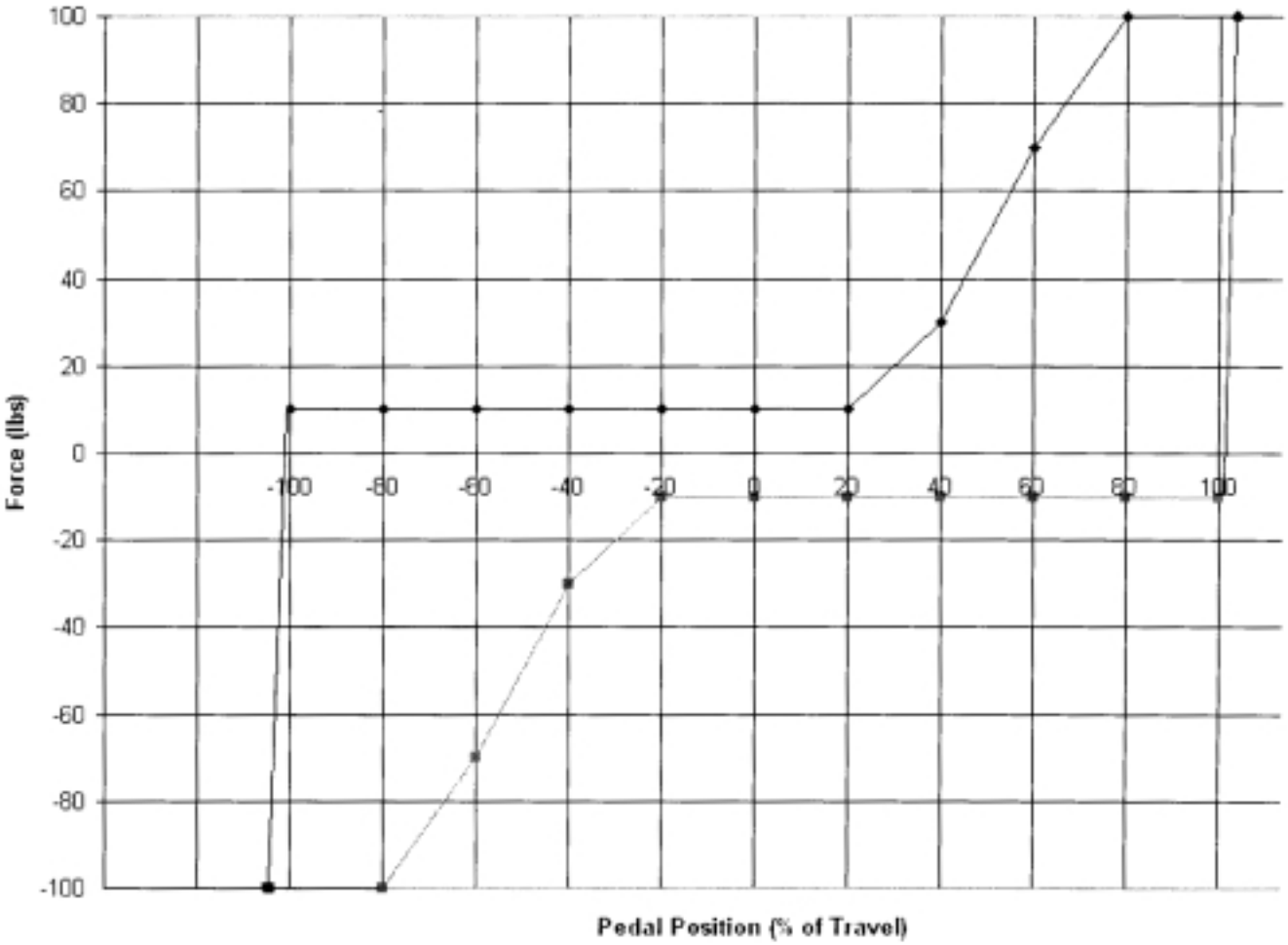
COLUMN POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—

FIGURE 3a. SMALL, SINGLE ENGINE (RECIPROCATING) AIRPLANE

WHEEL POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—

FIGURE 3b. SMALL, SINGLE ENGINE (RECIPROCATING) AIRPLANE

RUDDER PEDAL POSITION VS. FORCE

BILLING CODE 4910–13–C

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5

[Small, Multi-Engine (Reciprocating) Airplane]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
2. Performance	
a. Takeoff	
(1) Ground acceleration time; brake release to liftoff speed	20–230 Seconds.
b. Climb	
(1) Normal climb with nominal gross weight, at best rate-of-climb airspeed.	Climb airspeed = 95–115 knots. Climb rate = 500–1500 fpm (2.5–7.5 m/sec).
c. Ground Deceleration	
(1) Deceleration time from 80 knots to zero; with a nominal gross weight; using wheel brakes on a dry runway.	10–20 Seconds.
d. Engines	
(1) Acceleration; idle to takeoff power	2–5 Seconds.
(2) Deceleration; takeoff power to idle	2–5 Seconds.

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5—Continued

[Small, Multi-Engine (Reciprocating) Airplane]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
3. Handling Qualities	
a. Static Control Checks	
(1)(b) Column position vs. force	Plot of Column Position vs. Force must fall within the shaded areas shown in Figure 4, page 29 (Small, Multi-Engine Airplanes).
(2)(b) Wheel position vs. force	Plot of Wheel Position vs. Force must fall within the shaded areas shown in Figure 5, page 30 (Small, Multi-Engine Airplanes).
(3)(b) Pedal position vs. force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 6, page 31 (Small, Multi-Engine Airplanes).
(4) Nosewheel steering force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 6, page 31 (Small, Multi-Engine Airplanes).
(5) Rudder pedal steering calibration with full rudder pedal travel	10–30 degrees of nosewheel angle, both side of neutral.
(8) Brake pedal position vs. force; at maximum pedal deflection	50–150 lbs (22–66 daN) of force.
b. Longitudinal	
(1) Power change force	
(a) Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Reduce power to flight idle. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(a) 10–25 lbs (2.2–6.6 daN) of force (Pull).
OR	
(b) Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Add power to maximum setting. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(b) 5–15 lbs (2.2–6.6 daN) or force (Push).
(2) Flap/slat change force	
(a) Trim for straight and level flight with flaps fully retracted at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Extend the flaps to 50% of full flap travel. After stabilized, record stick force necessary to maintain original airspeed.	(1) 5–15lbs (2.2–6.6 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with flaps extended to 50% of full flap travel, at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Retract the flaps to zero (fully retracted). After stabilized, record stick force necessary to maintain original airspeed.	(b) 5–15 lbs (2.2–6.6 daN) of force (Push).
(3) Gear change force	
(a) Trim for straight and level flight with landing gear retracted at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Extend the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(a) 2–12 lbs (0.88–5.3 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with landing gear extended, at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Retract the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(b) 2–12 lbs (0.88–5.3 daN) of force (Push).
(4) Gear and flap operating times.	
(a) Extend gear	(a) 2–12 seconds.
(b) Retract gear	(b) 2–12 seconds.
(c) Extend flaps, zero to 50% travel	(c) 3–13 seconds.
(d) Retract flaps, 50% travel to zero	(d) 3–13 seconds.
(5) Longitudinal trim	Must be able to trim longitudinal stick force to ''zero'' in each of the following configurations: (a) cruise; (b) approach; and (c) landing.
(7) Longitudinal static stability	Must exhibit positive static stability.
(8) Stall warning (actuation of stall warning device) with nominal gross weight; wings level; clean configuration, and a deceleration rate of approximately one (1) knot per second.	(a) 60–90 knots; ±5 degrees of bank.
(a) Landing configuration	(b) Landing confirguration speed, + 10–20 percent.
(b) Clean configuration.	
(9)(b) Phugoid dynamics	(a) Must have a phugoid with a period of 30–60 seconds. (b) May not reach ½ or double amplitude in less than 2 cycles.
c. Lateral Directional	
(1) Roll response	

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5—Continued

[Small, Multi-Engine (Reciprocating) Airplane]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
Roll rate must be measured through at least 30 degrees of roll. Aileron control must be deflected 50 percent of maximum travel.	Must have a roll rate of 6–40 degrees/second.
(2) Response to roll controller step input	
Trim for straight and level flight at nominal gross weight and approach airspeed. Roll into a 30 degree bank turn and stabilize. When ready, input a 50 percent aileron control opposite to the direction of turn. When reaching zero bank angle, rapidly neutralize the aileron control and release. Record the response from at least 2 seconds prior to the initiation of control input opposite to the direction of turn until at least 20 seconds after neutralization of the controls.	Roll rate must decrease to not more than 10 percent of the roll rate achieved, within 1–3 seconds of control release.
(3)(a) and (b) Spiral stability	
Cruise configuration and normal cruise airspeed. Establish a 20–30 degree bank. When stabilized, neutralize the aileron control and release. Must be completed in both directions of turn.	Initial bank angle (±5 degrees) after 20 seconds.
(4)(b) Rudder response	
Use 50 percent of maximum rudder deflection ..... Applicable to approach or landing configuration	6–12 degrees/second yaw rate.
(5)(b) Dutch roll, yaw damper off ..... Applicable to cruise and approach configurations	(a) A period of 2–5 seconds; and ½–2 cycles.
(6) Steady state sideslip ..... Use 50 percent rudder deflection; Applicable to approach and landing configurations.	2–10 degrees of bank; 4–10 degrees of sideslip; and 2–10 degrees of aileron.
4. Cockpit Instrument Response	
Instrument systems response to an abrupt pilot controller input. One test is required to each axis (pitch, roll, and yaw).	300 milliseconds or less.

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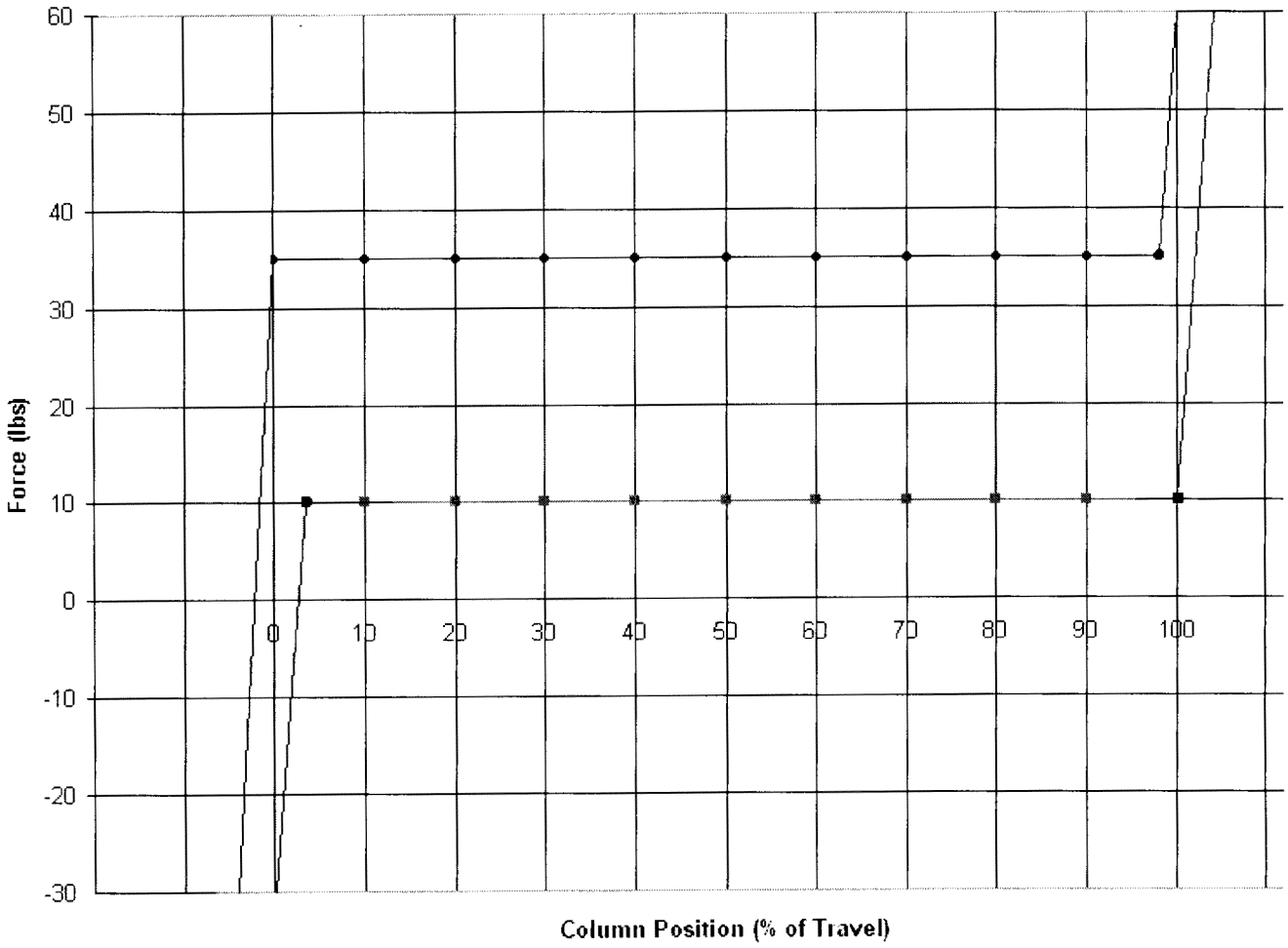
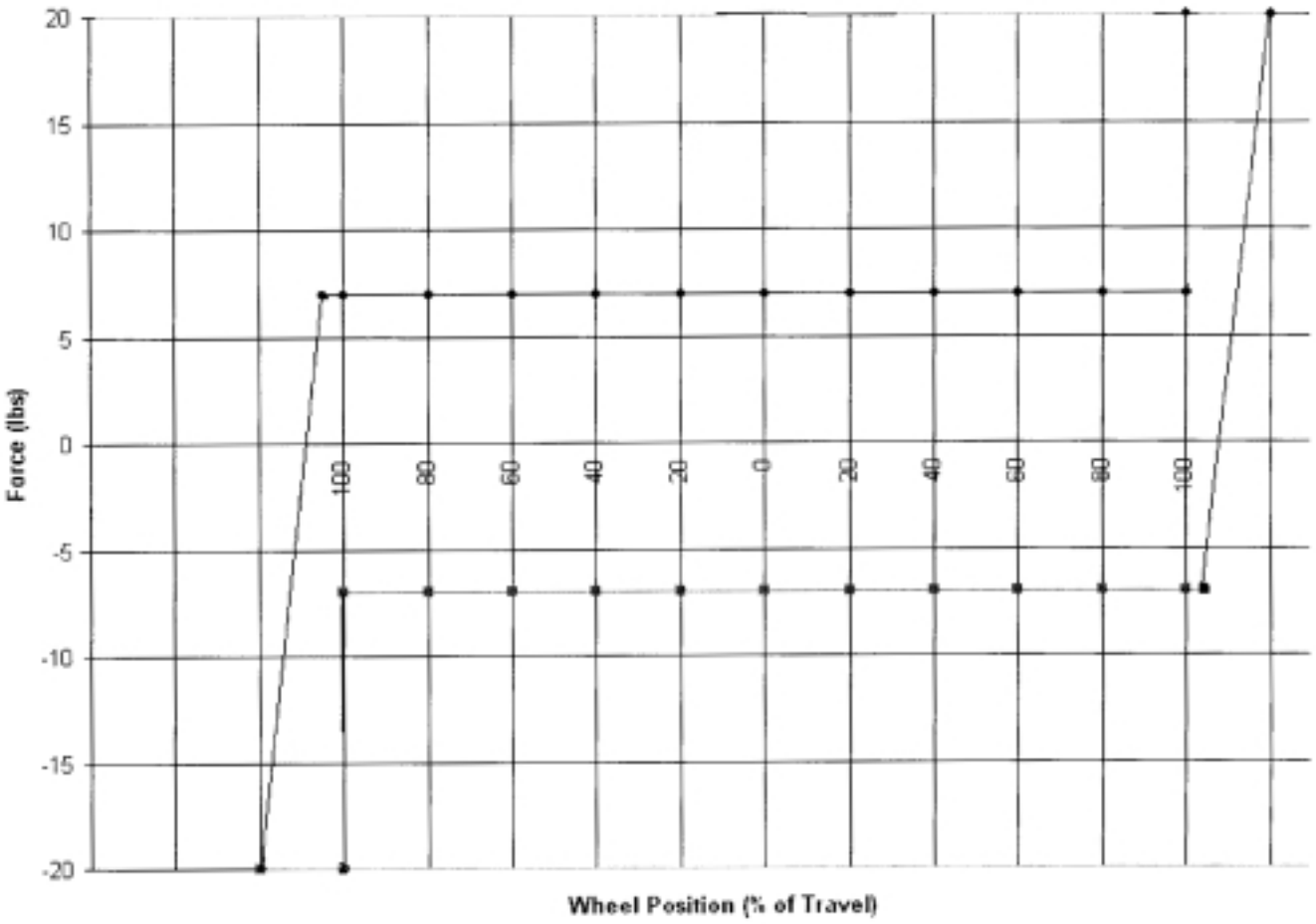
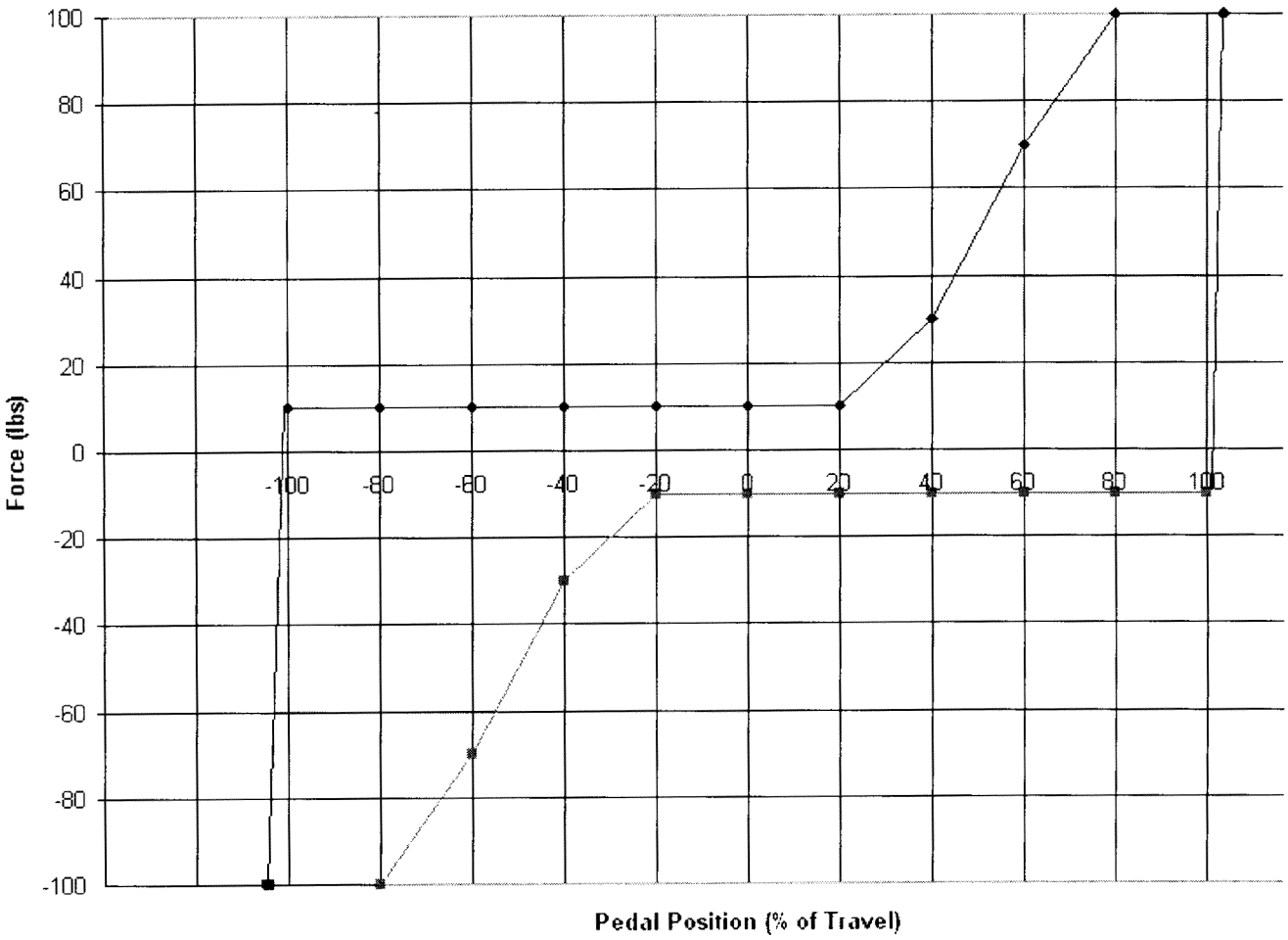


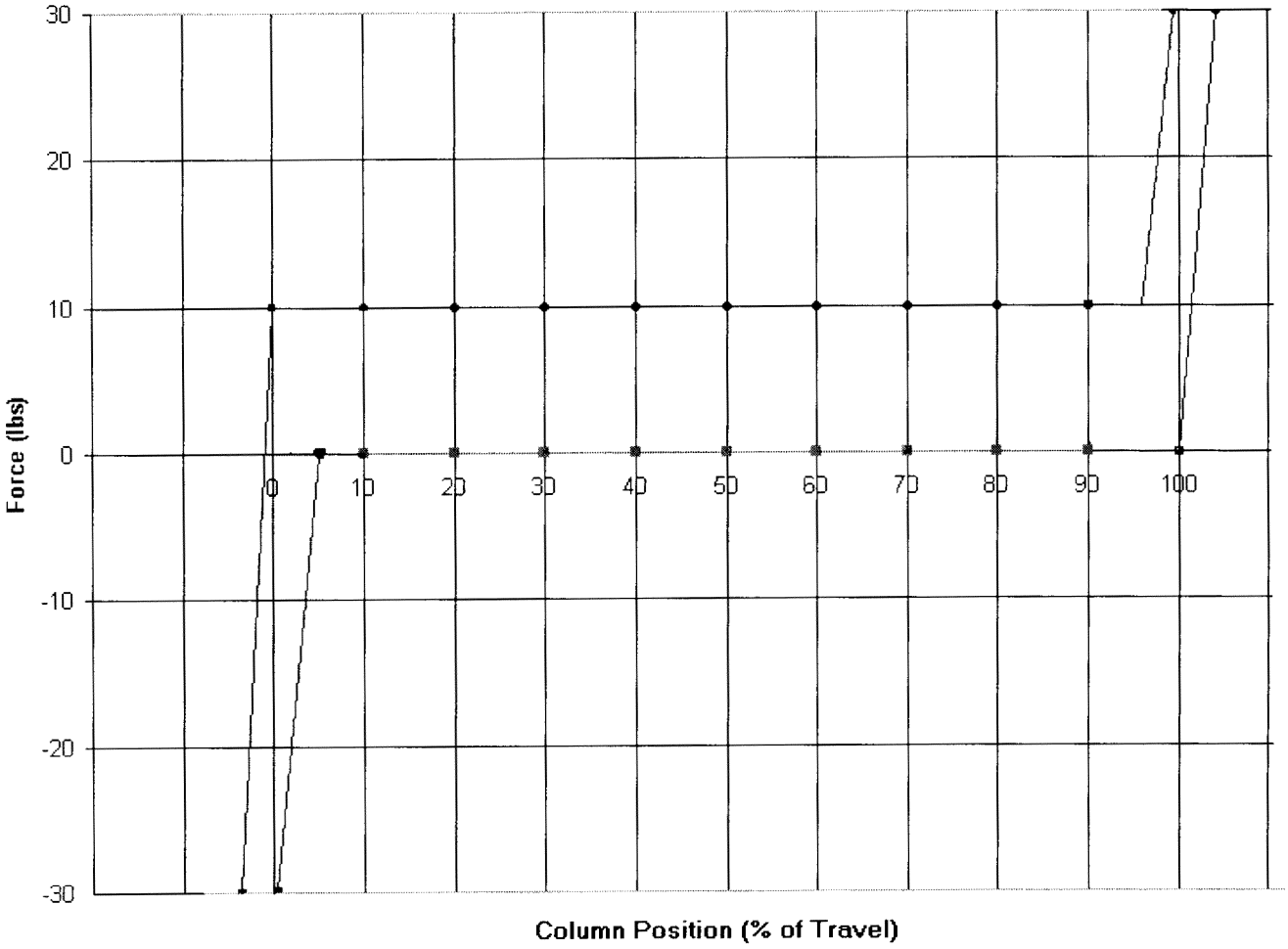
ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 4. SMALL, MULTI-ENGINE (RECIPROCATION) AIRPLANE COLUMN POSITION VS. FORCE



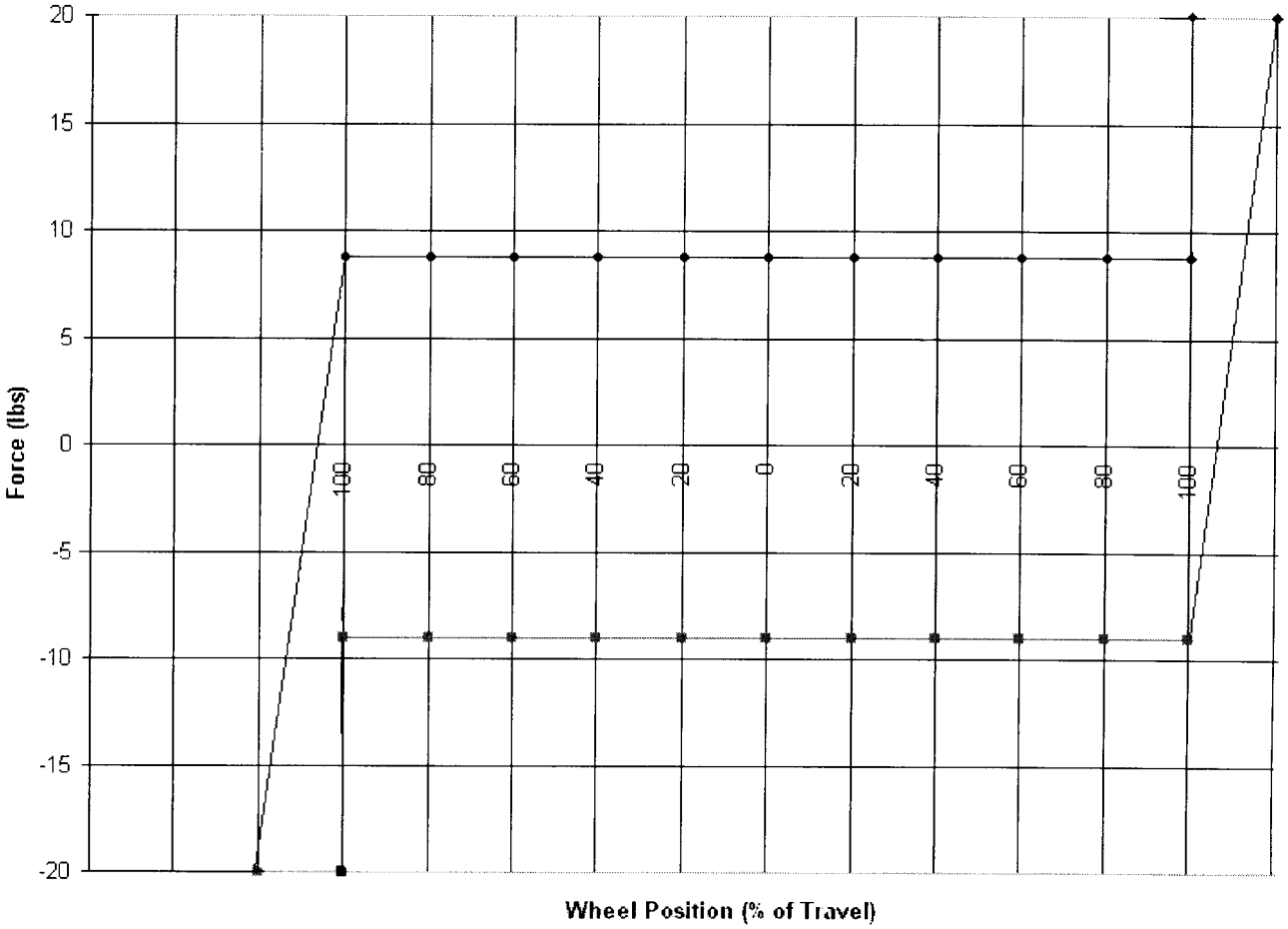
ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 5. SMALL, MULTI-ENGINE (RECIPROCATING) AIRPLANE WHEEL POSITION VS. FORCE



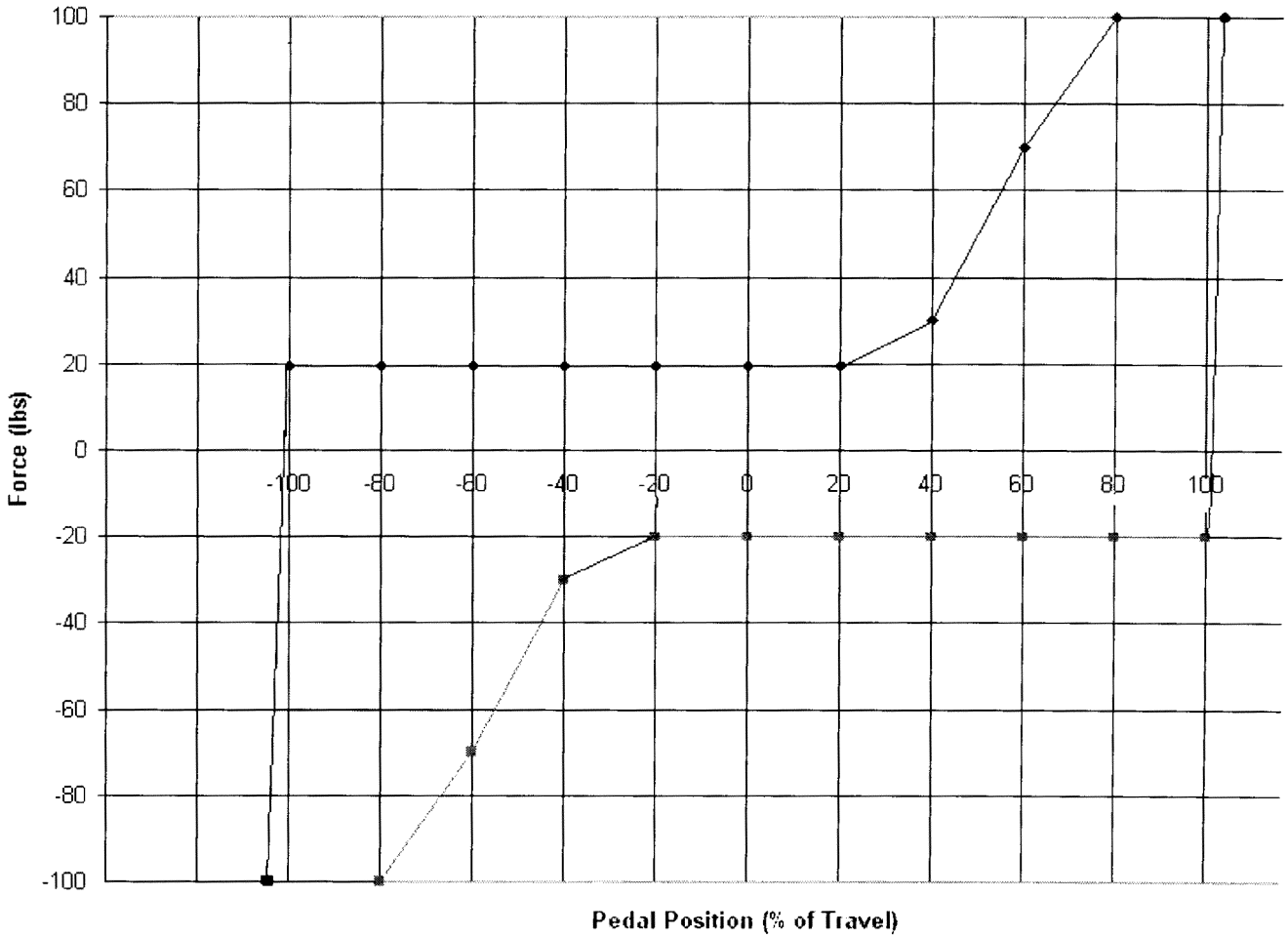
ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 6. SMALL, MULTI-ENGINE (RECIPROCATING) AIRPLANE RUDDER PEDAL POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 7. SINGLE ENGINE TURBO-PROPELLER AIRPLANE COLUMN POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 8. SINGLE ENGINE TURBO-PROPELLER AIRPLANE WHEEL POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 9. SINGLE ENGINE TURBO-PROPELLER AIRPLANE RUDDER PEDAL POSITION VS. FORCE

BILLING CODE 4910–13–C

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5

[Multi Engine (Turbo-Propeller) Airplanes ≤ 19,000 Pounds]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
2. Performance	
a. Takeoff	
(1) Ground acceleration time; brake release to liftoff speed	20–30 Seconds.
b. Climb	
(1) Normal climb with nominal gross weight, at best rate-of-climb airspeed.	Climb airspeed: 120–140 knots; Climb rate; 1000–3000 fpm (5–15 m/sec)
c. Ground Deceleration	
(1) Deceleration time from 90 knots to zero; with a nominal gross weight; using wheel brakes on a dry runway.	20–35 Seconds.
d. Engines	
(1) Acceleration; idle to takeoff power	2–6 Seconds.
(2) Deceleration; takeoff power to idle	1–5 Seconds.
3. Handling Qualities	
a. Static Control Checks	

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5—Continued

[Multi Engine (Turbo-Propeller) Airplanes ≤ 19,000 Pounds]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
(1)(b) Column position vs. force	Plot of Column Position vs. Force must fall within the shaded areas shown in Figure 10, page 43 (Multi-Engine Turbo-Propeller Airplanes).
(2)(b) Wheel position vs. force	Plot of Wheel Position vs. Force must fall within the shaded areas shown in Figure 11, page 44 (Multi-Engine Turbo-Propeller Airplanes).
(3)(b) Pedal position vs. force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 12, page 45 (Multi-Engine Turbo-Propeller Airplanes).
(4) Nosewheel steering force	Plot of Rudder Pedal Position vs. Force must fall within the shaded areas shown in Figure 12, page 45 (Multi-Engine Turbo-Propeller Airplanes).
(5) Rudder pedal steering calibration with full rudder pedal travel	10–30 degrees of nosewheel angle, both sides of neutral.
(8) Brake pedal position vs. force; at maximum pedal deflection	50–150 lbs (22–66 daN) of force.
b. Longitudinal	
(1) Power change force	
(a)Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Reduce power to flight idle. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(a) 8 lbs (3.5 daN) of Push force to 8 lbs (3.5 daN) of Pull force.
OR	
(b) Trim for straight and level flight at 80% of normal cruise airspeed with necessary power. Add power to maximum setting. Do not change trim or configuration. After stabilized, record column force necessary to maintain original airspeed.	(b) 12–22 lbs (5.3–9.7 daN) of force (Push).
(2) Flap/slat change force	
(a) Trim for straight and level flight with flaps fully retracted at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Extend the flaps to 50% of full flap travel. After stabilized, record stick force necessary to maintain original airspeed.	(a) 5–15 lbs (2.2–6.6 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with flaps extended to 50% of full flap travel, at a constant airspeed within the flaps-extended airspeed range. Do not adjust trim or power. Retract the flaps to zero (fully retracted). After stabilized, record stick force necessary to maintain original airspeed.	(b) 5–15 lbs (2.2–6.6 daN) of force (Push).
(3) Gear change force	
(a) Trim for straight and level flight with landing gear retracted at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Extend the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(a) 2–12 lbs (0.88–5.3 daN) of force (Pull).
OR	
(b) Trim for straight and level flight with landing gear extended, at a constant airspeed within the landing gear-extended airspeed range. Do not adjust trim or power. Retract the landing gear. After stabilized, record stick force necessary to maintain original airspeed.	(b) 2–12 lbs (0.88–5.3 daN) of force (Push).
(4) Gear and flap operating times	
(a) Extend gear	(a) 2–12 seconds.
(b) Retract gear	(b) 2–12 seconds.
(c) Extend flaps, zero to 50% travel	(c) 3–13 seconds.
(d) Retract flaps, 50% travel to zero	(d) 3–13 seconds.
(5) Longitudinal trim	Must be able to trim longitudinal stick force to ''zero'' in each of the following configurations: (a) cruise; (b) approach; and (c) landing.
(7) Longitudinal static stability	Must exhibit positive static stability.
Stall warning (actuation of stall warning device) with nominal gross weight; wings level; clean configuration, and a deceleration rate of approximately one (1) knot per second	
(a) Landing configuration	(a) 80–100 knots; ± 5 degrees of bank.
(b) Clean configuration	(b) Landing configuration speed + 10–20 percent.
(9)(b) Phugoid dynamics	(a) Must have a phugoid with a period of 30–60 seconds. (b) May not reach ½ or double amplitude in less than 2 cycles.
c. Lateral Directional	
(1) Roll response	

TABLE OF ALTERNATIVE SOURCE DATA FTD LEVELS 2, 3, AND 5—Continued

[Multi Engine (Turbo-Propeller) Airplanes ≤ 19,000 Pounds]

QPS REQUIREMENT	
Applicable Test and Test Number	Authorized Performance Range
(a) Roll rate must be measured through at least 30 degrees of roll. Aileron control must be deflected 50 percent of maximum travel.	Must have a roll rate of 6–40 degrees/second.
(2) Response to roll controller step input	
Trim for straight and level flight at nominal gross weight at approach airspeed. Roll into a 30 degree band turn and stabilize. When ready, input a 50 percent aileron control opposite the direction of turn. When reaching zero bank angle, rapidly neutralize the aileron control and release. Record the response from at least 2 seconds prior to initiation of control input at least 20 seconds after neutralization of the controls.	Roll rate must decrease to not more than 10 percent of the roll rate achieved, and must do so within 1–3 seconds.
(3)(a) and (b) Spiral stability	
Cruise configuration and normal cruise airspeed. Establish a 20–30 degree bank. When stabilized, neutralize the aileron control and release. (Must be completed in both directions of turn).	Initial bank angle (± 5 degrees) after 20 seconds.
(4)(b) Rudder response	
Use 50 percent of maximum rudder deflection	6–12 degrees/second yaw rate.
Applicable to approach or landing configuration.	
(5)(b) Dutch roll, yaw damper off	(a) A period of 2–5 seconds; and
Applicable to cruise and approach configurations.	(b) ½–3 cycles.
(6) Steady state sideslip	(a) 2–10 degrees of bank;
Use 50 percent rudder deflection	(b) 4–10 degrees of sideslip; and
Applicable to approach and landing configurations.	(c) 2–10 degrees of aileron.
4. Cockpit Instrument Response	
Instrument systems response to an abrupt pilot controller input. One test is required in each axis (pitch, roll, and yaw).	300 milliseconds or less.

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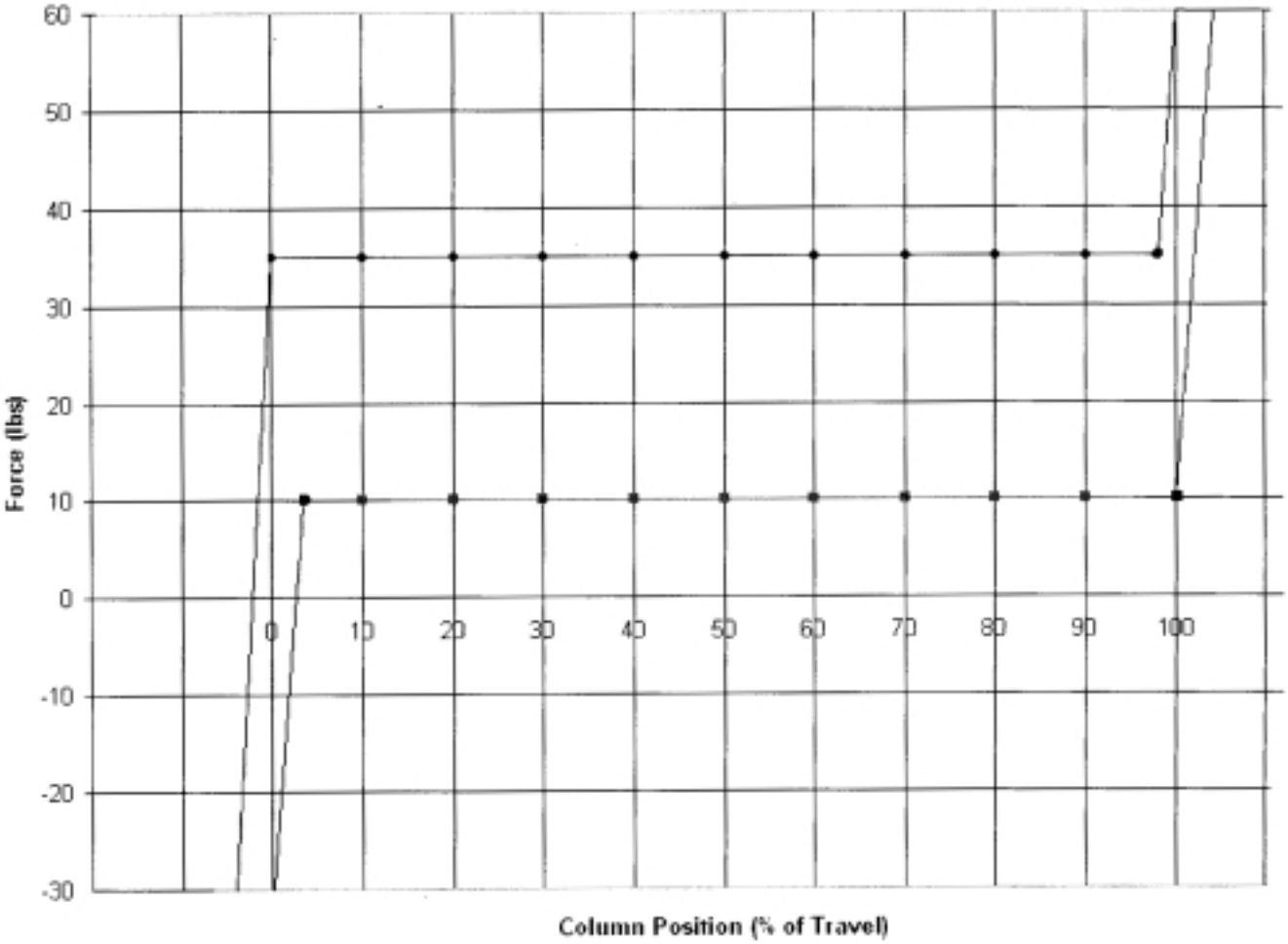
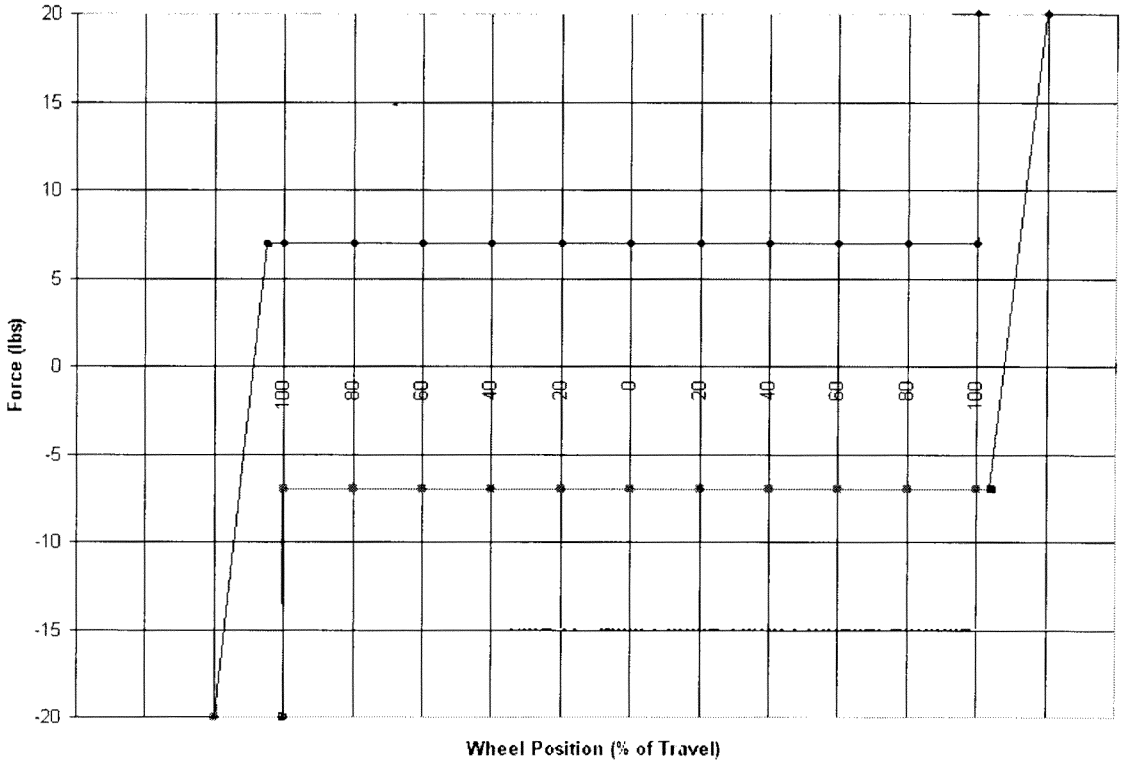
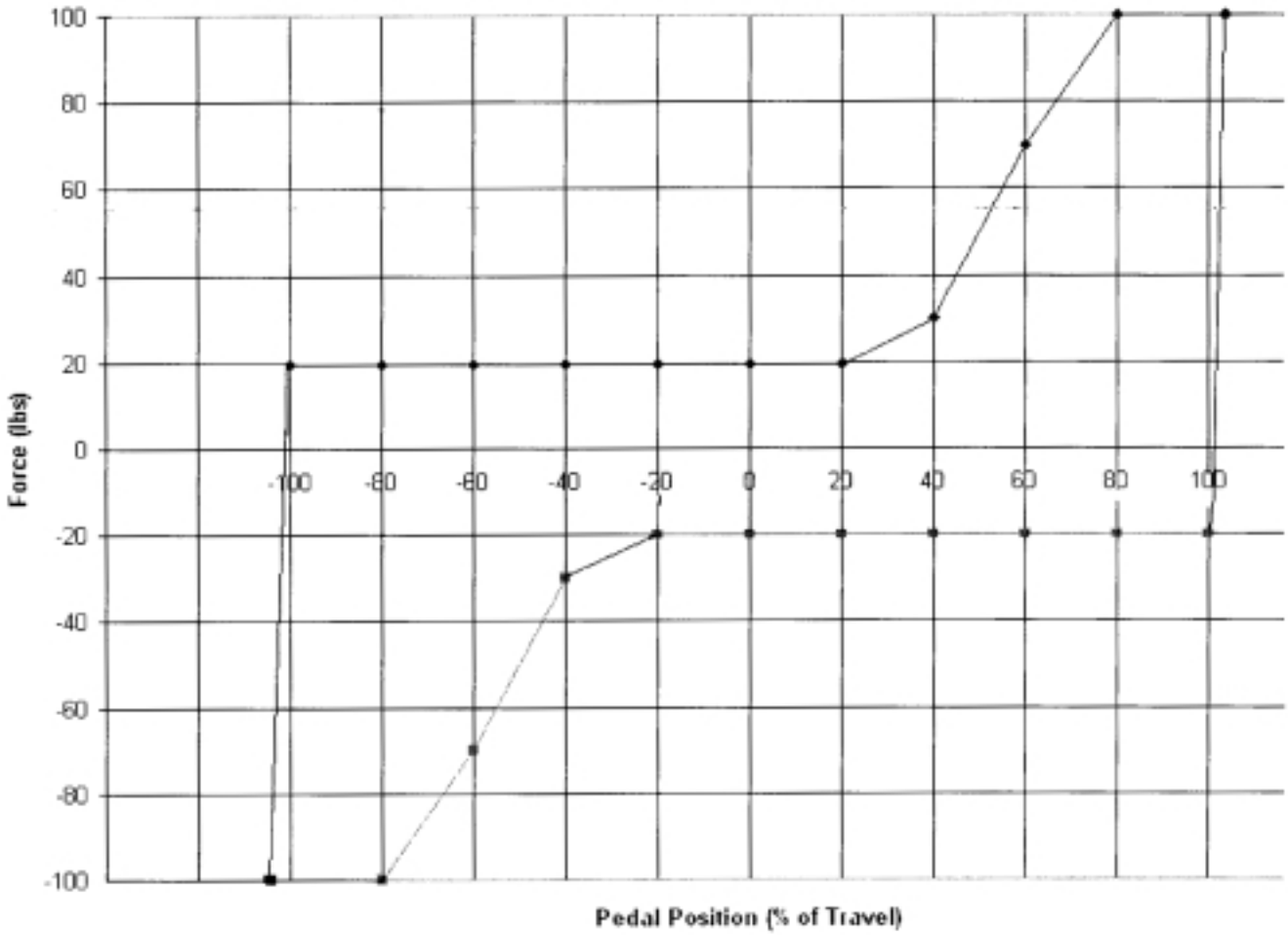


ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 10. MULTI-ENGINE TURBO-PROPELLER AIRPLANE COLUMN POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 11. MULTI-ENGINE TURBO-PROPELLER AIRPLANE WHEEL POSITION VS. FORCE



ATTACHMENT 2 TO APPENDIX B TO PART 60—
FIGURE 12. MULTI-ENGINE TURBO-PROPELLER AIRPLANE RUDDER PEDAL POSITION VS. FORCE

BILLING CODE 4910–13–C

6. Alternative Data Sources, Procedures, and Instrumentation: Level 6 FTD Only

Begin Information

a. In recent years, considerable progress has been made by highly experienced aircraft and FTD manufacturers in improvement of aerodynamic modeling techniques. In conjunction with increased accessibility to very high powered computer technology, these techniques have become quite sophisticated. Additionally, those who have demonstrated success in combining these modeling techniques with minimal flight testing have incorporated the use of highly mature flight controls models and have had extensive experience in comparing the output of their effort with actual flight test data—and they have been able to do so on an iterative basis over a period of years.

b. It has become standard practice for experienced FTD manufacturers to use such techniques as a means of establishing data bases for new FTD configurations while awaiting the availability of actual flight test data; and then comparing this new data with the newly available flight test data. The results of such comparisons have, as reported by some recognized and experienced simulation experts, become increasingly consistent and indicate that these techniques, applied with appropriate experience, are becoming dependably accurate for the development of aerodynamic models for use in Level 6 FTDs.

c. In reviewing this history, the NSPM has concluded that, with proper care, those who are experienced in the development of aerodynamic models for FTD application can successfully use these modeling techniques to acceptably alter the method by which flight test data may be acquired and, when applied to Level 6 FTDs, does not compromise the quality of that simulation.

d. The information in the table that follows (Table of Alternative Data Sources, Procedures, and Information: Level 6 FTD Only) is presented to describe an acceptable alternative to data sources for Level 6 FTD modeling and validation and as an acceptable alternative to the procedures and instrumentation found in the traditionally accepted flight test methods used to gather such modeling and validation data.

(1) Alternative data sources which may be used for part or all of a data requirement are the Airplane Maintenance Manual, the Airplane Flight Manual (AFM), Airplane Design Data, the Type Inspection Report (TIR), Certification Data or acceptable supplemental flight test data.

(2) The NSPM recommends that use of the alternative instrumentation noted in the following Table be coordinated with the NSPM prior to employment in a flight test or data gathering effort.

e. The NSPM position regarding the use of these alternative data sources, procedures, and instrumentation is based on three primary preconditions and presumptions regarding the objective data and FTD aerodynamic program modeling.

(1) While the data gathered through the alternative means does not require angle of attack (AOA) measurements or control surface position measurements for any flight test, AOA can be sufficiently derived if the flight test program insures the collection of acceptable level, unaccelerated, trimmed flight data. Any of the FTD time history tests that begin in level, unaccelerated, and trimmed flight, including the three basic trim tests and ''fly-by'' trims, can be a successful validation of angle of attack by comparison with flight test pitch angle.

(2) a rigorously defined and fully mature simulation controls system model that includes accurate gearing and cable stretch characteristics (where applicable), determined from actual aircraft measurements, will be used. Such a model does not require control surface position measurements in the flight test objective data in these limited applications.

(3) The authorized uses of Level 6 FTDs (as listed in the appropriate Commercial, Instrument, or Airline Transport Pilot and/or Type Rating Practical Test Standards) for ''initial,'' ''transition,'' or ''upgrade'' training, still requires additional flight training and/or flight testing/checking in the airplane or in a Level C or Level D simulator.

f. The sponsor is urged to contact the NSPM for clarification of any issue regarding airplanes with reversible control systems. This table is not applicable to Computer Controlled Aircraft flight FTDs.

g. Utilization of these alternate data sources, procedures, and instrumentation does not relieve the sponsor from compliance with the balance of the information contained in this document relative to Level 6 simulators.

End Information

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION: LEVEL 6 FTD ONLY

QPS requirement (if this source used)		
Applicable test and test No.	Alternative data sources, procedures, and instrumentation	Notes, reminders, and information
2.a.(1) Performance. Takeoff. Minimum Radius turn.	TIR, AFM, or Design data may be used.	
2.b.(1) Performance. Climb. Normal Climb	Data may be acquired with a synchronized video of: calibrated airplane instruments and engine power throughout the climb range.	
2.c.(1) Performance. In-Flight. Stall Warning (activation of stall warning device).	Data may be acquired through a synchronized video recording of: a stop watch and the calibrated airplane airspeed indicator. Handrecord the flight conditions and airplane configuration.	Airspeeds may be cross checked with those in the TIR and AFM.
2.d.(1) Performance. Ground. Deceleration Time, using manual application of wheel brakes and no reverse thrust.	Data may be acquired during landing tests using a stop watch, runway markers, and a synchronized video of: calibrated airplane instruments, thrust lever position and the pertinent parameters of engine power.	
2.d.(2) Performance. Ground. Deceleration Time, using reverse thrust and no wheel brakes.	Data may be acquired during landing tests using a stop watch, runway markers, and a synchronized video of: calibrated airplane instruments, thrust lever position and the pertinent parameters of engine power.	
2.e.(1) Performance. Engines. Acceleration	Data may be acquired with a synchronized video recording of: engine instruments and throttle position.	
2.e.(2) Performance. Engines. Deceleration	Data may be acquired with a synchronized video recording of: engine instruments and throttle position.	
3.a.(1)(b) Handing Qualities. Static Control Checks. Column Position vs. Force.	Force data may be acquired by using a hand held force gauge at selected, significant column positions (encompassing significant column position data points) acceptable to the NSPM.	
3.a.(2)(b) Handling Qualities. Static Control Checks. Wheel Position vs. Force.	Force data may be acquired by using a hand held force gauge at selected, significant wheel positions (encompassing significant wheel position data points) acceptable to the NSPM.	
3.a.(3)(b) Handling Qualities. Static Control Checks. Rudder Pedal Position vs. Force.	Force data may be acquired by using a hand held force gauge at selected, significant wheel positions (encompassing significant wheel position data points) acceptable to the NSPM.	

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION: LEVEL 6 FTD ONLY—Continued

QPS requirement (if this source used)		
Applicable test and test No.	Alternative data sources, procedures, and instrumentation	Notes, reminders, and information
3.a.(4) Handling Qualities. Static Control Checks. Nosewheel Steering Force.	Breakout data may be acquired with a hand held force gauge. The remainder of the force to the stops may be calculated if the force gauge and a protractor are used to measure force after breakout for at least 25% of the total displacement capability.	
3.a.(5) Handling Qualities. Static Control Checks. Rudder Pedal Steering Calibration.	Data may be acquired through the use of force pads on the rudder pedals and a pedal position measurement device, together with design data for nose wheel position measurement device, together with design data for nose wheel position.	
3.a.(6) Handling Qualities. Static Control Checks. Pitch Trim Calibration (Indicator vs. Computed).	Data may be acquired through calculations.	
3.a.(7) Handling Qualities. Static Control Checks. Alignment of Power Lever Angle vs. Selected Engine Parameter (e.g., EPR, N_1, Torque, etc.).	Data may be acquired through the use of a temporary throttle quadrant scale to document throttle position. Use a synchronized video to record steady state instrument readings or hand-record steady state engine performance readings.	
3.a.(8) Handling Qualities. Static Control Checks. Brake Pedal Position vs. Force.	Use of design or predicted data is acceptable. Data may be acquired by measuring deflection at ''zero'' and ''maximum'' and calculating deflections between the extremes using the airplane design data curve.	
3.b.(1) Handling Qualities. Longitudinal. Power Change Force.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; throttle position; and the force/position measurements of cockpit controls.	
3.b.(2) Handling Qualities. Longitudinal. Flap/Slat Change Force.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; flap/slat position; and the force/position measurements of cockpit controls.	
3.b.(3) Handling Qualities. Longitudinal. Gear Change Force.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; gear position; and the force/position measurements of cockpit controls.	
3.b.(4) Handling Qualities. Longitudinal. Landing Gear and Flap/Slat Operating Times.	May use design data, production flight test schedule, or maintenance specification, together with an SOC.	
3.b.(5) Handling Qualities. Longitudinal. Longitudinal Trim.	Data may be acquired through use of an inertial measurement system and a synchronized video of: the cockpit controls position (previously calibrated to show related surface position) and the engine instrument readings.	
3.b.(6) Handling Qualities. Longitudinal. Longitudinal Maneuvering Stability (Stick Force/g).	Data may be acquired through the use of an inertial measurement system and a synchronized video of: the calibrated airplane instruments; a temporary, high resolution bank angle scale affixed to the attitude indicator; and a wheel and column force measurement indication.	

TABLE OF ALTERNATIVE DATA SOURCES, PROCEDURES, AND INSTRUMENTATION: LEVEL 6 FTD ONLY—Continued

QPS requirement (if this source used)		
Applicable test and test No.	Alternative data sources, procedures, and instrumentation	Notes, reminders, and information
3.b.(7) Handling Qualities. Longitudinal. Longitudinal Static Stability.	Data may be acquired through the use of a synchronized video of: the airplane flight instruments and a hand held force gauge.	
3.b.(8)(b) Handling Qualities. Longitudinal. Phugoid Dynamics.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit controls.	
3.c.(1) Handling Qualities. Lateral Directional. Roll Response (Rate)		
3.c.(2) Handling Qualities. Lateral Directional. (a) Roll Overshoot or (b) Roll Response to Cockpit Roll Controller Step Input.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments and the force/position measurements of cockpit lateral controls.	
3.c.(4)(b) Handling Qualities. Lateral Directional. Spiral Stability.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls; and a stop watch.	
3.c.(5)(a) Handling Qualities. Lateral Directional. Rudder Response.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of rudder pedals.	
3.c.(6)(a) Handling Qualities. Lateral Directional. Dutch Roll, (Yaw Damper OFF).	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls.	
3.c.(7) Handling Qualities. Lateral Directional. Steady State Sideslip.	Data may be acquired by using an inertial measurement system and a synchronized video of: the calibrated airplane instruments; the force/position measurements of cockpit controls. Ground track and wind corrected heading may be used for sideslip angle.	

Attachment 3 to Appendix B to Part 60—Flight Training Device (FTD) Subjective Tests

1. Discussion

Begin Information

a. The subjective tests provide a basis for evaluating the capability of the FTD to perform over a typical utilization period; determining that the FTD satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and verifying correct operation of the FTD controls, instruments, and systems. The items in the list of operations tasks are for FTD evaluation purposes only. They must not be used to limit or exceed the authorizations for use of a given level of FTD as found in the Pilot Qualification Performance Standards or as may be approved by the TPAA. All items in the following paragraphs are subject to an examination of function.

b. The List of Operations Tasks in paragraph 2 of this attachment addresses pilot functions, including maneuvers and procedures (called flight tasks), and is divided by flight phases. The performance of these tasks by the NSPM includes an operational examination of special effects and any installed visual system. There are flight tasks included to address some features of advanced technology airplanes and innovative training programs. For example, ''high angle-of-attack maneuvering'' is included to provide a required alternative to ''approach to stalls'' for airplanes employing flight envelope protection functions.

c. The List of FTD Systems in paragraph 3 of this attachment addresses the overall function and control of the FTD including the various simulated environmental conditions; simulated airplane system operation (normal, abnormal, and emergency); and visual system displays and special effects (if either are applicable) that are used to meet flightcrew training, evaluation, or flight experience requirements.

d. All simulated airplane systems functions will be assessed for normal and, where appropriate, alternate operations. Normal, abnormal, and emergency operations associated with a flight phase will be assessed during the evaluation of flight tasks or events within that flight phase. Simulated airplane systems are listed separately under ''Any Flight Phase'' to ensure appropriate attention to systems checks. Operational navigation systems (including inertial navigation systems, global positioning systems, or other long-range systems) and the associated electronic display systems will be evaluated if installed. The NSP pilot will include in his report to the TPAA, the effect of the system operation and any system limitation.

e. At the request of the TPAA, the NSP Pilot may assess the FTD for a special aspect of a sponsor's training program during the functions and subjective portion of an evaluation. Such an assessment may include a portion of a Line Oriented Flight Training (LOFT) scenario or special emphasis items in the sponsor's training program. Unless directly related to a requirement for the qualification level, the results of such an evaluation would not affect the qualification of the FTD.

End Information

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2. List of Operations Tasks

Begin QPS Requirements

The NSP pilot, or the pilot designated by the NSPM, will evaluate the FTD in the following Operations Tasks, as applicable to the airplane and FTD level, using the sponsor's approved manuals and checklists.

a. Preparation for Flight

Preflight. Accomplish a functions check of all installed switches, indicators, systems, and equipment at all crewmembers' and instructors' stations, and determine that the cockpit (or flight deck area) design and functions replicate the appropriate airplane or set of airplanes.

b. Surface Operations (Pre-Takeoff)

(1) Engine start.
(a) Normal start.
(b) Alternate start operations.
(c) Abnormal starts and shutdowns (hot start, hung start, *etc.*).
(2) Pushback/Powerback (as applicable, powerback requires visual system).
(3) Taxi
(a) Thrust response.
(b) Power lever friction.
(c) Ground handling.
(d) Nosewheel scuffing.
(e) Brake operation (normal and alternate/emergency).
(f) Ground Hazard (if applicable) requires visual system.
(g) Surface Movement and Guidance System (SMGS) (if applicable) requires visual system.
(h) Other.

c. Takeoff

(1) Normal.
(a) Propulsion system checks (*e.g.*,engine parameter relationships; propeller and mixture controls).
(b) Airplane acceleration characteristics.
(c) Nosewheel and rudder steering.
(d) Crosswind (maximum demonstrated).
(e) Special performance.
(f) Instrument.
(g) Landing gear, wing flap, leading edge device operation.
(h) Other.
(2) Abnormal/Emergency.
(a) Rejected, with brake fade (if applicable) due to rising brake temperature.
(b) Rejected, special performance.
(c) Flight control system failure modes.
(d) Other.

d. Inflight Operation

(1) Climb.
(a) Normal.
(b) Other.
(2) Cruise.
(a) Performance characteristics (speed vs. power).
(b) Normal turns and turns with/without spoilers (speed brake) deployed.
(c) High altitude handling.
(d) High indicated airspeed handling, over-speed warning.
(e) Mach effects on control and trim.
(f) Normal and steep turns.
(g) Performance turns.
(h) Approach to stalls in the following configurations: (i) cruise; (ii) takeoff or approach; and (iii) landing.
(i) High angle of attack maneuvers in the following configurations: (i) cruise; (ii) takeoff or approach; and (iii) landing.
(j) Inflight engine shutdown (as applicable, procedures only).
(k) Inflight engine restart (as applicable, procedures only).
(l) Maneuvering with one or more engines inoperative (as applicable, procedures only).
(m) Slow flight.
(n) Specific flight characteristics.
(o) Manual flight control reversion (*i.e.*, loss of all flight control power).
(p) Other flight control system failure modes.
(q) Holding.
(r) Airborne hazard (if applicable, requires visual system).
(s) Operations during icing conditions.
(t) Traffic alert and collision avoidance.
(u) Effects of airframe icing.
(v) Other.
(3) Descent.
(a) Normal.
(b) Maximum rate (clean, with speedbrake extended, *etc.*) and recovery.
(c) Flight Control System Failure Modes (*e.g.*, manual flight control reversion; split controls, *etc.*).
(d) High rate of sink and recovery.
(e) Other.

e. Approaches

(1) Instrument Approach Maneuvers.
(a) Non-precision:
(i) Non-Directional Beacon (NDB).
(ii) VHF Omni-Range (VOR), Area Navigation (RNAV), Tactical Air Navigation (TACAN).
(iii) Distance Measuring Equipment, Arc (DME ARC).
(iv) ILS Localizer Back Course (LOC/BC).
(v) Localizer Directional Aid (LDA), ILS Front Course Localizer (LOC), Simplified Direction Facility (SDF).
(vi) Airport Surveillance Radar (ASR).
(vii) Global Positioning System (GPS).
(vii) Missed approach.
(b) Precision:
(i) Instrument Landing System (ILS)
A. Category I published:
i. Manually controlled with and without flight director to 100 feet below published decision height.
ii. With maximum demonstrated crosswind.
B. Category II published—with and without use of autopilot, autothrottle, and autoland, as applicable.
C. Category III published:
i. With minimum/standby electrical power.
ii. With generator/alternator failure (transient).
iii. With 10 knot tail wind.
iv. With 10 knot crosswind.
D. Missed approach.
(ii) Precision Approach Radar (PAR)
A. Normal.
B. With crosswind.
C. Missed approach.
(iii) Digital Global Positioning System (DGPS)
A. Normal.
B. With crosswind.
C. Missed approach.
(iv) Microwave landing system (MLS).
A. Normal.
B. With crosswind.
C. Missed approach.
(v) Steep Glide Path.
A. Normal.
B. With crosswind.
C. Missed approach.
(2) Visual Approach Maneuvers (if applicable, requires visual system).
(a) Abnormal wing flaps/slats.
(b) Without glide slope guidance or visual vertical flightpath aid (if applicable, requires visual system).
(3) Abnormal/emergency.
(a) With standby (or minimum) electric/hydraulic power.
(b) With longitudinal trim malfunction.
(c) With jammed or mis-trimmed horizontal stabilizer.
(d) With lateral-directional trim malfunction.
(e) With worst case failure of flight control system (most significant degradation of the computer controlled airplane which is not extremely improbable).
(f) Other flight control system failure modes as dictated by training program.
(g) Land and hold short operations.
(h) Other.

f. Missed Approach

(1) Manual.
(2) Automatic (if applicable).

g. Any Flight Phase

(1) Air conditioning.
(2) Anti-icing/deicing.
(3) Auxiliary powerplant.
(4) Communications.
(5) Electrical.
(6) Fire detection and suppression.
(7) Flaps.
(8) Flight controls (including spoiler/speedbrake).
(9) Fuel and oil.
(10) Hydraulic.
(11) Landing gear.
(12) Oxygen.
(13) Pneumatic.
(14) Propulsion System.
(15) Pressurization.
(16) Flight management and guidance systems.
(17) Automatic landing aids.
(18) Automatic pilot.
(19) Thrust management/auto-throttle.

(20) Flight data displays.
(21) Flight management computers.
(22) Flight director/system displays.
(23) Flight Instruments.
(24) Heads-up flight guidance system.
(25) Navigation systems.
(26) Weather radar system.
(27) Stall warning/avoidance.
(28) Stability and control augmentation.
(29) ACARS
(30) Other.

h. Engine Shutdown and Parking

(1) Systems operation.
(2) Parking brake operation.

3. FTD Systems

a. Instructor Operating Station (IOS)

(1) Power switch(es).
(2) Airplane conditions.
  (a) Gross weight, center of gravity, fuel loading and allocation, *etc.*
  (b) Airplane systems status.
  (c) Ground crew functions (*e.g.*, external power connections, push back, *etc.*)
  (d) Other.
(3) Airports.
  (a) Selection.
  (b) Runway selection.
  (c) Preset positions (*e.g.* ramp, over FAF, etc.)
  (d) Other.
(4) Environmental controls.
  (a) Temperature.
  (b) Climate conditions (*e.g.*, ice, rain, *etc.*).
  (c) Wind speed and direction.
  (d) Other.
(5) Airplane system malfunctions.
  (a) Insertion / deletion.
  (b) Problem clear.
  (c) Other
(6) Locks, freezes, and repositioning.
  (a) Problem (all) freeze / release.
  (b) Position (geographic) freeze / release.
  (c) Repositioning (locations, freezes, and releases).
  (d) Two times or one-half ground speed control (or other).
  (e) Other
(7) Remote IOS.
(8) Other.

b. Sound Controls. On / off / rheostat

c. Control Loading System. (as applicable) On / off / emergency stop.

d. Observer Stations.

(1) Position.
(2) Adjustments.

End QPS Requirements

Attachment 4 to Appendix B to Part 60—Definitions and Abbreviations

1. Definitions

Begin Regulatory Language (14 CFR Part 1 and § 60.3)

(From Part 1—Definitions)

Flight simulation device (FSD) means a flight simulator or a flight training device.

Flight simulator means a full size replica of a specific type or make, model, and series aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent the aircraft in ground and flight operations, a visual system providing an out-of-the-cockpit view, a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standards (QPS) for a specific qualification level.

Flight training device (FTD) means a full size replica of aircraft instruments, equipment, panels, and controls in an open flight deck area or an enclosed aircraft cockpit replica. It includes the equipment and computer programs necessary to represent the aircraft or set of aircraft in ground and flight conditions having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standard (QPS) for a specific qualification level.

(From Part 60—Definitions)

Certificate holder. A person issued a certificate under parts 119, 141, or 142 of this chapter or a person holding an approved course of training for flight engineers in accordance with part 63 of this chapter.

Flight test data. Actual aircraft performance data obtained by the aircraft manufacturer (or other supplier of data acceptable to the NSPM) during an aircraft flight test program.

FSD Directive. A document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD.

Master Qualification Test Guide (MQTG). The FAA-approved Qualification Test Guide with the addition of the FAA-witnessed test, performance, or demonstration results, applicable to each individual FSD.

National Simulator Program Manager (NSPM). The FAA manager responsible for the overall administration and direction of the National Simulator Program (NSP), or a person approved by the NSPM .

Objective test. A quantitative comparison of simulator performance data to actual or predicted aircraft performance data to ensure FSD performance is within the tolerances prescribed in the QPS.

Predicted data. Aircraft performance data derived from sources other than direct physical measurement of, or flight tests on, the subject aircraft. Predicted data may include engineering analysis and simulation, design data, wind tunnel data, estimations or extrapolations based on existing flight test data, or data from other models.

Qualification level. The categorization of the FSD, based on its demonstrated technical and operational capability as set out in the QPS.

Qualification Performance Standard (QPS). The collection of procedures and criteria published by the FAA to be used when conducting objective tests and subjective tests, including general FSD requirements, for establishing FSD qualification levels.

Qualification Test Guide (QTG). The primary reference document used for evaluating an aircraft FSD. It contains test results, performance or demonstration results, statements of compliance and capability, the configuration of the aircraft simulated, and other information for the evaluator to assess the FSD against the applicable regulatory criteria.

Set of aircraft. Aircraft that share similar handling and operating characteristics and similar operating envelopes and have the same number and type of engines or power plants.

Sponsor. A certificate holder who seeks or maintains FSD qualification and is responsible for the prescribed actions as set out in this part and the QPS for the appropriate FSD and qualification level.

Subjective test. A qualitative comparison to determine the extent to which the FSD performs and handles like the aircraft being simulated.

Training Program Approval Authority (TPAA). A person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used.

Upgrade. The improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.

End Regulatory Language (14 CFR Part 1 and § 60.3)

Begin QPS Requirements

1st Segment—is that portion of the takeoff profile from liftoff to gear retraction.

2nd Segment—is that portion of the takeoff profile from after gear retraction to initial flap/slat retraction.

3rd Segment—is that portion of the takeoff profile after flap/slat retraction is complete.

Airspeed—is calibrated airspeed unless otherwise specified and is expressed in terms of nautical miles per hour (knots).

Altitude—is pressure altitude (meters or feet) unless specified otherwise.

Automatic Testing—is FTD testing wherein all stimuli are under computer control.

Bank—is the airplane attitude with respect to or around the longitudinal axis, or roll angle (degrees).

Breakout—is the force required at the pilot's primary controls to achieve initial movement of the control position.

Closed Loop Testing—is a test method for which the input stimuli are generated by controllers which drive the FTD to follow a pre-defined target response.

Control Sweep—is movement of the appropriate pilot controller from neutral to an extreme limit in one direction (Forward, Aft, Right, or Left), a continuous movement back through neutral to the opposite extreme position, and then a return to the neutral position.

Computer Controlled Airplane—is an airplane where all pilot inputs to the control surfaces are transferred and augmented by computers.

Convertible FTD—is an FTD in which hardware and software can be changed so that the FTD becomes a replica of a different model, usually of the same type airplane. The same FTD platform, cockpit shell, motion system, visual system, computers, and

necessary peripheral equipment can thus be used in more than one simulation.

Critical Engine Parameter—is the engine parameter which is the most accurate measure of propulsive force.

Deadband—is the amount of movement of the input for a system for which there is no reaction in the output or state of the system observed.

Distance—is the length of space between two points and is expressed in terms of nautical miles unless specified otherwise.

Driven—is a test method where the input stimulus or variable is positioned by automatic means, generally a computer input.

Free Response—is the response of the FTD after completion of a control input or disturbance.

Frozen—is a test condition where one or more variables are held constant with time.

FTD Approval—is the extent to which an FTD may be used by a certificate holder as authorized by the FAA. It takes account of airplane to FTD differences and the training ability of the organization.

FTD Latency—is the additional time beyond that of the response time of the airplane due to the response of the FTD.

Fuel used—is the amount or mass of fuel used (kilograms or pounds).

Hands Off—is a test maneuver conducted or completed without pilot control inputs.

Hands On—is a test maneuver conducted or completed with pilot control inputs as required.

Height—is the height above ground level (or AGL) expressed in meters or feet.

Integrated Testing—is testing of the FTD such that all airplane system models are active and contribute appropriately to the results where none of the models used are substituted with models or other algorithms intended for testing only.

Irreversible Control System—is a control system in which movement of the control surface will not backdrive the pilot's control in the cockpit.

Locked—is a test condition where one or more variables are held constant with time.

Manual Testing—is FTD testing wherein the pilot conducts the test without computer inputs except for initial setup and all modules of the simulation are active.

Medium—is the normal operational weight for a given flight segment.

Nominal—is the normal operational weight, configuration, speed, *etc.,* for the flight segment specified.

Non-Normal Control—is a term used in reference to Computer Controlled Airplanes and is the state where one or more of the intended control, augmentation, or protection functions are not fully working. **Note:** Specific terms such as ALTERNATE, DIRECT, SECONDARY, BACKUP, *etc.,* may be used to define an actual level of degradation.

Normal Control—is a term used in reference to Computer Controlled Airplanes and is the state where the intended control, augmentation, and protection functions are fully working.

Pitch—is the airplane attitude with respect to or around the lateral axis expressed in degrees.

Power Lever Angle—is the angle of the pilot's primary engine control lever(s) in the cockpit. This may also be referred to as PLA, THROTTLE, or POWER LEVER.

Protection Functions—are systems functions designed to protect an airplane from exceeding its flight maneuver limitations.

Pulse Input—is a step input to a control followed by an immediate return to the initial position.

Reversible Control System—is a control system in which movement of the control surface will backdrive the pilot's control in the cockpit.

Roll—is the airplane attitude with respect to or around the longitudinal axis expressed in degrees.

Sideslip—is the angular difference between the airplane heading and the direction of movement in the horizontal plane.

Simulation Data—are the various types of data used by the FTD manufacturer and the applicant to design, manufacture, and test the FTD.

Snapshot—is a presentation of one or more variables at a given instant of time.

Source Data—are, for the purpose of this document, performance, stability and control, and other necessary test parameters electrically or electronically recorded in an airplane using a calibrated data acquisition system of sufficient resolution and verified as accurate by the company performing the test to establish a reference set of relevant parameters to which like FTD parameters can be compared.

Statement of Compliance and Capability (SOC)—is a declaration that specific requirements have been met. It must declare that compliance with the requirement is achieved and explain how the requirement is met (*e.g.*, gear modeling approach, coefficient of friction sources, *etc.*). It must also describe the capability of the FTD to meet the requirement (*e.g.*, computer speed, visual system refresh rate, *etc.*). In doing this, the statement must provide references to needed sources of information for showing compliance, rationale to explain how the referenced material is used, mathematical equations and parameter values used, and conclusions reached.

Step Input—is an abrupt control input held at a constant value.

Time History—is a presentation of the change of a variable with respect to time.

Training Program Approval Authority (TPAA)—is the person who exercises authority on behalf of the Administrator in approving the aircraft flight training program for the appropriate airplane in which the FTD will be used. This person is the principal operations inspector (POI) for programs approved under 14CFR parts 63, 121, 125, or 135; or the training center program manager (TCPM) for programs approved under part 141 or 142.

Transport Delay or ''Throughput''—is the total FTD system processing time required for an input signal from a pilot primary flight control until motion system, visual system, or instrument response. It is the overall time delay incurred from signal input until output response. It does not include the characteristic delay of the airplane simulated.

Validation Data—are data used to determine if the FTD performance corresponds to that of the airplane.

Validation Test—is a test by which FTD parameters are compared to the relevant validation data.

Visual System Response Time—is the interval from a control input to the completion of the visual display scan of the first video field containing the resulting different information.

Yaw—is airplane attitude with respect to or around the vertical axis expressed in degrees.

End QPS Requirements

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2. Abbreviations

Begin QPS Requirements

AFM—Approved Flight Manual.
AGL—Above Ground Level (meters or feet).
AOA—Angle of Attack (degrees).
APD—Aircrew Program Designee.
CCA—Computer Controlled Airplane.
cd/m ^{2}—candela/meter ^{2}, 3.4263 candela/m ^{2} = 1 ft-Lambert.
CFR—Code of Federal Regulations.
cm(s)—centimeter, centimeters.
daN—decaNewtons, one (1) decaNewton = 2.27 pounds.
deg(s)—degree, degrees.
DOF—Degrees-of-freedom
EPR—Engine Pressure Ratio.
FAA—Federal Aviation Administration (U.S.).
fpm—feet per minute.
ft—foot/feet, 1 foot = 0.304801 meters.
ft-Lambert—foot-Lambert, 1 ft-Lambert = 3.4263 candela/m ^{2}.
g—Acceleration due to Gravity (meters or feet/sec ^{2}); 1g = 9.81 m/sec ^{2} or 32.2 feet/sec ^{2}.
G/S—Glideslope.
IATA—International Airline Transport Association.
ICAO—International Civil Aviation Organization.
ILS—Instrument Landing System.
IQTG—International Qualification Test Guide.
km—Kilometers 1 km = 0.62137 Statute Miles.
kPa—KiloPascal (Kilo Newton/Meters2). 1 psi = 6.89476 kPa.
Kt—Knots calibrated airspeed unless otherwise specified, 1 knot = 0.5148 m/sec or 1.689 ft/sec.
lb(s)—pound(s), one (1) pound = 0.44 decaNewton.
M,m—Meters, 1 Meter = 3.28083 feet.
Min(s)—Minute, minutes.
MLG—Main Landing Gear.
Mpa—MegaPascals (1 psi = 6894.76 pascals).
ms—millisecond(s).
N—NORMAL CONTROL Used in reference to Computer Controlled Airplanes.
N1—Low Pressure Rotor revolutions per minute, expressed in percent of maximum.
N2—High Pressure Rotor revolutions per minute, expressed in percent of maximum.

N3—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
nm—Nautical Mile(s) 1 Nautical Mile = 6,080 feet.
NN—NON-NORMAL CONTROL Used in reference to Computer Controlled Airplanes.
NWA—Nosewheel Angle (degrees).
PAPI—Precision Approach Path Indicator System.
Pf—Impact or Feel Pressure, often expressed as ''q.''.
PLA—Power Lever Angle.
PLF—Power for Level Flight.
psi—pounds per square inch.
QPS—Qualification Performance Standard.
RAE—Royal Aerospace Establishment.
R/C—Rate of Climb (meters/sec or feet/min).
R/D—Rate of Descent (meters/sec or feet/min).
REIL—Runway End Identifier Lights.
RVR—Runway Visual Range (meters or feet).
s—second(s).
sec(s)—second, seconds.
sm—Statute Mile(s) 1 Statute Mile = 5,280 feet.
SOC—Statement of Compliance and Capability.
Tf—Total time of the flare maneuver duration.
Ti—Total time from initial throttle movement until a 10% response of a critical engine parameter.
TIR—Type Inspection Report.
T/O—Takeoff.
Tt—Total time from Ti to a 90% increase or decrease in the power level specified.
VASI—Visual Approach Slope Indicator System.
VGS—Visual Ground Segment.
V_1—Decision speed
V_R—Rotation speed
V_2—Takeoff Safety Speed
Vmc—Minimum Control Speed.
Vmca—Minimum Control Speed in the air.
Vmcg—Minimum Control Speed on the ground.
Vmcl—Minimum Control Speed—Landing.
Vmu—The speed at which the last main landing gear leaves the ground.
Vs—Stall Speed or minimum speed in the stall.
WAT—Weight, Altitude, Temperature.

End QPS Requirements

Attachment 5 to Appendix B to Part 60—Sample Documents

Begin Information

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Title of Sample

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Figure 2. Sample Qualification Test Guide Cover Page
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BILLING CODE 4910–13–P

Attachment 5 to Appendix B to Part 60—
Figure 1 – Sample Letter of Request

INFORMATION

Date

Name, TCPM, _____(Certificate Holder)

FAA FSDO _____

Address

City, State, Zip

Dear Mr./Ms. _____:

(Sponsor's name) _____ requests evaluation of our _____ (type airplane or set of airplanes) FTD for Level _____ qualification. The (name) _____ FTD [with (name) _____visual system - if applicable] is fully defined on page _____ of the accompanying qualification test guide (QTG). We have completed tests of the FTD and confirm that it meets all applicable requirements of Title 14 of the Code of Federal Regulation (14 CFR) part 60 and the requirements of the Airplane Flight Training Device Qualification Performance Standards (QPS). Appropriate hardware and software configuration control procedures have been established.

Our pilot(s) (name) _____ [and (name)_____], who is(are) qualified on_____ (airplane type or set of airplanes) has(have) assessed the FTD and found that it conforms to the (sponsor name) _____ airplane (type or set of airplanes) cockpit configuration and that the simulated systems and subsystems have been evaluated and found to function equivalently to those in the airplane (or set of airplanes). The above named pilot(s) has(have) found that the FTD represents the respective airplane (or set of airplanes) in accordance with the attached Configuration List. He/She(They) has(have) also subjectively assessed the performance and flying qualities of the FTD and state that it represents the airplane (or set of airplanes). He/She(They) has(have) not subjectively tested the FTD for those tasks on the attached Restrictions-to-Qualification list and we do not seek qualification in these areas.

(Added comments as desired.)

Sincerely,

(Signature of Appropriate Person)

Attachment 5 to Appendix B to Part 60—

Figure 2 – Sample Qualification Test Guide Cover Page

INFORMATION

SPONSOR NAME

SPONSOR ADDRESS

FAA QUALIFICATION TEST GUIDE

(SPECIFIC AIRPLANE MODEL OR SET OF AIARPLANES)
for example
Stratos BA797-320A – or – Multi-Engine, Turbo-Propeller Driven

(Type of FTD)

(FTD Identification Including Manufacturer, Serial Number, Visual System Used)

(FTD Level)

(Qualification Performance Standard Used)

(FTD Location)

FAA Initial Evaluation

Date: _____

_____ Date: _____
(Sponsor)

_____ Date: _____
Manager, National
Simulator Program, FAA

Attachment 5 to Appendix B to Part 60—
Figure 3 – Sample FTD Information Page

SPONSOR NAME	
SPONSOR FTD CODE:	BA-797 #1
AIRPLANE MODEL:	Stratos BA797-320A
AERODYNAMIC DATA REVISION:	BA797-320, CPX-8D, January 1988
ENGINE MODEL(S) AND REVISION:	CPX-8D; RPT-6, January 1988 DRQ-4002, RPT-3, April 1991
FLIGHT CONTROLS DATA REVISION:	BR707-320; May 1988
FLIGHT MANAGEMENT SYSTEM:	Berry XP
FTD MODEL AND MANUFACTURER:	MTD-797, Tinker Simulators, Inc.
DATE OF FTD MANUFACTURE:	1988
FTD COMPUTER:	CIA
VISUAL SYSTEM MODEL, MANUFACTURER, and DISPLAY TYPE:	ClearView, Inc. "The World" 1 Channel, 2-window CRT display
VISUAL SYSTEM COMPUTER:	LMB-1
MOTION SYSTEM:	N/A

Information on this page must be updated and kept current with any modifications or changes made to the FTD and reflected on the log of revisions and the list of effective pages.

Attachment 5 to Appendix B to Part 60—
Figure 4 – Sample Statement of Qualification

Federal Aviation Administration
National Simulator Program

Statement of Qualification

This is to certify that representatives of the
National Simulator Program
Completed an evaluation of the

Go-Fast Training Center
Stratos BA-797 Flight Training Device

FAA Identification Number 721

And found it to meet the standards set forth
In the Qualification Performance Standards
For a Flight Training Device at

Level 6

_____ _____

(date) for the NSPM

Subject to the attached
Configuration List and Restrictions

Attachment 5 to Appendix B to Part 60—
Figure 4A – Sample Statement of Qualification; Configuration List

INFORMATION

STATEMENT of QUALIFICATION
CONFIGURATION LIST
Go-Fast Training Center Stratos BA-797 -- Level 6 -- FAA ID# 721

Configuration		Date Qualified
Airplane Model:.....	BA-797.....	July 12, 1988
Engine Model(s) and Revision:...	☐ CPX-8D, RPT-6.....	July 12, 1988
	☐ DRQ-4002, RPT-3.....	April 1, 1991
Flight Management System:.....	Berry XP.....	July 12, 1988
Visual System / Manufacturer:	The World, Clear View, Inc.	
☐ CRT Installation:.....	1 Channel, 2 Window.....	July 12, 1988
☐ Projected System:.....	__° Horizontal Viewing Angle.....	
Flight Instruments:		
☐ Electro-Mechanical:.....	.....	July 12, 1988
☐ Display (CRT, LCD, etc.).....		
☐ Combination		
☐ Heads-Up Display.....	Jones Industries.....	December 1, 1993
Flight Director:		
☐ Single Cue.....		
☐ Dual Cue.....	Sperry.....	July 12, 1988
☐ None.....		
Engine Instruments:		
☐ Electro-Mechanical.....	.....	July 12, 1988
☐ Display (CRT, LCD, etc.).....		
☐ Combination.....		
Navigation Type(s):		
☐ ADF.....	.....	July 12, 1988
☐ VOR/ILS.....	.....	July 12, 1988
☐ GPS.....		
☐ INS.....	.....	October 10, 1991
☐ IRS.....		
Weather Radar:	Jones Industries, Inc.	August 3, 1996
TCAS		
ACARS		

(Continue, As Needed)

Attachment 5 to Appendix B to Part 60—
Figure 4B – Sample Statement of Qualification; Qualified/Non-Qualified Tasks

INFORMATION

STATEMENT of QUALIFICATION
Qualified/Non-Qualified Tasks
Go-Fast Training Center
Stratos BA-797 -- Level 6 -- FAA ID# 721

The following are those items listed in the Airplane Flight Training Device Qualification Performance Standards (QPS), FAA-S-120-45B, dated (May 1, 2000) Appendix 3, Subjective Tests, indicating what tasks and systems are qualified **(Q)** *and what tasks and systems are not qualified* **(NQ).**

NQ	Q	TASK		NQ	Q	TASK
		A. Preparation for Flight.				**D. In-flight Operation.**
	X	Preflight.				1. Climb.
		B. Surface Ops (Pre-Takeoff).			X	(a) Normal.
		1. Engine start.			X	(b) Other.
	X	(a) Normal start.				2. Cruise.
	X	(b) Alternate start operations.			X	(a) Performance (speed vs. power).
	X	(c) Abnormal starts			X	(b) Turns w/wo spoilers
	X	2. Pushback			X	(c) High altitude handling.
X		3. Powerback.			X	(d) High airspeed handling
		4. Taxi		X		(e) Mach effects
	X	(a) Thrust response.			X	(f) Normal and steep turns.
	X	(b) Power lever friction.		X		(g) Performance turns.
	X	(c) Ground handling.				(h) Approach to stalls
	X	(d) Nosewheel scuffing.			X	1) cruise
	X	(e) Brake operation			X	2) takeoff or approach
	X	(f) Other.			X	3) landing
		C. Takeoff.				(i) High AOA maneuvers
		1. Normal.		X		1) cruise
	X	(a) Propulsion system checks		X		2) takeoff or approach
	X	(b) Airplane acceleration		X		3) landing
	X	(c) Nosewheel/rudder steering			X	(j) In-flight engine shutdown
	X	(d) Crosswind (max. demo)			X	(k) In-flight engine restart
X		(e) Special performance.			X	(l) Maneuver w/ engine(s) inop.
	X	(f) Landing gear, flap/slat ops.		X		(m) Slow flight.
	X	(g) Other.		X		(n) Spec flight characteristics.
		2. Abnormal/Emergency.		X		(o) Manual flight control
	X	(a) Rejected, with brake fade		X		(p) Other flight control failures
X		(b) Rejected, special perf.			X	(q) Holding.
X		(c) Flight control system failure.			X	(r) Ops. in icing conditions
	X	(d) Other.		X		(s) TCAS

Initials _____ Date _____ (Continued)

NQ	Q	TASK		NQ	Q	TASK
	X	(t) Effects of airframe icing.		X		B. With crosswind.
	X	(u) Other.		X		C. Missed approach.
		3. Descent.				(vi) MLS.
	X	(a) Normal.		X		A. Normal
	X	(b) Max. rate and recovery		X		B. With crosswind.
X		(c) Flight control failure		X		C. Missed approach.
	X	(d) High sink rate and recovery.				(vii) Steep Glide Path.
	X	(e) Other.		X		A. Normal
		E. Approaches.		X		B. With crosswind.
		1. Instrument Approach		X		C. Missed approach.
		(a) Non-precision:				2. Visual Approach Maneuvers.
	X	(i) NDB			X	(a) Abnormal wing flaps/slats
	X	(ii) VOR,			X	(b) No G/S or visual flightpath aid.
X		(iii)RNAV,				3. Abnormal/emergency.
X		(iv)TACAN			X	(a) One engine inoperative.
	X	(v) DME Arc			X	(b) Min. electric/hydraulic power.
	X	(vi) LOC/FC.			X	(c) Pitch trim malfunction.
	X	(vii) LOC/BC,			X	(d) Jammed horizontal stabilizer.
X		(viii) LDA,			X	(e) Roll/Yaw trim malfunction.
X		(ix) SDF		X		(f) Worst Flt Cont fail. (+**CCA**).
X		(x) ASR.		X		(g) Other failures / trng. prog.
X		(xi) GPS.			X	(h) Other.
	X	(xii) Missed approach.				**F. Missed approach.**
		(b) Precision:			X	1. Manual.
		(i) ILS Category I		X		2. Automatic (if applicable).
	X	A. Manual w/wo flight director				**J. Any Flight Phase.**
	X	B. Max. crosswind			X	1. Air conditioning.
		(ii) ILS Category II			X	2. Anti-icing/deicing.
	X	A. W/Wo Auto-Couple			X	3. Auxiliary powerplant.
	X	B. Max. crosswind			X	4. Communications.
		(iii) ILS Category III			X	5. Electrical.
X		A. Min./stnby. electrical power.			X	6. Fire detection and suppression.
X		B. Generator/alternator failure			X	7. Flaps/Slats.
X		C. Tail wind 10 knots			X	8. Flight cont (+ spoiler/spdbrake).
X		D. Crosswind 10 knots			X	9. Fuel and oil.
		(iv) PAR			X	10. Hydraulic.
X		A. Normal			X	11. Landing gear.
X		B. With crosswind.			X	12. Oxygen.
X		C. Missed approach.			X	13. Pneumatic.
		(v) DGPS			X	14. Propulsion System.
X		A. Normal			X	15. Pressurization.

Initials _____ Date _____ (Continued)

NQ	Q	TASK	NQ	Q	TASK
	X	16. Flt mgmt / guidance systems.		X	25. Navigation systems.
	X	17. Auto landing aids.		X	26. Weather radar.
	X	18. Auto-pilot.		X	27. Stall warning/avoidance.
	X	19. Auto-throttle.	X		28. Stability augmentation.
	X	20. Flight data displays.	X		29. ACARS.
	X	21. Flight mgmt computers.		X	30. Other.
	X	22. Flight Director.			**K. Eng. Shutdown and Parking.**
	X	23. Flight Instruments.		X	1. Systems operation.
	X	24. HUD system.		X	2. Parking brake operation.

Initials _____ Date_____

(Continued)

NQ	Q	FTD SYSTEM		NQ	Q	FTD SYSTEM
		A. Inst. Ops. Station (IOS).				**B. Sound Controls.**
	X	1. Power switch(es).			X	-- On / off / rheostat
		2. Airplane conditions.				**C. Control Loading System.**
	X	(a) GW, CG, Fuel weight, etc.			X	On / off /.
	X	(b) Airplane systems status.				**D. Observer Stations.**
	X	(c) Ground crew functions			X	1. Position.
	X	(d) Other.			X	2. Adjustment.
		3. Airports.				
	X	(a) Number and selection.				
	X	(b) Runway selection.				
	X	(c) Preset positions				
	X	(d) Lighting controls.				
	X	(e) Other.				
		4. Environmental controls.				
	X	(a) Temperature.				
	X	(b) Climate conditions				
	X	(c) Wind speed and direction.				
	X	(d) Other.				
		5. Airplane system malfunctions.				
	X	(a) Insertion / deletion.				
	X	(b) Problem clear.				
	X	(c) Other				
		6. Locks, freezes, repositioning.				
	X	(a) Problem freeze / release.				
	X	(b) Position freeze / release.				
	X	(c) Repositioning				
	X	(d) Ground speed control				
	X	(e) Other				
X		7. Remote IOS.				
	X	8. Other.				

Initials _____ Date_____ -- End --

Attachment 5 to Appendix B to Part 60—
Figure 5 – Sample Recurrent Evaluation Requirements Page

INFORMATION

Recurrent Evaluation Requirements ***Completed at conclusion of Initial Evaluation***	
Recurrent Evaluations to be conducted each _(fill in)__ months Allotting _____ hours of FTD time. Signed: _____ NSPM / Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

(Repeat as Necessary)

Attachment 5 to Appendix B to Part 60—
Figure 6 – Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date

INFORMATION

Mr. Edward Cook
Manager, National Simulator Program
Federal Aviation Administration
P.O. Box 20636 (AFS-205)
Atlanta, GA 30320

Dear Mr. Cook:

RE: Request for Initial [Upgrade / Reinstatement] Evaluation Date

This is to advise you of our intent to request an evaluation of our (Aircraft type or set / Level) FTD located in (City/State) at the (Facility) on (proposed evaluation date). [The proposed evaluation date must not be more than 180 days following the date of this letter.] This FTD [has / has not] been previously qualified by the FAA [and had been issued FAA identification number XXX]. [The history of this FTD is as follows:
_____.]

We agree to provide a Qualification Test Guide (QTG) to your staff not later than 45 days prior to the proposed evaluation date (if tests not run at training site, an additional "1/3 on-site" tests must be provided not later than 14 days prior the proposed evaluation date). If we are unable to meet the above date for the evaluation, this may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation.

[Added comments from Operator/Sponsor, if any]

Please contact (Name and Telephone Number of Sponsor's Contact) to confirm the date for this initial evaluation. We understand a member of your National Simulator Program staff will respond to this request within 14 days.

A copy of this letter of intent has been provided to our Principal Operations Inspector (POI) and/or Training Center Program Manager (TCPM).

Sincerely,

(Signature)

Acknowledgement:

____ We concur with your proposed dates.

____ The date requested is not available, however, we propose the following date:

____ Please provide us with the following information:

_____ _____
Scheduler, National Simulator Program Date

Attachment 5 to Appendix B to Part 60— Figure 7 – Sample MQTG Index of Effective FSD Directives.

INFORMATION

Index of Effective FSD Directives Filed in this Section

Notification Number	Received From: (TPAA/NSPM)	Date of Notification	Date of Modification Completion

Continue as Necessary....

BILLING CODE 4910–13–C

Attachment 6 to Appendix B to Part 60— Record of FSD Directives

Begin QPS Requirements

When the FAA determines that modification of an FTD is necessary for safety reasons, all affected FTDs must be modified accordingly, regardless of the original qualification standards applicable to any specific FTD.

a. A copy of the notification to the sponsor from the TPAA or NSPM that a modification is necessary will be filed in and maintained as part of this attachment.

b. The effective FSD Directives, including the date of the directive, the direction to make these changes, and the date of completion of any resulting modification must be maintained in a separate section of the MQTG and index accordingly. The MQTG must also be updated to include the information described in § 60.15(b)(4) as may be appropriate as a result of the FSD Directive. See Attachment 5, Figure 7, of this appendix for a sample Index of Effective FSD Directives.

End QPS Requirements

Appendix C to Part 60—Qualification Performance Standards for Helicopter Flight Simulators

Begin Information

This appendix establishes the standards for Helicopter Flight Simulator evaluation and qualification. The Flight Standards Service, National Simulator Program (NSP) staff, under the direction of the NSP Manager (NSPM), is responsible for the development, application, and interpretation of the standards contained within this appendix.

The procedures and criteria specified in this document will be used by the NSPM, or a person or persons assigned by the NSPM (*e.g.*, FAA pilots and/or FAA aeronautical engineers, assigned to and trained under the direction of the NSP—referred to as NSP pilots or NSP engineers, other FAA personnel, etc.) when conducting helicopter flight simulator evaluations.

Table of Contents

1. Introduction.
2. Definitions.
3. Related Reading References.
4. Background.
5. Quality Assurance Program.
6. Sponsor Qualification Requirements.
7. Additional Responsibilities of the Sponsor.
8. Simulator Use.
9. Simulator Objective Data Requirements.
10. Special Equipment and Personnel Requirements for Qualification of the Simulator.
11. Initial (and Upgrade) Qualification Requirements.
12. Additional Qualifications for a Currently Qualified Simulator.
13. Previously Qualified Simulators.
14. Inspection, Maintenance, and Recurrent Evaluation Requirements.
15. Logging Simulator Discrepancies.
16. [Reserved]
17. Modifications to Simulators.
18. Operations With Missing, Malfunctioning, or Inoperative Components.
19. Automatic Loss of Qualification and Procedures for Restoration of Qualification.
20. Other Losses of Qualification and Procedures for Restoration of Qualification.
21. Recordkeeping and Reporting.
22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements.
23. [Reserved]
24. [Reserved]
25. [Reserved]

Attachment 1 to Appendix C to Part 60— General Simulator Requirements.

Attachment 2 to Appendix C to Part 60— Simulator Objective Tests.

Attachment 3 to Appendix C to Part 60—Simulator Subjective Tests.
Attachment 4 to Appendix C to Part 60—Definitions and Abbreviations.
Attachment 5 to Appendix C to Part 60—Sample Documents.
Attachment 6 to Appendix C to Part 60—Record of FSD Directives.

1. Introduction

a. This appendix contains background information as well as information that is either directive or guiding in nature. Information considered directive is described in this document in terms such as ''will,'' ''shall,'' and ''must,'' and means that the actions are mandatory. Guidance information is described in terms such as ''should,'' or ''may,'' and indicate actions that are desirable, permissive, or not mandatory and provide for flexibility.

b. To assist the reader in determining what areas are directive or required and what areas are guiding or permissive—

(1) The text in this appendix is contained within sections, separated by horizontal lines; headings associated with these horizontal lines will indicated that a particular section begins or ends. All of the text falls into one of three sections: a direct quote or a paraphrasing of the Part 60 rule language; additional requirements that are also regulatory but are found only in this appendix; and advisory or informative material.

(2) The text presented between horizontal lines beginning with the heading ''Begin Rule Language'' and ending with the heading ''End Rule Language,'' is a direct quote or is paraphrased from Part 60 of the regulations. For example: the rule uses the terms ''flight simulation device (FSD)'' and ''aircraft;'' however, in this appendix the rule is paraphrased and the term ''simulator'' is used instead of FSD, and ''airplane'' is used instead of aircraft. Additionally, the rule uses the terms ''this part'' and ''appropriate QPS;'' however, in this appendix the rule is paraphrased and the terms ''Part 60'' and ''this appendix,'' respectively, are used instead. (Definitions are not paraphrased or modified in any way.) For ease of referral, the Part 60 reference is noted at the beginning and the end of the bordered area.

(3) The text presented between horizontal lines beginning with the heading ''Begin QPS Requirements'' and ending with the heading ''End QPS Requirements,'' is also regulatory but is found only in this appendix.

(4) The text presented between horizontal lines beginning with the heading ''Begin Information'' and ending with the heading ''End Information,'' is advisory or informative.

(5) The tables in this appendix have rows across the top of each table—

(a) The data presented in columns under the heading ''QPS REQUIREMENTS'' is regulatory but is found only in this appendix.

(b) The data presented in columns under the heading ''INFORMATION'' is advisory or informative.

Important Note: While this appendix contains quotes and paraphrasing directly from the rule, the reader is cautioned not to rely solely on this appendix for regulatory requirements regarding flight simulators. For regulatory references for airplane flight simulators, the reader is referred to paragraphs 3.a through h of this appendix.

c. Questions regarding the contents of this publication should be sent to: U.S. Department of Transportation, Federal Aviation Administration, Flight Standards Service, National Simulator Program Staff, AFS–205, PO Box 20636 Atlanta, Georgia 30320. Telephone contact numbers are: phone, 404–305–6100; fax, 404–305–6118. The National Simulator Program Internet Web Site address is: *www.faa.gov/nsp*. On this Web Site you will find an NSP personnel list with contact information, a list of qualified flight simulation devices, advisory circulars, a description of the qualification process, NSP policy, and an NSP ''In-Works'' section. Also linked from this site are additional information sources, handbook bulletins, frequently asked questions, a listing and text of the Federal Aviation Regulations, Flight Standards Inspector's handbooks, and other FAA links.

d. The NSPM encourages the use of electronic media for communication and the gathering, storage, presentation, or transmission of any record, report, request, test, or statement required by this QPS provided the media used has adequate provision for security and is acceptable to the NSPM. The NSPM recommends inquiries on system compatibility prior to any such activity. Minimum System requirements may be found on the NSP Web site.

End Information

2. Definitions

Begin Information

See Attachment 4 of this appendix for a list of definitions and abbreviations. Attachment 4 of this appendix contains definitions directly quoted from 14 CFR Part 1 or Part 60, contained within a bordered area with Red-colored left hand columns, indicating they are quoted from 14 CFR Part 1 or Part 60 and are regulatory. Additional definitions and abbreviations used in reading and understanding this document are contained within bordered areas with Blue-colored left hand columns, indicating they are also regulatory but appear only within this document. For purposes of accuracy, the definitions listed are directly quoted, and are not paraphrased.

End Information

3. Related Reading References

Begin Information

a. 14 CFR part 60.
b. 14 CFR part 61.
c. 14 CFR part 63.
d. 14 CFR part 121.
e. 14 CFR part 125.
f. 14 CFR part 135.
g. 14 CFR part 141.
h. 14 CFR part 142.
i. Advisory Circular (AC) 120–28C, Criteria for Approval of Category III Landing Weather Minima.
j. AC 120–29, Criteria for Approving Category I and Category II Landing Minima for part 121 operators.
k. AC 120–35B, Line Operational Simulations: Line-Oriented Flight Training, Special Purpose Operational Training, Line Operational Evaluation.
l. AC 120–41, Criteria for Operational Approval of Airborne Wind Shear Alerting and Flight Guidance Systems.
m. AC 120–57A, Surface Movement Guidance and Control System (SMGS).
n. AC 150/5300–13, Airport Design.
o. AC 150/5340–1G, Standards for Airport Markings.
p. AC 150/5340–4C, Installation Details for Runway Centerline Touchdown Zone Lighting Systems.
q. AC 150/5340–19, Taxiway Centerline Lighting System.
r. AC 150/5340–24, Runway and Taxiway Edge Lighting System.
s. AC 150/5345–28D, Precision Approach Path Indicator (PAPI) Systems.
t. International Air Transport Association document, ''Flight Simulator Design and Performance Data Requirements,'' Fifth Edition (1996).
u. AC 29–2B, Flight Test Guide for Certification of Transport Category Rotorcraft.
v. AC 27–1A, Flight Test Guide for Certification of Normal Category Rotorcraft.
x. International Civil Aviation Organization (ICAO) Manual of Criteria for the Qualification of Flight Simulators, First Edition, 1994 Doc 9625–AN/938.
y. Airplane Flight Simulator Evaluation Handbook, Volume I (February, 1995) and Volume II (July, 1996), The Royal Aeronautical Society, London, UK.
z. FAA Publication FAA–S–8081 series (Practical Test Standards for Airline Transport Pilot Certificate, Type Ratings, Commercial Pilot, and Instrument Ratings).

End Information

4. Background

Begin Information

a. The FAA has been involved in flight simulator evaluation and approval for well over three decades. As far back as 1954, air carriers were allowed to perform limited proficiency check maneuvers in airplane simulators. Credit for the use of these devices was hampered by the state of the technology available in early simulator development. More recently, however, rapid technological advances have permitted and encouraged the expanded use of flight simulators in the training and checking of flightcrew members. In addition, the complexity, operating costs, and operating environment of modern aircraft have lead to the increasing use of advancing simulator technology. Extensive experience has proven that modern simulators can provide more in-depth training than can be accomplished in the aircraft as well as provide a very high transfer of learning and behavior from the simulator

to the aircraft. Additionally, their use, in lieu of aircraft, results in safer flight training and cost reductions for the operators, while achieving fuel conservation and a significant reduction in environmental impact.

b. In recognition of expanding flight simulator capabilities, as technology has progressed, regulatory revisions have been developed to permit the increased use of airplane simulators in approved training programs. However, the helicopter simulators in use today, in large part, have been evaluated and approved on a case-by-case basis. Previously, those persons using helicopter simulators had received credit for training or checking only through exemption to the regulations. While this situation is changing, the regulations regarding the use of helicopter simulators have not kept pace with their airplane counterparts—and has resulted in rather limited use of helicopter simulators to meet regulatory required training, testing, or checking activities.

c. The same factors that have led to the widespread use and acceptance of airplane simulators, such as technological advancements, aircraft complexity, operating cost, operating environment, enhanced training, safety, environmental impact, etc. have recently spurred a dramatic increase in interest in helicopter simulators. The FAA anticipates that the use of helicopter simulators will expand rapidly and that applicable regulations will be amended to extend formal credit to the use of these simulators in FAA-approved flight training programs.

d. For information purposes, the following is a chronological listing of the documents preceding this document that have addressed the qualification criteria for helicopter simulator evaluation and qualification by the FAA, including the effective dates of those documents:

AC 120–63—10/11/94 to (date TBD)

End Information

---

5. Quality Assurance Program

Begin Rule Language (§ 60.5)

a. After [date 6 months after the effective date of the final rule], no sponsor may use or allow the use of or offer the use of a simulator for flightcrew member training or evaluation or for obtaining flight experience to meet any requirement of this chapter unless the sponsor has established and follows a quality assurance (QA) program, acceptable to the NSPM, for the continuing surveillance and analysis of the sponsor's performance and effectiveness in providing a satisfactory simulator for use on a regular basis as described in the appropriate QPS.

b. The QA program must provide a process for identifying deficiencies in the program and for documenting how the program will be changed to address these deficiencies.

c. Whenever the NSPM finds that the QA program does not adequately address the procedures necessary to meet the requirements of this part, the sponsor must, after notification by the NSPM, change the program so the procedures meet the requirements of this part.

d. Each sponsor of a simulator must identify to the NSPM and to the TPAA, by name, one individual, who is an employee of the sponsor, to be the management representative (MR) and the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that simulator as provided for in this part.

End Rule Language (§ 60.5)

Begin QPS Requirements

e. The Director of Operations for a Part 119 certificate holder, the Chief Instructor for a Part 141 certificate holder, or the equivalent for a Part 142 or Flight Engineer School sponsor, must designate a management representative who has the responsibility and authority to establish and modify the sponsor's policies, practices, and procedures regarding the QA program for the recurring qualification of, and the day-to-day use of, each simulator.

f. An acceptable Quality Assurance (QA) Program must contain a complete, accurate, and clearly defined written description of and/or procedures for—

(1) The method used by management to communicate the importance of meeting the regulatory standards contained in Part 60 and this QPS and the importance of establishing and meeting the requirements of a QA Program as defined in this paragraph f.

(2) The method(s) used by management to determine that the regulatory standards and the QA program requirements are being met, and if or when not met, what actions are taken to correct the deficiency and prevent its recurrence.

(3) The method used by management to determine that the sponsor is, on a timely and regular basis, presenting a qualified simulator.

(4) The criteria for and a definition or description of the workmanship expected for normal upkeep, repair, parts replacement, modification, *etc.,* on the simulator and how, when, and by whom such workmanship is determined to be satisfactorily accomplished.

(5) The method used to maintain and control appropriate technical and reference documents, appropriate training records, and other documents for—

(a) continuing simulator qualification; and

(b) the QA program.

(6) The criteria the sponsor uses (*e.g.*, training, experience, *etc.*) to determine who may be assigned to duties of inspection, testing, and maintenance (preventive and corrective) on simulators.

(7) The method used to track inspection, testing, and maintenance (preventive and corrective) on each simulator.

(8) The method used by the sponsor to inform the TPAA in advance of each scheduled NSPM-conducted evaluation and after the completion, the results of each such evaluation.

(9) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, are capable of determining what circumstance(s) constitute(s) a discrepancy regarding the simulator and its operation.

(10) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, record in the simulator discrepancy log each simulator discrepancy and each missing, malfunctioning, or inoperative simulator component.

(11) The method used to ensure that instructors and check airmen are completely and accurately logging the number of disruptions and time not available for training, testing, checking, or for obtaining flight experience during a scheduled simulator use-period, including the cause(s) of the disruption.

(12) The method used by the sponsor to notify users of the simulator of missing, malfunctioning, or inoperative components that restrict the use of the simulator.

(13) The method of recording NSPM-conducted evaluations and other inspections (*e.g.*, daily preflight inspections, NASIP inspections, sponsor conducted quarterly inspections, *etc.*), including the evaluation or inspection date, test results, discrepancies and recommendations, and all corrective actions taken.

(14) The method for ensuring that the simulator is configured the way the helicopter it represents is configured and that if the configuration is authorized to be changed that the newly configured system(s) function(s) correctly.

(15) The method(s) for:

(a) determining whether or not proposed modifications of the helicopter will affect the performance, handling, or other functions or characteristics of the helicopter; and

(b) determining whether or not proposed modifications of the simulator will affect the performance, handling, or other functions or characteristics of the simulator;

(c) coordinating and communicating items 5.f.(15)(a) and (b) of this appendix, as appropriate, with the sponsor's training organization, other users (*e.g.*, lease or service contract users), the TPAA, and the NSPM.

(16) How information found in the discrepancy log is used to correct discrepancies and how this information is used to review and, if necessary, modify existing procedures for simulator maintenance.

(17) The method for how and when software or hardware modifications are accomplished and tracked, documenting all changes made from the initial submission.

(18) The method used for determining that the simulator meets appropriate standards each day that it is used.

(19) The method for acquiring independent feedback regarding simulator operation (from persons recently completing training, evaluation, or obtaining flight experience; instructors and check airmen using the simulator for training, evaluation or flight experience sessions; and simulator technicians and maintenance personnel) including a description of the process for addressing these comments.

(20) How devices used to test, measure, and monitor correct simulator operation are calibrated and adjusted for accuracy, including traceability of that accuracy to a recognized standard, and how these devices are maintained in good operating condition.

(21) How, by whom, and how frequently internal audits of the QA program are

conducted and where and how the results of such audits are maintained and reported to Responsible Management, the NSPM, and the TPAA.

End QPS Requirements

g. Additional Information.

Begin Information

(1) In addition to specifically designated QA evaluations, the NSPM will evaluate the sponsor's QA program as part of regularly scheduled recurrent simulator evaluations and no-notice simulator evaluations, focusing in large part on the effectiveness and viability of the QA program and its contribution to the overall capability of the simulator to meeting the requirements of this part.

(2) The sponsor, through the MR, may delegate duties associated with maintaining the qualification of the simulator (*e.g.*, corrective and preventive maintenance, scheduling for and the conducting of tests and/or inspections, functional preflight checks, *etc.*) but retains the responsibility and authority for the initial and day-to-day qualification and quality of the simulator. One person may serve in this capacity for more than one simulator, but one simulator would not have more than one person serving in this capacity.

(3) Should a sponsor include a ''foreign simulator'' (*i.e.*, one maintained by a non-US certificate holder) under their sponsorship, the sponsor remains responsible for the QA program for that simulator. However, if that foreign simulator is maintained under a QA program accepted by that foreign regulatory authority and that authority and the NSPM have agreed to accept each other's QA programs (*e.g.*, the Joint Aviation Authorities, JAA, of Europe), the sponsor will be required only to perform an ''external audit'' of the non-US certificate holder's compliance with the accepted foreign QA program, with the results of that audit submitted to and accepted by the NSPM.

End Information

6. Sponsor Qualification Requirements

Begin Rule Language (§ 60.7)

a. A person is eligible to apply to be a sponsor of a simulator if the following conditions are met:

(1) The person holds, or is an applicant for, a certificate under part 119, 141, or 142 of this chapter; or holds, or is an applicant for, an approved flight engineer course in accordance with part 63 of this chapter.

(2) The simulator will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the helicopter being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA.

b. A person is a sponsor of the simulator if the following conditions are met:

(1) The person is a certificate holder under part 119, 141, or 142 of this chapter or has an approved flight engineer course in accordance with part 63 of this chapter.

(2) The person has operations specifications authorizing the use of the helicopter type being simulated by the simulator or has training specifications or a course of training authorizing the use of a simulator for that helicopter type.

(3) The person has an approved quality assurance program in accordance with § 60.5.

(4) The NSPM has approved the person as the sponsor of the simulator and that approval has not been withdrawn by the FAA.

c. A person continues to be a sponsor of a simulator, if the following conditions are met:

(1) Beginning 12 calendar months after the initial qualification and every 12 calendar months thereafter, the simulator must have been used within the sponsor's FAA-approved flight training program for the helicopter type for a minimum of 600 hours.

(2) The use of the simulator described in paragraph (c)(1) of this section must be dedicated to meeting the requirements of parts 61, 63, 91, 121, or 135 of this chapter.

(3) If the use requirements of paragraphs (c)(1) and (2) of this section are not met, the person will continue to sponsor the simulator on a provisional basis for a period not longer than 12 calendar months; and—

(i) If the simulator is used as described in paragraphs (c)(1) and (2) of this section within this additional 12 calendar month period, the provisional status will be removed and regular sponsorship resumed; or

(ii) If the simulator is not used as described in paragraphs (c)(1) and (2) of this section within the additional 12 calendar month period, the simulator is not qualified and the sponsor will not be eligible to apply to sponsor that simulator for at least 12 calendar months.

End Rule Language (§ 60.7)

7. Additional Responsibilities of the Sponsor

Begin Rule Language (§ 60.9)

a. The sponsor must not allow the simulator to be used for flightcrew member training or evaluation or for attaining flight experience for the flightcrew member to meet any of the requirements under this chapter unless the sponsor, upon request, allows the NSPM to inspect immediately the simulator, including all records and documents relating to the simulator, to determine its compliance with this part.

b. The sponsor must, for each simulator—

(1) Establish a mechanism for the following persons to provide comments regarding the simulator and its operation and provide for receipt of those comments:

(i) Flightcrew members recently completing training or evaluation or recently obtaining flight experience in the simulator;

(ii) Instructors and check airmen using the simulator for training, evaluation, or flight experience sessions; and

(iii) Simulator technicians and maintenance personnel performing work on the simulator.

(2) Examine each comment received under paragraph (b)(1) of this section for content and importance and take appropriate action.

(3) Maintain a liaison with the manufacturer of the helicopter being simulated by the simulator to facilitate compliance with § 60.13(f) when necessary.

(4) Post in or adjacent to the simulator the Statement of Qualification issued by the NSPM.

End Rule Language (§ 60.9)

8. Simulator Use

Begin Rule Language (§ 60.11)

No person may use or allow the use of or offer the use of a simulator for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless, in accordance with the QPS for the specific device—

a. It has a single sponsor who is qualified under § 60.9. The sponsor may arrange with another person for services of document preparation and presentation, as well as simulator inspection, maintenance, repair, and servicing; however, the sponsor remains responsible for ensuring that these functions are conducted in a manner and with a result of continually meeting the requirements of this part.

b. It is qualified as described in the Statement of Qualification that is required to be posted pursuant to § 60.9(b)(4)—

(1) For the make, model, and series of helicopter; and

(2) For all tasks and configurations.

c. It remains qualified, through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with this part and the appropriate QPS.

d. Its software and active programming used during the training, evaluation, or flight experience is the same as the software and active programming that was evaluated by the NSPM.

End Rule Language (§ 60.11)

Begin QPS Requirements

e. Only those simulators that are used by a certificate holder (as defined for use in Part 60 and this QPS) will be evaluated by the NSPM. However, other simulator evaluations may be conducted on a case-by-case basis as the Administrator deems appropriate, but only in accordance with applicable agreements.

End QPS Requirements

Begin Information

f. Each simulator must be evaluated as completely as possible. To ensure a thorough and uniform evaluation, each simulator is subjected to the performance demonstrations in attachment 1, the objective tests listed in attachment 2, and the subjective tests listed in attachment 3 of this appendix. The evaluation(s) described in this paragraph f

will include, but not necessarily be limited to the following, as appropriate, for the qualification level of the simulator.

(1) Aerodynamic responses, including control responses in the longitudinal, lateral-directional, and vertical directions; as well as low airspeed responses (see attachment 2 of this appendix);

(2) Performance in authorized portions of the simulated helicopter's operating envelope, to include tasks suitable to the NSPM in the areas of ground operations, takeoff, climb, cruise, descent, approach, landing, hover (if appropriate), and vertical climb, as well as abnormal and emergency operations (see paragraph 23 and attachment 2 of this appendix);

(3) Control checks (see attachment 1 and attachment 2 of this appendix);

(4) Cockpit configuration (see attachment 1 of this appendix);

(5) Pilot and instructor station functions checks (see attachment 1 and attachment 3 of this appendix);

(6) Helicopter systems and sub-systems (as appropriate) as compared to the helicopter simulated (see attachment 1 and attachment 3 of this appendix);

(7) Simulator systems and sub-systems, including force cueing (motion), visual, and aural (sound) systems, as appropriate (see attachment 1 and attachment 2 of this appendix); and

(8) Certain additional requirements, depending upon the complexity of the simulator qualification level sought, including equipment or circumstances that may become hazardous to the occupants. The sponsor may be subject to Occupational Safety and Health Administration requirements.

g. The NSPM administers the objective and subjective tests, which includes an examination of functions. The tests include a qualitative assessment of the simulator by an NSP pilot. The NSP evaluation team leader may assign other qualified personnel to assist in accomplishing the functions examination and/or the objective and subjective tests performed during an evaluation when required.

(1) Objective tests are used to compare simulator and helicopter data objectively to ensure that the simulator performance and handling qualities are within specified tolerances.

(2) Subjective tests provide a basis for:

(a) Evaluating the capability of the simulator to perform over a typical utilization period;

(b) Determining that the simulator satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and

(c) Verifying correct operation of the simulator controls, instruments, and systems.

h. The tolerances for the test parameters listed in attachment 2 of this appendix are the maximum acceptable to the NSPM for simulator validation and are not to be confused with design tolerances specified for simulator manufacture. In making decisions regarding tests and test results, the NSPM relies on the use of operational and engineering judgment in the application of data (including consideration of the way in which the flight test was flown and way the data was gathered and applied) data presentations, and the applicable tolerances for each test.

i. In addition to the scheduled recurrent evaluation (see paragraph 14 of this appendix), each simulator is subject to evaluations conducted by the NSPM at any time with no prior notification to the sponsor. Such evaluations would be accomplished in a normal manner (i.e., requiring exclusive use of the simulator for the conduct of objective and subjective tests and an examination of functions) if the simulator is not being used for flightcrew member training, testing, or checking. However, if the simulator were being used, the evaluation would be conducted in a non-exclusive manner. This non-exclusive evaluation will be conducted by the simulator evaluator accompanying the check airman, instructor, Aircrew Program Designee (APD), or FAA inspector aboard the simulator along with the student(s) and observing the operation of the simulator during the training, testing, or checking activities. While the intent is to observe the operation and interaction of the device and not the check airman, instructor, APD, FAA inspector, or student(s), the simulator evaluator is a qualified FAA operations inspector and must, without question, report any obvious lack of proficiency to the appropriate POI or TCPM.

End Information

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9. Simulator Objective Data Requirements

Begin Rule Language (§ 60.13)

a. Except as provided in paragraph (b) and (c) of this section, for the purposes of validating simulator performance and handling qualities during evaluation for qualification, the sponsor must submit the helicopter manufacturer's flight test data to the NSPM.

b. The sponsor may submit flight test data from a source in addition to or independent of the helicopter manufacturer's data to the NSPM in support of a simulator qualification, but only if this data is gathered and developed by that source in accordance with flight test methods, including a flight test plan, as described in the appropriate QPS.

c. The sponsor may submit alternative data acceptable to the NSPM for consideration, approval and possible use in particular applications for simulator qualification.

d. Data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

e. The NSPM may require additional flight testing to support certain simulator qualification requirements.

f. When a simulator sponsor learns, or is advised by a helicopter manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate a simulator used in the sponsor's training program is available, the sponsor must immediately notify the NSPM.

End Rule Language (§ 60.13)

Begin QPS Requirements

g. Flight test data used to validate simulator performance and handling qualities must have been gathered in accordance with a flight test program containing the following:

(1) A flight test plan, that contains:

(a) The required maneuvers and procedures.

(b) For each maneuver or procedure—

(i) The procedures and control input the flight test pilot and/or engineer are to use.

(ii) The atmospheric and environmental conditions.

(iii) The initial flight conditions.

(iv) The helicopter configuration, including weight and center of gravity.

(v) The data that is to be gathered.

(vi) Any other appropriate factors.

(2) Appropriately qualified flight test personnel.

(3) An understanding of the accuracy of the data to be gathered.

(4) Appropriate and sufficient data acquisition equipment or system(s), including appropriate data reduction and analysis methods and techniques, as would be acceptable to the FAA's Aircraft Certification Service.

(5) Calibration of data acquisition equipment and helicopter performance instrumentation must be current and traceable to a recognized standard.

h. The data presented, regardless of source, must be presented:

(1) in a format that supports the flight simulator validation process;

(2) in a manner that is clearly readable and annotated correctly and completely;

(3) with resolution sufficient to determine compliance with the tolerances set forth in attachment 2 of this appendix.

(4) with any necessary guidance information provided; and

(5) without alteration, adjustments, or bias; however the data may be re-scaled, digitized, or otherwise manipulated to fit the desired presentation.

i. After completion of any additional flight test, a flight test report must be submitted in support of the objective data. The report must contain sufficient data and rationale to support qualification of the simulator at the level requested.

End QPS Requirements

Begin Information

j. Any necessary data and the flight test plan should be reviewed with the NSP staff well in advance of commencing the flight test.

End Information

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10. Special Equipment and Personnel Requirements for Qualification of the Simulator

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Begin Rule Language (§ 60.14)

a. When notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish or assist in the accomplishment of tests during initial, recurrent, or special evaluations.

End Rule Language (§ 60.14)

Begin Information

b. Examples of a special evaluation would be an evaluation conducted at the request of the TPAA or as a result of comments received from users of the simulator that, upon analysis and confirmation, might cause a question as to the continued qualification or use of the simulator.

c. The NSPM will notify the sponsor at least 24 hours in advance of the evaluation if special equipment or personnel will be required to conduct the evaluation. Examples of special equipment include spot photometers, flight control measurement devices, sound analyzer, etc. Examples of special personnel would be those specifically qualified to install or use any special equipment when its use is required.

End Information

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11. Initial (and Upgrade) Qualification Requirements

Begin Rule Language (§ 60.15)

a. For each simulator, the sponsor must submit a request through the TPAA to have the NSPM evaluate the simulator for initial qualification at a specific level. The request must be submitted in the form and manner described in the appropriate QPS.

b. The request must include all of the following:

(1) A statement that the simulator meets all of the applicable provisions of this part.

(2) A statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification will be maintained, except where modified as authorized in § 60.23. The statement must include a description of the procedure.

(3) A statement signed by at least one pilot who meets the requirements of paragraph (c) of this section asserting that each pilot so approved has determined that the following requirements have been met:

(i) The simulator systems and sub-systems function equivalently to those in the helicopter.

(ii) The performance and flying qualities of the simulator are equivalent to those of the helicopter.

(iii) The cockpit configuration conforms to the configuration of the helicopter make, model, and series being simulated.

(4) A list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the simulator has not been subjectively tested (*e.g.*, circling approaches, windshear training, *etc.*) and for which qualification is not sought.

(5) A qualification test guide (QTG) that includes all of the following:

(i) Objective data obtained from helicopter testing or another approved source.

(ii) Correlating objective test results obtained from the performance of the simulator as prescribed in the appropriate QPS.

(iii) The general simulator performance or demonstration results prescribed in the appropriate QPS.

(iv) A description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification.

c. The pilot or pilots who make the statement required by paragraph (b)(3) of this section must—

(1) Be designated by the sponsor;

(2) Be approved by the TPAA; and

(3) Be qualified in—

(i) The helicopter being simulated; or

(ii) For helicopter types not yet issued a type certificate, a helicoptertype similar in size and configuration.

d. The subjective tests that form the basis for the statements described in paragraph (b)(3) of this section and the objective tests referenced in paragraph (b)(5) of this section must be accomplished at the sponsor's training facility except as provided for in the appropriate QPS.

e. The person seeking to qualify the simulator must provide the NSPM access to the simulator for the length of time necessary for the NSPM to complete the required evaluation of the simulator for initial qualification, which includes the conduct and evaluation of objective and subjective tests, including general simulator requirements, as described in the appropriate QPS, to determine that the simulator meets the standards in that QPS.

f. When the simulator passes an evaluation for initial qualification, the NSPM issues a Statement of Qualification that includes all of the following:

(1) Identification of the sponsor.

(2) Identification of the make, model, and series of the helicopter being simulated.

(3) Identification of the configuration of the helicopter being simulated (*e.g.*, engine model or models, flight instruments, navigation or other systems, *etc.*).

(4) A statement that the simulator is qualified.

(5) Identification of the qualification level of the simulator.

(6) A list of all of the operations tasks or simulator systems in the subjective test appendix of the appropriate QPS for which the simulator has not been subjectively tested and for which the simulator is not qualified (e.g., circling approaches, windshear training, etc.).

g. After the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG, with the results of the FAA-witnessed tests and demonstrations together with the results of all the objective tests and demonstrations described in the appropriate QPS.

h. Upon issuance of the Statement of Qualification the updated QTG becomes the MQTG and must then be made available to the FAA upon request.

End Rule Language (§ 60.15)

Begin QPS Requirements

i. The QTG described in paragraph 11.b.(4) of this appendix, must provide the documented proof of compliance with the simulator objective tests in attachment 2 of this appendix.

j. The QTG is prepared and submitted by the sponsor, or the sponsor's agent on behalf of the sponsor, through the TPAA to the NSPM for review and approval, and must include, for each objective test:.

(1) parameters, tolerances, and flight conditions;

(2) pertinent and complete instructions for the conduct of automatically and manually conducted tests;

(3) a means of comparing the simulator's test results to the objective data;

(4) statements of how a particular test was accomplished or that certain requirements have been met (see appendices to this document for additional information);

(5) other information appropriate to the qualification level of the simulator.

k. The QTG described in paragraph 11.b(4) of this appendix, must include the following:

(1) A QTG cover page with sponsor and FAA approval signature blocks (see attachment 5, Figure 2, of this appendix for a sample QTG cover page).

(2) A recurrent evaluation schedule requirements page—to be used by the NSPM to establish and record the frequency with which recurrent evaluations must be conducted and any subsequent changes that may be determined by the NSPM. See attachment 5, Figure 4, of this appendix for a sample Recurrent Evaluation Schedule Requirements page.

(3) A simulator information page that provides the information listed below (see attachment 5, Figure 3, of this appendix for a sample simulator information page). For convertible simulators, a separate page is submitted for each configuration of the simulator.

(a) The sponsor's simulator identification number or code.

(b) The helicopter model and series being simulated.

(c) The aerodynamic data revision number or reference.

(d) The engine model(s) and its data revision number or reference.

(e) The flight control data revision number or reference.

(f) The flight management system identification and revision level.

(g) The simulator model and manufacturer.

(h) The date of simulator manufacture.

(i) The simulator computer identification.

(j) The visual system model and manufacturer, including display type.

(k) The motion system type and manufacturer, including degrees of freedom.

(4) A Table of Contents.

(5) A log of revisions and a list of effective pages.

(6) The source data.

(7) A glossary of terms and symbols used (including sign conventions and units).

(8) Statements of compliance and capability (SOC's) with certain requirements.

SOC's must provide references to the sources of information for showing the capability of the simulator to comply with the requirement, a rationale explaining how the referenced material is used, mathematical equations and parameter values used, and the conclusions reached; i.e. that the simulator complies with the requirement. Refer to the ''Additional Details'' column in attachment 1 of this appendix, ''Simulator Standards,'' or in the ''Test Details'' column in attachment 2 of this appendix, ''Simulator Objective Tests,'' to see when SOC's are required.

(9) Recording procedures or equipment required to accomplish the objective tests.

(10) The following information for each objective test designated in attachment 2 of this appendix, as applicable to the qualification level sought.

(a) Name of the test.

(b) Objective of the test.

(c) Initial conditions.

(d) Manual test procedures.

(e) Automatic test procedures (if applicable).

(f) Method for evaluating simulator objective test results.

(g) List of all parameters driven or constrained during the automatically conducted test(s).

(h) List of all parameters driven or constrained during the manually conducted test(s).

(i) Tolerances for relevant parameters.

(j) Source of Helicopter Test Data (document and page number).

(k) Copy of the Helicopter Test Data (if located in a separate binder, a cross reference for the identification and page number for pertinent data location must be provided).

(l) Simulator Objective Test Results as obtained by the sponsor. Each test result must reflect the date completed and must be clearly labeled as a product of the device being tested.

l. Form and manner of presentation of objective test results in the QTG:

(1) The sponsor's simulator test results must be recorded in a manner, acceptable to the NSPM, that will allow easy comparison of the simulator test results to helicopter test data (*e.g.*, use of a multi-channel recorder, line printer, cross plotting, overlays, transpariencies, *etc.*).

(2) Simulator results must be labeled using terminology common to helicopter parameters as opposed to computer software identifications.

(3) Helicopter data documents included in a QTG may be photographically reduced only if such reduction will not alter the graphic scaling or cause difficulties in scale interpretation or resolution.

(4) Scaling on graphical presentations must provide the resolution necessary to evaluate the parameters shown in attachment 2 of this appendix.

(5) For tests involving time histories, flight test data sheets (or transparencies thereof) and simulator test results must be clearly marked with appropriate reference points to ensure an accurate comparison between simulator and helicopter with respect to time. Time histories recorded via a line printer are to be clearly identified for cross-plotting on the helicopter data. Over-plots must not obscure the reference data.

m. The sponsor may elect to complete the QTG objective tests at the manufacturer's facility. Tests performed at this location must be conducted after assembly of the simulator has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate simulator performance at the sponsor's training facility by repeating a representative sampling of all the objective tests in the QTG and submitting these repeated test results to the NSPM. This sample must consist of at least one-third of the QTG objective tests. The QTG must be clearly annotated to indicate when and where each test was accomplished.

n. The sponsor may elect to complete the subjective tests at the manufacturer's facility. Tests performed at this location will be conducted after assembly of the simulator has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate simulator performance at the sponsor's training facility by having the pilot(s) who performed these tests originally (or similarly qualified pilot(s)), repeat a representative sampling of these subjective tests and submit a statement to the NSPM that the simulator has not changed from the original determination. The report must clearly indicate when and where these repeated tests were completed, but need not take more than one normal simulator period (e.g., 4 to 8 hours) to complete.

o. The sponsor must maintain a copy of the MQTG at the simulator location. After [date 6 years from the effective date of this rule] all MQTG's, regardless of initial qualification date of the simulator, must be available in an electronic format, acceptable to the NSPM. The electronic MQTG must include all objective data obtained from helicopter testing, or another approved source (reformatted or digitized), together with correlating objective test results obtained from the performance of the simulator (reformatted or digitized) as prescribed in this document, the general simulator performance or demonstration results (reformatted or digitized) prescribed in this document, and a description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification. This electronic MQTG must include the original helicopter flight test data used to validate simulator performance and handling qualities in either the original digitized format from the data supplier or an electronic scan of the original flight test time-history plots that were provided by the data supplier. An electronic copy of MQTG must be provided to the NSPM.

End QPS Requirements

Begin Information

p. Problems with objective test results are handled according to the following:

(1) If a problem with an objective test result is detected by the NSP evaluation team during an evaluation, the test may be repeated and/or the QTG may be amended.

(2) If it is determined that the results of an objective test do not support the level requested but do support a lower level, the NSPM may qualify the simulator at that lower level. For example, if a Level D evaluation is requested and the simulator fails to meet sound test tolerances, it could be qualified at Level C.

q. After the NSPM issues a statement of qualification to the sponsor when a simulator is successfully evaluated, the simulator is recommended to the TPAA, who will exercise authority on behalf of the Administrator in approving the simulator in the appropriate helicopter flight training program.

r. Under normal circumstances, the NSPM establishes a date for the initial or upgrade evaluation within 10 working days after determining that a complete QTG is acceptable. Unusual circumstances may warrant establishing an evaluation date before this determination is made; however, once a schedule is agreed to, any slippage of the evaluation date at the sponsor's request may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation. A sponsor may commit to an initial evaluation date under this early process, in coordination with and the agreement of the NSPM, but the request must be in writing and must include an acknowledgment of the potential schedule impact if the sponsor slips the evaluation from this early-committed date. See Attachment 5, figure 5 of this appendix, Sample Request for Initial Evaluation Date.

s. A convertible simulator is addressed as a separate simulator for each model and series helicopter to which it will be converted and for the FAA qualification level sought. An NSP evaluation is required for each configuration. For example, if a sponsor seeks qualification for two models of a helicopter type using a convertible simulator, two QTG's, or a supplemented QTG, and two evaluations are required.

t. The numbering system used for objective test results in the QTG should closely follow the numbering system set out in attachment 2 of this appendix, Simulator Objective Tests.

End Information

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12. Additional Qualifications for a Currently Qualified Simulator

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Begin Rule Language (§60.16)

a. A currently qualified simulator is required to undergo an additional qualification process if a user intends to use the simulator for meeting training, evaluation, or flight experience requirements of this chapter beyond the qualification issued to the sponsor. This process consists of the following—

(1) The sponsor:

(i) Must submit to the NSPM all modifications to the MQTG that are required to support the additional qualification.

(ii) Must describe to the NSPM all modifications to the simulator that are

required to support the additional qualification.

(iii) Must submit a statement to the NSPM that a pilot, designated by the sponsor in accordance with § 60.15(c) and approved by the TPAA for the user, has subjectively evaluated the simulator in those areas not previously evaluated.

(2) The simulator must successfully pass an evaluation—

(i) For initial qualification, in accordance with § 60.15, in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification (e.g., objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

b. In making the determinations described in paragraph (a)(2) of this section, the NSPM considers factors including the existing qualification of the simulator, any modifications to the simulator hardware or software that are involved, and any additions or modifications to the MQTG.

c. The simulator is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with § 60.15(f).

d. The sponsor may not modify the simulator except as described in § 60.23.

End Rule Language (§ 60.16)

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13. Previously Qualified Simulators

Begin Rule Language (§60.17)

a. Unless otherwise specified by an FSD Directive, further referenced in the appropriate QPS, or as specified in paragraph (e) of this section, a simulator qualified before [the effective date of the final rule] will retain its qualification as long as it continues to meet the standards, including the performance demonstrations and the objective test results recorded in the MQTG, under which it was originally evaluated, regardless of sponsor, and as long as the sponsor complies with the applicable provisions of this part.

b. If the simulator qualification is lost under § 60.27 and not restored under § 60.27 for two (2) years or more, the qualification basis for the re-qualification will be those standards in effect and current at the time of re-qualification application.

c. Except as provided in paragraph (d) of this section, any change in simulator qualification level initiated on or after [the effective date of this rule] requires an evaluation for initial qualification in accordance with this part.

d. The NSPM may downgrade a qualified simulator without requiring and without conducting an initial evaluation for the new qualification level. Subsequent recurrent evaluations will use the existing MQTG, modified as necessary to reflect the new qualification level.

e. When the sponsor has appropriate validation data available and receives approval from the NSPM, the sponsor may adopt tests and associated tolerances described in the current qualification standards as the tests and tolerances applicable for the continuing qualification of a previously qualified simulator. The updated test(s) and tolerance(s) must be made a permanent part of the MQTG.

End Rule Language (§ 60.17)

Begin Information

f. Other certificate holders or persons desiring to use a flight simulator may contract with simulator sponsors to use those simulators already qualified at a particular level for a helicopter type and approved for use within an FAA-approved flight training program. Such simulators are not required to undergo an additional qualification process, except as described in paragraph 12, above.

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Note: The reader is reminded of the requirement that each simulator user obtain approval for use of each simulator in an FAA-approved flight training program from the appropriate TPAA.

End Information

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14. Inspection, Maintenance, and Recurrent Evaluation Requirements.

Begin Rule Language (§60.19)

a. Inspection. No sponsor may use or allow the use of or offer the use of a simulator for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless the sponsor does the following:

(1) Accomplishes all appropriate QPS Attachment 1 performance demonstrations and all appropriate QPS Attachment 2 objective tests each year. To do this, the sponsor must conduct a minimum of four evenly spaced inspections throughout the year, as approved by the NSPM. The performance demonstrations and objective test sequence and content of each inspection in this sequence will be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM looks for a balance and a mix from the performance demonstrations and objective test requirement areas listed below as follows.

(i) Performance.

(ii) Handling qualities.

(iii) Motion system.

(iv) Visual system.

(v) Sound system (where appropriate).

(vi) Other simulator systems.

(2) Completes a functional preflight check in accordance with the appropriate QPS each calendar day prior to the start of the first simulator period of use that begins in that calendar day.

(3) Completes at least one functional preflight check in accordance with the appropriate QPS in every 7 consecutive calendar days.

(4) Maintains a discrepancy log.

(5) Ensures that, when a discrepancy is discovered, the following requirements are met:

(i) Each discrepancy entry must be maintained in the log until the discrepancy is corrected as specified in § 60.25(b) and for at least 30 days thereafter.

(ii) The corrective action taken for each discrepancy and the date that action is taken must be entered in the log. This entry concerning the corrective action must be maintained for at least 30 days thereafter.

(iii) The discrepancy log is kept in a form and manner acceptable to the Administrator and is kept in or immediately adjacent to the simulator.

b. Recurrent evaluation.

(1) This evaluation consists of performance demonstrations, objective tests, and subjective tests, including general simulator requirements, as described in the appropriate QPS or as may be amended by an FSD Directive.

(2) The sponsor must contact the NSPM to schedule the simulator for recurrent evaluations not later than 60 days before the recurrent evaluation is due.

(3) The sponsor must provide the NSPM access to the objective test results and general simulator performance or demonstration results in the MQTG, and access to the simulator for the length of time necessary for the NSPM to complete the required recurrent evaluations, weekdays between 6 o'clock AM (local time) and 6 o'clock PM (local time).

(4) No sponsor may use, or allow the use of, or offer the use of, a simulator for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless the simulator has passed an NSPM-conducted recurrent evaluation within the previous 12 calendar months or as otherwise provided for in the MQTG.

(5) Recurrent evaluations conducted in the calendar month before or after the calendar month in which these recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

c. Maintenance. The sponsor is responsible for continuing corrective and preventive maintenance on the simulator to ensure that it continues to meet the requirements of § 60.15(b).

End Rule Language (§ 60.19)

Begin QPS Requirements

d. The preflight inspections described in paragraphs 14.a(2) and (3) of this appendix must consist of, as a minimum—

(1) an exterior inspection of the simulator for appropriate hydraulic, pneumatic, and electrical connections (e.g., in place, not leaking, appear serviceable);

(2) a check that the area around the simulator is free of potential obstacles throughout the motion system range;

(3) a review of the simulator discrepancy log;

(4) a functional check of the major simulator systems and simulated helicopter systems (e.g., visual, motion, sound, cockpit instrumentation, and control loading, including adequate air flow for equipment cooling) by doing the following:

(i) Turn on main power, including motion system, and allow to stabilize.

(ii) Connect helicopter power. This may be connected through ''quick start'' of helicopter engines, auxiliary power unit, or ground power. Helicopter operations will require operating engines.

(iii) A general look for light bulb function, lighted instruments and switches, etc., as well as inoperative ''flags'' or other such indications.

(iv) Check Flight Management System(s) (and other date-critical information) for proper date range.

(v) Select takeoff position and from either pilot position, observe the visual system, for proper operation; e.g., light-point color balance and convergence, edge-matching and blending, etc.

(vi) Adjust visibility value to inside of the far end of the runway and release ''position freeze or flight freeze.'' From either pilot position, add power to taxi (or hover taxi as applicable) down the runway (observe visual system, check sound system and engine instrument response) and apply wheel brakes if appropriate (to check wheel brake operation as applicable and to exercise simulator motion system); check normal operation.

(vii) Select position on final approach, at least five (5) miles out (observe visual scene). From either pilot position, adjust helicopter configuration appropriately (check for normal gear operation as applicable). Adjust visibility to see entire airport. Release ''position freeze'' or ''flight freeze.'' Make a rapid left and right bank (check control feel and freedom; observe proper helicopter response; and exercise motion system). Observe visual system and simulated helicopter systems operation.

(viii) Extend gear, as applicable

(ix) Fly to and land at airport, or select takeoff position.

(x) Shut down engines, turn off lights, turn off main power supply and motion system.

(xi) Record ''functional preflight'' in the simulator discrepancy log book, including any item found to be missing, malfunctioning, or inoperative.

End QPS Requirements

Begin Information

e. If the NSP evaluator plans to accomplish specific tests during a normal recurrent evaluation that requires the use of special equipment or technicians, the sponsor will be notified as far in advance of the evaluation as practical; usually not less than 24 hours. These tests include latencies, control dynamics, sounds and vibrations, motion, and/or some visual system tests.

f. The recurrent evaluations described in paragraph 13.a(7), of this appendix require approximately eight (8) hours of simulator time and consist of the following:

(1) a review of the results of the objective tests and all the designated simulator performance demonstrations conducted by the sponsor since the last scheduled recurrent evaluation.

(2) at the discretion of the evaluator, a selection of approximately 20 percent of those objective tests conducted since the last scheduled recurrent evaluation and a selection of approximately 10 percent of the remaining objective tests in the MQTG. The tests chosen will be performed either automatically or manually, at the discretion of the evaluator.

(3) a subjective test of the simulator to perform a representative sampling of the tasks set out in attachment 3 of this appendix, selected at the discretion of the evaluator.

(4) an examination of the functions of the simulator, including, but not necessarily limited to the motion system, visual system, sound system, instructor operating station, and the normal and simulated malfunctions of the simulated helicopter systems.

End Information

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15. Logging Simulator Discrepancies.

Begin Rule Language (§ 60.20)

Each instructor, check airman, or representative of the Administrator conducting training or evaluation, or observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the simulator, must write or cause to be written a description of that discrepancy into the discrepancy log at the end of the simulator preflight or simulator use session.

End Rule Language (§ 60.20)

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16. [Reserved]

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17. Modifications to Simulators

Begin Rule Language (§ 60.23)

a. When the sponsor or the FAA determines that any of the following circumstances exist and the FAA determines that the simulator cannot be used adequately to train, evaluate, or provide flight experience for flightcrew members, the sponsor must modify the simulator accordingly:

(1) The helicopter manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the helicopter being simulated;

(2) A change in helicopter performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs; or

(4) Other circumstances as determined by the NSPM.

b. When the FAA determines that simulator modification is necessary for safety of flight reasons, the sponsor of each affected simulator must ensure that the simulator is modified according to the FSD Directive regardless of the original qualification standards applicable to any specific simulator.

c. Before modifying a qualified simulator, the sponsor must notify the NSPM and the TPAA as follows:

(1) The notification must include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the simulator.

(2) The notification must be submitted in a form and manner as specified in the appropriate QPS.

d. If the sponsor intends to add additional equipment or devices intended to simulate helicopter appliances; modify hardware or software which would affect flight or ground dynamics, including revising simulator programming or replacing or modifying the host computer; or if the sponsor is changing or modifying the motion, visual, or control loading systems (or sound system for simulator levels requiring sound tests and measurements), the following applies:

(1) The sponsor must meet the notification requirements of paragraph (c) of this section and must include in the notification the results of all objective tests that have been re-run with the modification incorporated, including any necessary updates to the MQTG.

(2) However, the sponsor may not use, or allow the use of, or offer the use of, the simulator with the proposed modification for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless or until the sponsor receives written notification from the NSPM approving the proposed modification. Prior to approval, the NSPM may require that the modified simulator be evaluated in accordance with the standards for an evaluation for initial qualification or any part thereof before it is placed in service.

e. The sponsor may not modify a qualified simulator until one of the following has occurred:

(1) For circumstances described in paragraphs (b) or (d) of this section, the sponsor receives written approval from the NSPM that the modification is authorized.

(2) For circumstances other than those described in paragraphs (b) or (d) of this section, either:

(i) Twenty-one days have passed since the sponsor notified the NSPM and the TPAA of the proposed modification and the sponsor has not received any response from the NSPM or TPAA; or

(ii) The NSPM or TPAA approves the proposed modification in fewer than 21 days since the sponsor notified the NSPM and the TPAA of the proposed modification.

f. When a modification is made to a simulator, the sponsor must notify each certificate holder planning to use that simulator of that modification prior to that certificate holder using that simulator the first time after the modification is complete.

g. The MQTG must be updated with current objective test results in accordance with § 60.15(b)(5) and appropriate flight test data in accordance with § 60.13, each time a simulator is modified and an objective test is affected by the modification. If this update is initiated by an FSD Directive, the direction

to make the modification and the record of the modification completion must be filed in the MQTG.

End Rule Language (§ 60.23)

Begin QPS Requirements

h. The notification described in paragraph 17.c.(1) of this appendix will include a statement signed by a pilot, qualified in the helicopter type being simulated and designated by the sponsor, that, with the modification proposed—

(1) the simulator systems and sub-systems function equivalently to those in the helicopter being simulated;

(2) the performance and flying qualities of the simulator are equivalent to those of the helicopter being simulated; and

(3) the cockpit configuration conforms to the configuration of the helicopter being simulated.

End QPS Requirements

18. Operations With Missing, Malfunctioning, or Inoperative Components

Begin Rule Language (§60.25)

a. No person may use or allow the use of or offer the use of a simulator with a missing, malfunctioning, or inoperative component for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification during maneuvers, procedures, or tasks that require the use of the correctly operating component.

b. Each missing, malfunctioning, or inoperative component must be repaired or replaced within 30 calendar days unless otherwise authorized by the NSPM. Failure to repair or replace this component within the prescribed time may result in loss of simulator qualification.

c. Each missing, malfunctioning, or inoperative component must be placarded as such on or adjacent to that component in the simulator and a list of the currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the simulator for review by users of the device.

End Rule Language (§ 60.25)

19. Automatic Loss of Qualification and Procedures for Restoration of Qualification.

Begin Rule Language (§60.27)

a. A simulator is not qualified if any of the following occurs:

(1) The simulator is not used in the sponsor's FAA-approved flight training program in accordance with § 60.9(b)(4).

(2) The simulator is not maintained and inspected in accordance with § 60.19.

(3) The simulator is physically moved from one location to another, regardless of distance.

(4) The simulator is disassembled (*e.g.*, for repair or modification) to such an extent that it cannot be used for training, evaluation, or experience activities.

(5) The MQTG is missing or otherwise not available and a replacement is not made within 30 days.

b. If simulator qualification is lost under paragraph (a) of this section, qualification is restored when either of the following provisions are met:

(1) The simulator successfully passes an evaluation:

(i) For initial qualification, in accordance with § 60.15 in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification approved as necessary by the NSPM.

(2) The NSPM or the TPAA advises the sponsor that an evaluation is not necessary.

c. In making the determinations described in paragraph (b) of this section, the NSPM considers factors including the number of inspections and recurrent evaluations missed, the amount of disassembly and re-assembly of the simulator that was accomplished, and the care that had been taken of the device since the last evaluation.

End Rule Language (§ 60.27)

20. Other Losses of Qualification and Procedures for Restoration of Qualification

Begin Rule Language (§60.29)

a. Except as provided in paragraph (c) of this section, when the NSPM or the TPAA notifies the sponsor that the simulator no longer meets qualification standards, the following procedure applies:

(1) The NSPM or the TPAA notifies the sponsor in writing that the simulator no longer meets some or all of its qualification standards.

(2) The NSPM or the TPAA sets a reasonable period (but not less than 7 days) within which the sponsor may submit written information, views, and arguments on the simulator qualification.

(3) After considering all material presented, the NSPM or the TPAA notifies the sponsor of the simulator qualification.

(4) If the NSPM or the TPAA notifies the sponsor that some or all of the simulator is no longer qualified, it becomes effective not less than 30 days after the sponsor receives notice of it unless—

(i) The NSPM or the TPAA find under paragraph (c) of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce; or

(ii) The sponsor petitions for reconsideration of the NSPM or the TPAA finding under paragraph (b) of this section.

b. When a sponsor seeks reconsideration of a decision from the NSPM or the TPAA concerning the simulator qualification, the following procedure applies:

(1) The sponsor must petition for reconsideration of that decision within 30 days of the date that the sponsor receives a notice that some or all of the simulator is no longer qualified.

(2) The sponsor must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of the determination by the NSPM or the TPAA that the simulator is no longer qualified unless the NSPM or the TPAA has found, under paragraph (c) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

c. If the NSPM or the TPAA find that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The NSPM or the TPAA withdraws qualification of some or all of the simulator and makes the withdrawal of qualification effective on the day the sponsor receives notice of it.

(2) In the notice to the sponsor, the NSPM or the TPAA articulates the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

End Rule Language (§ 60.29)

21. Recordkeeping and Reporting

Begin Rule Language (§60.31)

a. The simulator sponsor must maintain the following records for each simulator it sponsors:

(1) The MQTG and each amendment thereto.

(2) A copy of the programming used during the evaluation of the simulator for initial qualification and for any subsequent upgrade qualification, and a copy of all programming changes made since the evaluation for initial qualification.

(3) A copy of all of the following:

(i) Results of the evaluations for the initial and each upgrade qualification.

(ii) Results of the quarterly objective tests and the approved performance demonstrations conducted in accordance with § 60.19(a) for a period of 2 years.

(iii) Results of the previous three recurrent evaluations, or the recurrent evaluations from the previous 2 years, whichever covers a longer period.

(iv) Comments obtained in accordance with § 60.9(b)(1) for a period of at least 18 months.

(4) A record of all discrepancies entered in the discrepancy log over the previous 2 years, including the following:

(i) A list of the components or equipment that were or are missing, malfunctioning, or inoperative.

(ii) The action taken to correct the discrepancy.

(iii) The date the corrective action was taken.

(5) A record of all modifications to simulator hardware configurations made since initial qualification.

b. The simulator sponsor must keep a current record of each certificate holder using the simulator. The sponsor must provide a

copy of this list to the NSPM at least semiannually.

c. The records specified in this section must be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM.

d. The sponsor must submit an annual report, in the form of a comprehensive statement signed by the quality assurance primary contact point, certifying that the simulator continues to perform and handle as qualified by the NSPM.

End Rule Language (§ 60.31)

22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements

Begin Rule Language (§60.33)

a. No person may make, or cause to be made, any of the following:

(1) A fraudulent or intentionally false statement in any application or any amendment thereto, or any other report or test result required by this part or the QPS.

(2) A fraudulent or intentionally false statement in or omission from any record or report that is kept, made, or used to show compliance with this part or the QPS, or to exercise any privileges under this chapter.

(3) Any reproduction or alteration, for fraudulent purpose, of any report, record, or test result required under this part or the QPS.

b. The commission by any person of any act prohibited under paragraph a of this section is a basis for any one or any combination of the following:

(1) A civil penalty.

(2) Suspension or revocation of any certificate held by that person that was issued under this chapter.

(3) The removal of simulator qualification and approval for use in a training program.

c. The following may serve as a basis for removal of qualification of a simulator including the withdrawal of authorization for use of a simulator; or denying an application for a qualification.

(1) An incorrect statement, upon which the FAA relied or could have relied, made in support of an application for a qualification or a request for approval for use.

(2) An incorrect entry, upon which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for a simulator qualification or an approval for use.

23. [Reserved]

24. [Reserved]

25. [Reserved]

End Rule Language (§60.33)

Attachment 1 to Appendix C to Part 60—General Simulator Requirements

1. General

Begin QPS Requirements

a. Requirements.

(1) Certain simulator and visual system requirements included in this appendix must be supported with a Statement of Compliance and Capability (SOC) and, in designated cases, simulator performance must be recorded and the results made part of the QTG. In the following tabular listing of simulator standards, requirements for SOC's are indicated in the ''Additional Details'' column.

(2) Airports (or landing areas) represented in visual scenes required by this document must be representations of real-world, operational airports (or landing areas) or representations of fictional airports (or landing areas), designed specifically for use in training, testing, and/or checking of flight crewmembers.

(a) If real-world, operational airports (or landing areas) are simulated, the visual representation and scene content is compared to that of the actual airport (or landing area). This comparison requires accurate simulation of that airport (or landing area) to the extent set out in this document and as required by the qualification level sought. It also requires the visual scene to be modified when the airport (or landing area) is modified; *e.g.*, when additional runways or taxiways are added; when existing runway(s) are lengthened or permanently closed; when magnetic bearings to or from a runway or landing area are changed; when significant and recognizable changes are made to the landing area or surrounding terrain; etc.

(b) If fictional airports (or landing areas) are used, the navigational aids and all appropriate maps, charts, and other navigational reference material for such airports (or landing areas and surrounding areas as necessary), are evaluated for compatibility, completeness, and accuracy. These items are compared to the visual presentation and scene content of the fictional airport (or landing area) and require simulation to the extent set out in this document and as required by the qualification level sought. An SOC must be submitted that addresses navigation aid installation and performance (including obstruction clearance protection, etc.) and other criteria for all instrument approaches that are available in the simulator. The SOC must reference and account for information in the Terminal Instrument Procedures Manual (''Terps'' Manual, FAA Handbook 8260.3, as amended) and the construction and availability of the required maps, charts, and other navigational material. This material must be appropriately marked ''for training purposes only.''

End QPS Requirements

Begin Information

b. Discussion.

(1) This attachment describes the minimum simulator requirements for qualifying helicopter simulators. To determine the complete requirements for a specific level simulator the objective tests in attachment 2 of this appendix and the examination of functions and subjective tests listed in attachment 3 of this appendix must also be consulted.

(2) The material contained in this attachment is divided into the following categories:

(a) General cockpit configuration.

(a) Simulator programming.

(a) Equipment operation.

(a) Equipment and facilities for instructor/evaluator functions.

(a) Motion system.

(a) Visual system.

(g) Sound system.

End Information

TABLE OF MINIMUM SIMULATOR REQUIREMENTS

General simulator requirements	QPS requirement				Additional details	Information notes
	Simulator level					
	A	B	C	D		
2. General Cockpit Configuration						
a. The simulator must have a cockpit that is a full-scale replica of the helicopter simulated with controls, equipment, observable cockpit indicators, circuit breakers, and bulkheads properly located, functionally accurate and replicating the helicopter. The direction of movement of controls and switches must be identical to that in the helicopter.		X	X	X	Pilot seats must afford the capability for the occupant to be able to achieve the design ''eye position'' established for the helicopter being simulated.	For simulator purposes, the cockpit consists of all that space forward of a cross section of the fuselage at the most extreme aft setting of the pilots' seats including additional, required crewmember duty stations and those required bulkheads aft of the pilot seats.
b. Those circuit breakers that affect procedures and/or result in observable cockpit indications must be properly located and functionally accurate.		X	X	X	.....	
3. Programming						
a. The effect of aerodynamic changes for various combinations of drag and thrust normally encountered in flight must correspond to actual flight conditions, including the effect of change in helicopter attitude, thrust, drag, altitude, temperature, gross weight, center of gravity location, and configuration.		X	X	X	.....	
b. The simulator must have the computer capacity, accuracy, resolution, and dynamic response needed to meet the qualification level sought.						
c. Simulator hardware and programming must be updated within 6 months of any helicopter modifications or appropriate data releases unless, with prior coordination, the NSPM authorizes otherwise.		X	X	X		
d. Ground handling and aerodynamic programming must include the following:		X	X	X	An SOC is required. Simulator performance must be recorded and the results made part of the QTG.	
(1) Ground effect.					Level B does not require hover programming. Flare and touch down from a running landing as well as for in-ground-effect (IGE) hover.	
(2) Ground reaction.					Reaction of the helicopter upon contact with the landing surface during landing, (e.g., strut deflection, tire or skid friction, side forces, etc.) and may differ with changes in gross weight, airspeed, rate of descent on touchdown, etc.	Data is required to identify the flight condition and helicopter configuration.
(3) Ground handling characteristics.					Control inputs required during operations in crosswind, during braking and deceleration, and for turning radius.	
e. The simulator must include a means for quickly and effectively testing simulator programming and hardware.			X	X	An SOC is required	This may include an automated system, which could be used for conducting at least a portion of the QTG tests.

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
f. The simulator must provide for automatic testing of simulator hardware and software programming to determine compliance with simulator objective tests as prescribed in attachment 2.			X	X	An SOC is required. ..... Simulator to test results must include simulator number, date, time, conditions, tolerances, and appropriate dependent variables portrayed in comparison to the helicopter standard.	Automatic ''flagging'' of out-of-tolerance situations is encouraged.
g. Relative responses of the motion system, visual system, and cockpit instruments must be coupled closely to provide integrated sensory cues.		X	X	X	For Level B, response must be within 150 milliseconds of the helicopter response. For Levels C and D, response must be within 100 milliseconds of the helicopter response.	
(1) Latency: These systems must respond to abrupt input at the pilot's position. The response must not be prior to that time when the helicopter responds and may respond up to 150 milliseconds (for a Level B simulator) or 100 milliseconds (for Level C and D simulators) after that time. Visual change may start before motion response, but motion acceleration must be initiated before completion of the visual scan of the first video field containing different information.					Simultaneously record: the analog output from the pilot's cyclic, collective, and pedals; the output from an accelerometer attached to the motion system platform located at an acceptable location near the pilots' seats; the output signal to the visual system display (including visual system analog delays); and the output signal to the pilot's attitude indicator or an equivalent test approved by the Administrator. Simulator performance must be recorded and the results must be compared to helicopter response data in the hover (for Levels C and D only), climb, cruise, and autorotation. The results must be recorded in the QTG.	The intent is to verify that the simulator provides instrument, motion, and visual cues that are, within the stated time delays, like the helicopter responses. Acceleration in the appropriate rotational axis is preferred. Simulator Latency is measured from the start of a control input to the appropriate perceivable change in: flight instrument indication; visual system response; or motion system response.
(2) Transport Delay: As an alternative to the Latency requirement, above, a transport delay demonstration may be used to demonstrate that the simulator system does not exceed the specified limit of 150 milliseconds for Level B simulators or 100 milliseconds for Level C or D simulators. The sponsor must measure all the delay encountered by a step signal migrating from the pilot's control through the control loading electronics and interfacing through all the simulation software modules in the correct order, using a handshaking protocol, finally through the normal output interfaces to the instrument displays, the motion system, and the visual system					An SOC is required. A recordable start time for the test must be provided with the pilot flight control input. The migration of the signal must permit normal computation time to be consumed and must not alter the flow of information through the hardware/software system. While transport delay need only be measured once in each axis, independent of flight conditions, if this method is chosen, the sponsor must also demonstrate the latency of the simulator with respect to that of the helicopter with at least one demonstration in pitch, in roll, and in yaw as described above. Simulator performance must be recorded and the results must be recorded in the QTG.	The transport delay is the time between the control input and the individual hardware (*i.e.,* instruments, motion system, visual system) responses.
h. The simulator must accurately reproduce the stopping and directional control forces for at least the following landing surface conditions for a running landing:			X	X	An SOC is required	Objective tests are described in attachment 2 for dry runway conditions.
(1) Wet ..... (2) Icy (3) Patchy Wet. (4) Patch Icy					Simulator performance must be recorded and the results made part of the OTG.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

General simulator requirements	QPS requirement: Simulator level A	B	C	D	Additional details	Information notes
i. The simulator must accurately simulate brake and tire failure dynamics and decreased brake efficiency due to brake temperatures.			X	X	An SOC is required. A demonstration is required for initial and recurrent evaluations. Simulator performance must be recorded for decreased braking efficiency due to brake temperature and the results made part of the OTG	Simulator pitch, side loading, and directional control characteristics should be representative of the the helicopter.
j. The simulator must have aerodynamic modeling, including ground effect, the effects of airframe icing (if applicable), aerodynamic interference effects between the rotor wake and fuselage, influence of the rotor on control and stabilization systems, and representations on non linearties due to sideslip.			X	X	An SOC is required and must include references to computations of aeroelastic representations and nonlinearities due to sideslip. An SOC and a demonstration of icing effects (if applicable) are required.	See Attachment #2, paragraph 4, for further information on ground effect.
k. The simulator must have a software and hardware control methodology that is supported by diagnostic analysis program(s) and resulting printouts.				X	An SOC is required.	
4. Equipment Operation						
a. All relevant cockpit instrument indications involved in the simultation of the helicopter must automatically respond to control movement or external disturbances to the simulated helicopter; e.g., turbulence or windshear.		X	X	X	Numerical values must be presented in the appropriate units for US operations: for example, fuel in pounds, speed in knots, and altitude in feet.	
b. Communications and navigation equipment must be installed and operate within the tolerances applicable for the helicopter.		X	X	X	.....	See Attachment paragraph 1c for further information regarding long-range navigation equipment.
c. Simulated helicopter systems must operate as the helicopter systems would operate under normal, abnormal, and emergency operating conditions on the ground and in flight.		X	X	X		
d. The simulator must provide pilot controls with control forces and control travel that correspond to the simulated helicopter. The simulator must also react in the same manner as in the helicopter under the same flight condition.		X	X	X		
5. Instructor or Evaluator Facilities						
a. In addition to the flight crew member stations, the simulator must have two suitable seats for the instructor/check airman and FAA inspector. These seats must provide adequate vision to the pilot's panel and forward windows.		X	X	X	All seats other than flight crew seats need not represent those found in helicopter but must be equipped with similar positive restraint devices.	The NSPM will consider alternatives to this standard for additional seats based on unique cockpit configurations.
b. The simulator must have controls that enable the instructor/evaluator to control all required system variables and insert all abnormal or emergency conditions described in the sponsor's pilot operating manual into the simulated helicopter system.		X	X	X		

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
c. The Simulator must have instructor controls for wind speed and direction.		X	X	X		
d. The simulator must provide the instructor or evaluator the ability to present ground and air hazards.			X	X	.....	For example, another helicopter crossing the active runway and converging airborne traffic; etc.
6. Motion System						
a. The simulator must have motion (force) cues perceptible to the pilot that are representative of the motion in a helicopter.		X	X	X	.....	For example, touchdown cues should be a function of the rate of descent (RoD) of the simulated helicopter.
b. The simulator must have a motion system with a minimum of three degrees of freedom (at least pitch, roll, sway, and heave).		X			An SOC is required.	
c. The simulator must have a motion (force cueing) system that produces cues at least equivalent to those of a six-degrees-of-freedom, synergistic platform motion system.			X	X	An SOC is required.	
d. The simulator must provide special effects programming that includes the following: (1) Runway rumble, eleo deflections, effects of ground speed and uneven runway characteristics. (2) Buffet due to transverse flow effect. (3) Buffet during extension and retraction of landing gear. (4) Buffet due to retreating blade stall. (5) Buffet due to settling with power. (6) Representative cues resulting from touchdown. (7) Rotor vibrations.		X	X	X	A qualitative assessment is required to determine that the effect is representative of the helicopter simulated.	
e. The simulator must provide characteristic buffet motions that result from operation of the helicopter (for example, retreating blade stall, extended landing gear, settling with power) which can be sensed in the cockpit.				X	Simulator performance (with emphasis on amplitude and frequency) must be recorded and compared to helicopter data. The results must be made a part of the QTG. For air turbulence, general purpose disturbance models that approximate demonstrable flight test data are acceptable.	The simulator should be programmed and instrumented in such a manner that the characteristic buffet modes can be measured and compared to helicopter data.
7. Visual System						
a. The simulator must have a visual system providing an out-of-the-cockpit view.		X	X	X	A demonstration is required for initial and recurrent evaluations.	
b. The simulator must provide a continuous minimum collimated field of view of 75° horizontally and 30° vertically per pilot seat. Both pilot seat visual systems must be operable simultaneously.		X			An SOC is required.	
c. The simulator must provide a continuous minimum collimated visual field of view of 150° horizontally and 40° vertically for each pilot.			X		An SOC is required. Horizontal field of view is centered on the zero degree azimuth line relative to the aircraft fuselage.	
d. The simulator must provide a continuous minimum collimated visual field of view of 180° horizontally and 60° vertically for each pilot.				X	An SOC is required. Horizontal field of view is centered on the zero degree azimuth line relative to the aircraft fuselage.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
e. The simulator must have operational landing lights (if applicable) for night scenes.		X	X	X	A demonstration is required for initial and recurrent evaluations. Where used, dusk (or twilight) secenes require operational landing lights.	
f. The simulator provide visual cues to assess rate of change of height, height AGL, as well as translational displacement and rates, during takeoff and landing.		X			An SOC is required.	
g. The simulator must have night and dusk (or twilight) visual scene capability, including general terrain characteristics and significant landmarks, free from apparent quantization.			X	X	A demonstration is required for initial and recurrent evaluations. Dusk (or twilight) scene must enable identification of a visible horizon and general terrain characteristics.	Examples of general terrain characteristics are fields, roads, and bodies of water.
h. The simulator provide visual cues to assess rate of change of height, height AGL, as well as translational displacements and rates, during takeoff, low altitude/low airspeed maneuvering, hover, and landing.			X	X	An SOC is required.	
i. The simulator must have instructor controls for the following: (1) Cloudbase. (2) Visibility in statute miles (km) and runway visual range (RVR) in ft. (m). (3) Selection of airport or landing area. (4) Lighting at airport or landing area.		X	X	X	A demonstration is required for initial and recurrent evaluations.	
j. Each airport scene displayed must include the following: (1) Airport runways and taxiways (2) Runway definition. (a) Runway surface and markings. (b) Lighting for the runway in use, including runway threshold, edge, centerline, touchdown zone, VASI (or PAPI), and approach lighting of appropriate colors. (c) Taxiway lights.		X	X	X	A demonstration is required for initial and recurrent evaluations.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
k. The distances at which runway features are visible, as measured from a runway threshold to a helicopter aligned with the runway on an extended 3° glide slope must not be less than listed below: (1) Runway definitions, trobe lights, approach lights, runway edge white lights and Visual Approach Slope Indicator (VASI) or Precision Approach Path Indicator (PAPI) system lights from 5 statute miles (8 kilometers (km)) of the runway threshold. (2) Runway centerline lights and taxiway definition from 3 statute miles (4.8 km). (3) Threshold lights and touchdown zone lights from 2 statute miles (3.2 km). (4) Runway marking within range of landing lights for night scenes; as required by three (3) arc-minutes resolution on day scenes.		X	X	X	A demonstration is required for initial and recurrent evaluations.	
l. The simulator must provide visual system compatibility with aerodynamic programming.		X	X	X	.....	
m. The simulator must be verified for visual ground segment and visual scene content for the helicopter in landing configuration and a main wheel (or landing skid) height or 100 feet (30 meters) above the touchdown zone. Data submitted must include at least the following: (1) Static helicopter dimensions as follows: (a) Horizontal and vertical distance from main landing gear (MLG) or landing skids to glideslope reception antenna. (b) Horizontal and vertical distance form MLG or skids to pilot's eyepoint. (c) Static cockpit cutoff angle. (2) Approach data as follows: (a) Identification of runway. (b) Horizontal distance from runway threshold to glideslope intercept with runway. (c) Glideslope angle. (d) Helicopter pitch angle on approach. (3) Helicopter data for manual testing: (a) Gross weight. (b) Helicopter configuration. (c) Approach airspeed.		X	X	X	The QTG must contain appropriate calculations and a drawing showing the pertinent data used to establish the helicopter location and the segment of the ground that is visible considering the helicopter attitude (cockpit cut-off angle) and a runway visual range of 1,200 feet or 350 meters. Simulator performance must be measured against the QTG calculations. Sponsors must provide this data for each simulator (regardless of previous qualification standards) to qualify the simulator for all precision instrument approaches.	
n. The simulator must provide for: (1) Accurate portrayal of the environment relating to the simulator attitude.		X	X	X	An SOC is required.	Visual attitude vs. simulator is a comparison of pitch and roll of the horizon as displayed in the visual scene compared to the display on the attitude indictor.

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
(2) Quick confirmation of visual system color, RVR, focus, and intensity.			X	X	An SOC is required. In both of the above cases, a demonstration is required for initial evaluations. However, if there is any question regarding these functions, the NSPM may require the demonstration be repeated during any inspection or subsequent recurrent evaluation.	
o. The simulator must provide a minimum of three airport (or landing area) scenes including: (1) Surfaces on landing areas. (2) Lighting of appropriate color for all landing surfaces, including, for runways—runway threshold, edge, centerline, VASI (or PAPI), and approach lighting for the runway in use. (3) Taxiway lighting at airports. (4) Terrain, including ramps and buildings that are in the sponsor's Line Oriented scenarios.			X	X	A demonstration is required for initial and recurrent evaluations.	
p. The simulator must be capable of producing at least 10 levels of occulting.			X	X	A demonstration is required for initial evaluation. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
q. The simulator must be able to provide weather representations including the following:. (1) Variable cloud density. (2) Partial obscuration of ground scenes; i.e., the effect of a scattered to broken cloud deck. (3) Gradual break out. (4) Patchy fog. (5) The effect of fog on airport lighting.			X	X	A demonstration is required for initial and recurrent evaluations. The weather representations must be provided at and below an altitude of 2,000 ft (610 m) height above the airport and within a radius of 10 miles (16 km) from the airport.	
r. The surface resolution must be demonstrated by a test pattern of objects shown to occupy a visual angle of three (3) arc-minutes in the visual scene from the pilot's ''eye point.'.			X	X	An SOC is required and must include the relevant calculations. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection of subsequent recurrent evaluation.	
5. The lightpoint size must not be greater than six (6) arc-minutes.			X	X	An SOC is required and must include the relevant calculations. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

General simulator requirements	QPS requirement: Simulator level A	B	C	D	Additional details	Information notes
t. The lightpoint contrast ratio must not be less than 25:1			X	X	An SOC is required and must include the relevant calculations. A 1-degree spot photometer is used to measure a square of at least 1 degree, filled with lightpoints (where lightpoint modulation is just discernible) and compare the results to the measured adjacent background. A demonstration is required on initial evaluations. However, if there is any question regarding this function, the NSPM may require this demonstration to be accomplished during any inspection or subsequent recurrent evaluation.	
u. The simulator must provide operational visual scenes that portray physical relationships known to cause landing illusions to pilots				X	A demonstration is required for initial and recurrent evaluations.	For example: short runways, landing approaches over water, uphill or downhill runways, rising terrain on the approach path, unique topographic features, etc.
v. The simulator must have daylight, night, and either dusk or twilight visual scenes with sufficient scene content to recognize the airport, the terrain, and major landmarks around the airport. The scene content must allow a pilot to successfully accomplish a visual landing. The simulator cockpit ambient lighting must be dynamically consistent with the visual scene displayed.				X	A demonstration is required for initial and recurrent evaluations. The daylight visual scene must be a part of a total daylight cockpit environment which at least represents the amount of light in the cockpit on an overcast day. For daylight scenes, such ambient lighting must not ''washout'' the displayed visual scene nor fall below 5 foot-lamberts (17 cd/m^2) of light as reflected from an instrument approach plate at knee height at both pilots' station. These requirements are applicable to any level of simulator equipped with a ''daylight'' visual system.	Brightness capability may be demonstrated with a test pattern of white light using a spot photometer. Daylight visual system is defined as a visual system capable of producing, at a minimum, full color presentations, scene content comparable in detail to that produced by 4,000 edges or 1, 000 surfaces for daylight and 4,000 lightpoints for night and dusk scenes, 6 foot-lamberts (20 cd/m^2) of light measures at the pilot's eye position (highlight brightness) and a display which is free of apparent quantization and other distracting visual effects while the simulator is in motion.
(1) The simulator visual system must provide a minimum contrast ratio of 5:1.					A raster-drawn pattern must be displayed that fills the entire visual scene (3 or more channels) consisting of a matrix of black and white squares no larger than 10° and no smaller than 5° per square, with a white square having a minimum threshold value of 2 foot-lamberts, or 7 cd/m^2 in the center of each channel. The contrast ratio is the numerical value of the brightness measures for the center (white) square divided by the brightness value for any adjacent (dark) square.	A 1° spot photometer is used to measure the brightness values.
(2) The simulator visual system must provide a highlight brightness of not less than six (6) foot-lamberts (20 cd/m^2).					The test must use the full pattern described above, measuring the brightness of a white square, superimposed completely with a highlighted area covering the square. Use of calligraphic capabilities to enhance raster brightness is acceptable; however, individual light points or light point arrays are not acceptable.	A 1° spot photometer is used to measure the brightness values.

TABLE OF MINIMUM SIMULATOR REQUIREMENTS—Continued

QPS requirement						Information notes
General simulator requirements	Simulator level				Additional details	
	A	B	C	D		
w. The simulator must provide special weather representations of light, medium, and heavy precipitation near a thunderstorm on takeoff and during approach and landing.					A demonstration is required for initial and recurrent evaluations. Representations need only be present at and below an altitude of 22,000 ft. (610 m) above the airport surface and within 10 miles (16 km) of the airport.	
x. The simulator must present visual scenes of wet and snow-covered landing areas, including lighting reflections for wet conditions, partially obscured lights for snow conditions, or suitable alternative effects.					A demonstration is required for initial and recurrent evaluations.	
y. The simulator must present realistic color and directionality of all landing area lighting.					A demonstration is required for initial and recurrent evaluations.	
8. Sound System.						
a. The simulator must provide cockpit sounds that result from pilot actions that correspond to those that occur in the helicopter.		X	X	X		
b. The simulator must accurately simulate the sound of precipitation, windshield wipers, and other significant helicopter noises perceptible to the pilot during normal operations, and include the sound of a crash (when the simulator is landed in an unusual attitude or in excess of the structural gear limitations); normal engine and thrust reversal sounds; and the sounds of flap, gear, and spoiler extension and retraction.			X	X	An SOC is required. A demonstration is required for initial and recurrent evaluations.	
c. The simulator must provide realistic amplitude and frequency of cockpit noises and sounds.				X	Simulator performance must be recorded and must be compared to amplitude and frequency of the same sounds recorded in the helicopter. These results must be made a part of the QTG. These noises and sounds must include, at least, the sound of precipitation, windshield wipers, engine, and airframe sounds. When appropriate, the sounds must be coordinated with the weather representations required in paragraph 4.w.	

Attachment 2 to Appendix C to Part 60—Simulator Objective Tests

1. General

Begin QPS Requirements

a. Test Requirements.

(1) The ground and flight tests required for qualification are listed in the following Table of Objective Tests. Computer generated simulator test results must be provided for each test. If a flight condition or operating condition is required for the test but which does not apply to the helicopter being simulated or to the qualification level sought, it may be disregarded (for example: an engine out missed approach for a single-engine helicopter; a hover test for a Level B simulator; etc.). Each test result is compared against Flight Test Data described in § 60.13, and Paragraph 9 in the main body of this appendix. Although use of a driver program designed to automatically accomplish the tests is encouraged for all simulators and required for Level C and Level D simulators, each test must be able to be accomplished manually while recording all appropriate parameters. The results must be produced on a multi-channel recorder, line printer, or other appropriate recording device acceptable to the NSPM. Time histories are required unless otherwise indicated in the Table of Objective Tests. All results must be labeled using the tolerances and units given.

(2) The Table of Objective Tests in this attachment sets out the test results required, including the parameters, tolerances, and flight conditions for simulator validation. Tolerances are provided for the listed tests because aerodynamic modeling and acquisition/development of reference data are often inexact. All tolerances listed in the following tables are applied to simulator performance. When two tolerance values are given for a parameter, the less restrictive may be used unless otherwise indicated.

(3) Certain tests included in this attachment must be supported with a Statement of Compliance and Capability (SOC). In the following tabular listing of simulator tests, requirements for SOC's are indicated in the ''Test Details'' column.

(4) When operational or engineering judgment is used in making assessments for flight test data applications for simulator validity, such judgment must not be limited to a single parameter. For example, data that exhibit rapid variations of the measured parameters may require interpolations or a ''best fit'' data selection. All relevant parameters related to a given maneuver or flight condition must be provided to allow overall interpretation. When it is difficult or impossible to match simulator to helicopter data throughout a time history, differences must be justified by providing a comparison of other related variables for the condition being assessed.

(5) Unless noted otherwise, simulator tests must represent helicopter performance and handling qualities at operating weights and centers of gravity (CG) typical of normal operation. If a test is supported by helicopter data at one extreme weight or CG, another test supported by helicopter data at mid-conditions or as close as possible to the other extreme must be included, except as may be authorized by the NSPM. Tests of handling qualities must include validation of augmentation devices.

(6) When comparing the parameters listed to those of the helicopter, sufficient data must also be provided to verify the correct flight condition and helicopter configuration changes. For example: to show that control force is within ±0.5 pounds (0.22 daN) in a static stability test, data to show the correct airspeed, power, thrust or torque, helicopter configuration, altitude, and other appropriate datum identification parameters must also be given. For example: if comparing short period dynamics, normal acceleration may be used to establish a match to the helicopter, but airspeed, altitude, control input, helicopter configuration, and other appropriate data must also be given. All airspeed values must be clearly annotated as to indicated, calibrated, etc., and like values used for comparison.

(7) The QTG provided by the sponsor must describe clearly and distinctly how the simulator will be set up and operated for each test. Overall integrated testing of the simulator must be accomplished to assure that the total simulator system meets the prescribed standards; *i.e.*, it is not acceptable to test only each simulator subsystem independently. A manual test procedure with explicit and detailed steps for completion of each test must also be provided.

(8) In those cases where the objective test results authorize a ''snapshot'' result in lieu of a time-history result, the sponsor must ensure that a steady state condition exists from 5 seconds prior to, through 2 seconds after, the instant of time captured by the ''snapshot.''

(9) For previously qualified simulators, the tests and tolerances of this appendix may be used in subsequent recurrent evaluations for any given test providing the sponsor has submitted a proposed MQTG revision to the NSPM and has received NSPM approval.

(10) Motion System Tests:

(a) The minimum excursions, accelerations, and velocities for pitch, roll, and yaw must be measurable about a single, common reference point and must be achieved by driving one degree of freedom at a time.

(b) The minimum excursions, accelerations, and velocities for heave, sway, and surge may be measured about different but identifiable reference points and must also be achieved by driving one degree of freedom at a time.

(11) Simulators for augmented helicopters will be validated both in the unaugmented configuration (or failure state with the maximum permitted degradation in handling qualities) and the augmented configuration. Where various levels of handling qualities result form failure states, validation of the effect of the failure is necessary. For those performance and static handling qualities tests where the primary concern, in the unaugmented configuration, is control position, unaugmented data are not required if the design of the system precludes any affect on control position. In those instances where the unaugmented helicopter response is divergent and non-repeatable, it may not be feasible to meet the specified tolerances. Alternative requirements for testing will be mutually agreed to between the sponsor and the NSPM on a case-by-case basis.

(12) For highly augmented helicopters using helicopter hardware (*i.e.,* ''helicopter modular controllers'') in the simulator cockpit, some tests will not be required. Those tests are annotated in the ''Additional Requirements'' column. However, in these cases the sponsor must supply a statement that the helicopter hardware meets and will continue to meet the appropriate manufacturer's specifications and the sponsor must have supporting information to that fact available for NSPM review.

End QPS Requirements

Begin Information

b. Discussion

(1) If relevant winds are present in the objective data, the wind vector (magnitude and direction) should be clearly noted as part of the data presentation, expressed in conventional terminology, and related to the runway being used for the test.

(2) The NSPM will not evaluate any simulator unless the required SOC indicates that the motion system is designed and manufactured to safely operate within the simulator's maximum excursion, acceleration, and velocity capabilities (see paragraph 4, Motion System, in the following table).

End Information

TABLE OF OBJECTIVE TESTS

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
2. Performance								
a. Engine Assessment								
(1) Start Operations:								
(a) Engine start and acceleration (transient).	Light Off Time—±10% or ±1 sec., Torque—±5%, Rotor Speed—±3%, Fuel Flow—±10%, Gas Generator Speed—±5%, Power Turbine Speed—±5%, Gas Turbine Temp.—±30°C.	Ground with the Rotor Brake Used and Not Used.		X	X	X	Record each engine start from the initiation of the start sequence to steady state idle and from steady state idle to operating RPM.	
(b) Steady State Idle and Operating RPM conditions.	Torque—±3%, Rotor Speed—±1.5%, Fuel Flow—±5%, Gas Generator Speed—±2%, Power Turbine Speed—±2%, Turbine Gas Temp—±20°C.	Ground		X	X	X	Record both steady state idle and operating RPM conditions. May be a series of snapshot tests.	
(2) Power Turbine Speed Trim.	±10% of total change of power turbine speed.	Ground		X	X	X	Record engine response to trim system actuation in both directions.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
(3) Engine and Rotor Speed Governing.	Torque—±5%, Rotor Speed—1.5%.	Climb, descent		X	X	X	Record results using a step input to the collective. May be conducted concurrently with climb and descent performance tests.	
b. Ground Operations								
(1) Minimum Radius Turn	±3 ft. (0.9m) or 20% of helicopter turn radius.	Ground		X	X	X	If brakes are used, brake force must be matched to the helicopter flight test value..	
(2) Rate of Turn vs. Pedal Deflection or Nosewheel Angle.	±10% or ±2d°/sec. Turn Rate.	Ground Takeoff		X	X	X		
(3) Taxi	Pitch Angle—±1.5°, Torque—±3%, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	Ground		X	X	X	Record results for control position and pitch attitude during ground taxi for a specific ground speed, wind speed and direction, and density altitude.	
(4) Brake Effectiveness	±10% of time and distance	Ground		X	X	X		
c. Takeoff								
(1) Engines	Airspeed—±3 kt, Altitude—±20ft (6.1m), Torque—±3%, Rotor Speed—±1.5%, Vertical Velocity—±100 fpm (0.50m/sec) or 10% Pitch Attitude—±1.5°, Bank Attitude—±2°, Heading—±2°, Longitudinal Control Position—±10%, Lateral Control Position—±10%, Directional Control Position—±10%, Collective Control Position—±10%.	Ground Takeoff and Initial Segment of Climb.		X	X	X	Record results of takeoff flight path as appropriate to helicopter model simulated (running takeoff for Level B, takeoff from a hover for Level C and D). For Level B, the criteria apply only to those segments at airspeeds above effective translational lift. Results must be recorded from the initiation of the takeoff to at least 200 ft (61m) AGL.	
(2) One Engine Inoperative	Airspeed—±3 kt, Altitude—±20 ft (6.1m), Torque—±3%, Rotor Speed—±1.5%, Vertical Velocity—±100 fpm (0.50m/sec) or 10%, Pitch Attitude—±1.5°, Bank Attitude—±2°, Heading—±2°, Longitudinal Control Position—±10% Lateral Control Position—±10%, Directional Control Position—±10%, Collective Control Position—±10%.	Ground/Takeoff; and Initial Segment of Climb.		X	X	X	Record takeoff flight path as appropriate to helicopter model simulated. Results must be recorded from the initiation of the takeoff to at least 200 ft (61m) AGL.	
d. Hover								
Performance	Torque—±3%, Pitch Attitude—±1.5°, Bank Attitude—±1.5°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	In Ground Effect (IGE); and Out of Ground Effect (OGE).			X	X	Record results for light and heavy gross weights. May be a series of snapshot tests.	
e. Vertical Climb								
Performance	Vertical Velocity—±100 fpm (0.50m/sec) or ±10%, Directional Control Position—±5%, Collective Control Position—±5%.	From OGE Hover			X	X	Record results for light and heavy gross weights. May be a series of snapshot tests.	
f. Level Flight								
Performance and Trimmed Flight Control Positions.	Torque—±3%, Pitch Attitude—±1.5°, Sideslip Angle—±2°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position-±5%, Collective Control Position—±5%.	Cruise (Augmentation On and Off).		X	X	X	Record results for two gross weight and CG combinations with varying trim speeds throughout the airspeed envelope. May be a series of snapshot tests.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
g. Climb								
Performance and Trimmed Flight Control Positions.	Vertical Velocity—±100 fpm (61m/sec) or ±10%, Pitch Attitude—±1.5°, Sideslip Angle—±2°, Longitudinal Control Position—±5% Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	All engines operating; One engine inoperative; Augmentation System(s) On and Off.		X	X	X	Record results for two gross weight and CG combinations. The data presented must be for normal climb power conditions. May be a series of snapshot tests.	
h. Descent								
(1) Descent Performance and Trimmed Flight Control Positions.	Torque—±3%, Pitch Attitude—±1.5°, Sideslip Angle—±2°, Longitudinal Control Position—±5% Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	At or near 1,000 fpm rate of descent (RoD) at normal approach speed. Augmentation System(s) On and Off.		X	X	X	Results must be recorded for two gross weight and CG combinations. May be a series of snapshot tests.	
(2) Autorotation Performance and Trimmed Flight Control Positions.	Torque—±3%, Pitch Attitude—±1.5°, Sideslip Angle—±2°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5.	Steady descents. Augmentation System(s) On and Off.		X	X	X	Record results for two gross weight conditions. Data must be recorded for normal operating RPM. (Rotor speed tolerance applies only if collective control position is full down.) Data must be recorded for speeds from approximately 50 kts. through at least maximum glide distance airspeed. May be a series of snapshot tests.	
i. Autorotation								
Entry	Rotor Speed—±3%, Pitch Attitude—±2°, Roll Attitude—±3°, Yaw Attitude—±5°, Airspeed—±5 kts. Vertical Velocity—±200 fpm (1.00 m/sec) or 10%.	Cruise; or Climb			X	X	Record results of a rapid throttle reduction to idle. If the cruise condition is selected, comparison must be made for the maximum range airspeed. If the climb condition is selected, comparison must be made for the maximum rate of climb airspeed at or near maximum continuous power.	
j. Landing								
(1) All Engines	Airspeed—±3 kts., Altitude—±20 ft. (6.1 m), Torque—±3%, Rotor Speed—±1.5%, Pitch Attitude—±1.5°, Bank Attitude—±1.5°, Heading—±2°, Longitudinal Control Position—±10%, Lateral Control Position—±10%, Directional Control Position—±10%, Collective Control Position—±10%.	Approach		X	X	X	Record results of the approach and landing profile as appropriate to the helicopter model simulated (running landing for Level B, or approach to a hover for Levels C and D). For Level B, the criteria apply only to those segments at airspeeds above effective translational lift.	
(2) One Engine Inoperative.	Airspeed-±3 kts., Altitude-±20 ft. (6.1m), Torque—±3%, Rotor Speed-±1.5≠, Pitch Attitude-±1.5°, Bank Attitude-±1.5°, Heading-±2°, Longitudinal Control Position-±10%, Lateral Control Position-±10%, Directional Control Position-±10%, Collective Control Position-±10%..	Approach		X	X	X	Record results for both Category A and Category B approaches and landing as appropriate to helicopter model simulated. For Level B, the criteria apply only to those segments at airspeeds above effective translational lift.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
(B) Balked Landing	Airspeed-±3 kts, Altitude -±20 ft. (6.1m), Torque-±3%, Rotor Speed-±1.5%, Pitch Atitude-±1.5°, Bank Attitude-±1.5°, Heading-±2°, Longitudinal Control Position-±10%, Lateral Control Position-±10%, Directional Control Position-±10%. Collective Control Position-±10%.	Approach		X	X	X	Record the results for the maneuver initiated from a stablized approach at the landing decision point (LDP).	
(4) Autorotational Landing.	Torque-±3%, Rotor Speed-±3%, Vertical Velocity-±100 fpm (0.50m/sec) or 10%, Pitch Attitude-±2°, Bank Attitude-±2°, Heading—±5°, Longitudinal Control Position-±10%, Lateral Control Position-±10%, Directional Control Position-±10%, Collective Control Position-±10%.	Landing			X	X	Record the results of an autorotational deceleration and landing from a stabilized autorotational descent, to touch down.	
3. HANDLING QUALITIES.								
a. Control System Mechanical Characteristics.								
For simulators requiring Static or Dynamic tests at the controls (ie., cyclic, collective, and pedal), special test fixtures will not be required during initial or upgrade evaluations if the sponsor's QTG/MQTG shows both test fixture results and the results of an alternative approach, such as computer plots produced concurrently, that show satisfactory agreement. Repeat of the alternative method during the initial or upgrade evaluaiton would then satisfy this test requirement. For initial and upgrade evaluaitons, the control dynamic characteristics must be measured at and recorded directly from the cockpit controls, and must be accomplished in hover, climb, cruise, and autorotation.	.....	.....	.....	.....	.....	.....	.....	Contact the NSPM for clarificaiton of any issue regarding helicopters with reversible controls
(1) Cyclic	Breakout—±0.25 lbs. (0.112 daN) or 25%; Force—±1.0 lb. (0.224 daN) or 10%.	Ground; Static conditions. Trim On and Off. Friction Off Augmentation On and Off.		X	X	X	Record results for an uninterrupted control sweep to the stops. (This test does not apply if aircraft hardware modular controllers are used.).	
(2) Collective/Pedals	Breakout—±0.5 lbs. (0.224 daN) or 25%; Force—±1.0 lb. (0.224 daN) or 10%.	Ground; Static conditions. Trim On and Off. Friction Off. Augmentation On and Off.		X	X	X	Record results for an uninterrupted control sweep to the stops..	
(3) Brake Pedal Force vs. Position.	±5 lbs. (2.224 daN) or 10%	Ground; Static conditions		X	X	X		
(4) Trim System Rate (all applicable systems).	Rate—±10%	Ground; Static conditions. Trim On, Friction Off.		X	X	X	The tolerance applies to the recorded value of the trim rate.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
(5) Control Dynamics (all axes).	±10% of time for first zero crossing and ±10 (N+1)% of period thereafter, ±10 of amplitude of first overshoot, 20% of amplitude of 2nd and subsequent overshoots greater than 5% of initial displacement, ±1 overshoot.	Hover/Cruise, Trim On, Friction Off.			X	X	Results must be recorded for a normal control displacement in both directions in each axis (approximately 25% to 50% of full throw).	Control Dynamics for irreversible control systems may be evaluated in a ground/static condition. Refer to paragraph 5 of this attachment for additional information. ''N'' is the sequential period of a full cycle of oscillation.
(6) Freeplay	±0.10 in.	Ground; Static conditions		X	X	X	Record and compare results for all controls.	
b. Low Airspeed Handling Qualities:								
(1) Trimmed Flight Control Positions.	Torque—±3% Pitch Attitude—±1.5° Bank Attitude—±2° Longitudinal Control Position—±5% Lateral Control Position—±5% Directional Control Position—±5% Collective Control Position—±5%.	Transitional Flight IGE-Sideward, rearward, and forawrd flight. Augmentation On and Off.			X	X	Record results for several airspeed increments to the translational airspeed limits and for 45 kts. forward airspeed. May be a series of snapshot tests.	
(2) Critical Azimuth	Torque—±3% Pitch Attitude++1.5°, Bank Attitude—±2°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	Stationary Hover Augmentation On and Off.			X	X	Record results for three relative wind directions (including the most critical case) in the critical quadrant. May be a series of snapshot tests.	
(3) Control Response: (a) Longitudinal	Pitch Rate—±10% or ±2°/sec. Pitch Attitude Change—±10% or 1.5°.	Hover Augmentation On and Off.			X	X	Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases..	
(b) Lateral	Roll Rate—±10% or ±3°/sec. Roll Attitude Change—±10% or ±3°.	Hover Augmentation On and Off.			X	X	Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	
(c) Directional	Yaw Rate—±10% or ±2°/sec. Heading Change—±10% or ±2°.	Hover Augmentation On and Off..			X	X	Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	
(d) Vertical	Normal Acceleration—±0.1 ..	Hover			X	X	Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
c. Longitudinal Handling Qualities:								
(1) Control Response	Pitch Rate—±10% or ±2°/sec., Pitch Attitude Change—±10% or ±1.5°.	Cruise Augmentation On and Off.		X	X	X	Results must be recorded for two cruise airspeeds to include minimum power required speed. Record data for a step control input. The Off-axis response must show correct trend for unaugmented cases.	
(2) Static Stability	Longitudinal Control Position: ±10% of change from trim or ±0.25 in. (6.3 mm) or Longitudinal Control Force: ±0.5lb. (0.223 daN) or ±10%.	Cruise or Climb. Autorotation. Augmentation On and Off.		X	X	X	Record results for a minimum of two speeds on each side of the trim speed. May be a series of snapshot tests.	
(3) Dynamic Stability:								
(a) Long Term Response.	±10% of calculated period, ±10% of time to ½ or double amplitude, or ±0.02 of damping ratio.	Cruise Augmentation On and Off.		X	X	X	Record results for three full cycles (6 overshoots after input completed) or that sufficient to determine time to ½ or double amplitude, whichever is less. For non-periodic responses, the time history must be matched.	
(b) Short Term Response.	±1.5° Pitch or ±2°/sec. Pitch Rate. ±0.1 g Normal Acceleration.	Cruise or Climb. Augmentation On and Off.		X	X	X	Record results for at least two airspeeds.	
(4) Maneuvering Stability.	Longitudinal Control Position—±10% of change from trim or ±0.25 in. (6.3 mm) or Longitudinal Control Forces—±0.5 lb. (0.232 daN) or ±10%.	Cruise or Climb. Augmentation On and Off..		X	X	X	Record results for at least two airspeeds. Record results for Approximately 30°–45° bank angle. The force may be shown as a cross plot for irreversible systems. May be a series of snapshot tests.	
(5) Landing Gear Operating Times.	±1 sec.	Takeoff (Retraction) Approach (Extension).		X	X	X		
d. Lateral and Directional Handling Qualities:								
(1) Control Response								
(a) Lateral	Roll Rate—±10% or ±3°/sec., Roll Attitude Change—±10% or ±3°.	Cruise Augmentation On and Off.		X	X	X	Record results for at least two airspeeds, including the speed at or near the minimum power required airspeed. Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	
(b) Directional	Yaw Rate—±10% or ±2°/sec., Yaw Attitude Change—±10% or ±2°.	Cruise Augmentation On and Off.		X	X	X	Record data for at least two Airspeeds, including the speed at or near the minimum power required airspeed. Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
(2) Directional Static Stability.	Lateral Control Position—±10% of change from trim or ±0.25 in, (6.3 mm) or Lateral Control Force—±0.5 lb. (0.223 daN) or 10%, Roll Attitude—±1.5, Directional Control Position—±10% of change from trim or ±0.25 in. (6.3 mm) or Directional Control Force—±1 lb. (0.448 daN) or 10%., Longitudinal Control Position—±10% of change from trim or ±0.25 in. (6.3 mm), Vertical Velocity—±100 fpm (0.50m/sec) or 10%.	Cruise; or Climb (may use Descent instead of Climb if desired), Augmentation On and Off.		X	X	X	Record results for at least two sideslip angles on either side of the trim point. The force may be shown as a cross plot for irreversible systems. May be a series of snapshot tests.	This is a steady heading sideslip test.
(3) Dynamic Lateral and Directional Stability:								
(a) Lateral—Directional Oscillations.	±0.5 sec. or ±10% of period, ±10% of time to ½ or double amplitude of ±0.02 of damping ratio, ±20% or ±1 sec of time difference between peaks of bank and sideslip.	Cruise or Climb. Augmentation On/Off.		X	X	X	Record results for at least two airspeeds. The test must be initiated with a cyclic or a pedal doublet input. Record results for six full cycles (12 overshoots after input completed) or that sufficient to determine time to ½ or double amplitude, whichever is less. For non-periodic response, the time history must be matched.	
(b) Spiral Stability ..	Correct Trend, ±2° bank or ±10% in 20 sec.	Cruise or Climb Augmentation On and Off.		X	X	X	Record the results of a release from pedal only or cyclic only turns. Results must be recorded from turns in both directions.	
(c) Adverse/Proverse Yaw.	Correct Trend, ±2° transient sideslip angle.	Cruise or Climb Augmentation On and Off.		X	X	X	Record the time history of initial entry into cyclic only turns, using only a moderate rate for cyclic input. Results must be recorded for turns in both directions.	
4. Motion System:								
a. Motion Envelope:								
(1) Pitch								
(a) Displacement—								
TBD°	.....	.....		X				
±25°	.....	.....			X	X		
(b) Velocity—								
TBD°/sec	.....	.....		X				
±20°/sec	.....	.....			X	X		
(c) Acceleration—								
TBD°/sec^2	.....	.....		X				
±100°/sec^2	.....	.....			X	X		
(2) Roll								
(a) Displacement—								
TBD°	.....	.....		X				
±25°	.....	.....			X	X		
(b) Velocity—								
TBD°/sec	.....	.....		X				
±20°/sec	.....	.....			X	X		
(c) Acceleration—								
TBD°/sec^2	.....	.....		X				
±100°/sec^2	.....	.....			X	X		
(3) Yaw								
(a) Displacement—±25°	.....	.....			X	X		
(b) Velocity—±20°/sec ..	.....	.....			X	X		
(c) Acceleration—±100°/sec^2.	.....	.....			X	X		

TABLE OF OBJECTIVE TESTS—Continued

QPS requirements								Information notes
Test	Tolerance	Flight conditions	Simulator level				Test details	
			A	B	C	D		
(4) Vertical								
(a) Displacement—								
TBD in.				X				
±34 in.					X	X		
(b) Velocity—								
TBD in.				X				
±24 in.					X	X		
(c) Acceleration—								
TBD g				X				
±0.8 g					X	X		
(5) Lateral								
(a) Displacement—								
±45 in					X	X		
3(b) Velocity—								
±28 in/sec					X	X		
(c) Acceleration—								
±0.6 g					X	X		
(6) Longitudinal								
(a) Displacement—								
±34 in					X	X		
(b) Velocity—								
±28 in/sec					X	X		
(c) Acceleration—								
±0.6 g					X	X		
(7) Initial Rotational Acceleration Ratio. All axes:								
TBD°/sec²/sec				X				
All axes:								
300°/sec²/sec					X	X		
(8) Initial Linear Acceleration Ratio								
(a) Vertical—								
±TBD g/sec				X				
±6g/sec					X	X		
(b) Lateral—								
±3g/sec					X	X		
(c) Longtudial—								
±3g/sec							X	X
b. Frequency Response:								
Band, Hz Phase, deg.	Amplitude Ratio, db			X	X	X		
0.10 to 0.5 −15 to −20.	±2							
0.51 to 1.0 −15 to −20.	±2							
1.1 to 2.0 −20 to −40.	±4							
2.1 to 5.0 −20	±4							
c. Leg Balance:								
Leg Balance	1.5°			X	X	X	The phase shift between a datum jack and any other jack must be measured using a heave (vertical) signal of 0.5 Hz. at ±0.25 g.	
d. Turn Around:								
Turn Around	0.05 g			X	X	X	The motion base must be driven sinusoidally in heave through a displacement of 6 inches (150 mm) peak to peak at a frequency of 0.5 Hz. Deviation from the desired sinusoidal acceleration must be measured.	

Begin Information

5. Control Dynamics.

a. The characteristics of a helicopter flight control system have a major effect on the handling qualities. A significant consideration in pilot acceptability of a helicopter is the ''feel'' provided through the cockpit controls. Considerable effort is expended on helicopter feel system design in order to deliver a system with which pilots will be comfortable and consider the helicopter desirable to fly. In order for a simulator to be representative, it too must present the pilot with the proper feel; that of the respective helicopter

b. Recordings such as free response to an impulse or step function are classically used to estimate the dynamic properties of electromechanical systems. In any case, it is only possible to estimate the dynamic properties as a result of only being able to estimate true inputs and responses. Therefore, it is imperative that the best possible data be collected since close matching of the simulator control loading system to the helicopter systems is essential. The required control feel dynamic tests are described in this attachment. This is usually accomplished by measuring the free response of the controls using a step or pulse input to excite the system.

c. For helicopters with irreversible control systems, measurements may be obtained on the ground. However, proper pitot-static inputs (if applicable) must be provided to represent conditions typical of those encountered in flight. Likewise, it may be shown that for some helicopters, hover, climb, cruise, and autorotation have like effects. Thus, one may suffice for another. If either or both considerations apply, engineering validation or helicopter manufacturer rationale must be submitted as justification for ground tests or for eliminating a configuration.

(1) Control Dynamics Evaluations. The dynamic properties of control systems are often stated in terms of frequency, damping, and a number of other classical measurements which can be found in texts on control systems. In order to establish a consistent means of validating test results for simulator control loading, criteria are needed that will clearly define the interpretation of the measurements and the tolerances to be applied. Criteria are needed for both the underdamped system and the overdamped system, including the critically damped case. In the case of an underdamped system with very light damping, the system may be quantified in terms of frequency and damping. In critically damped or overdamped systems, the frequency and damping is not readily measured from a response time history. Therefore, some other measurement must be used.

(2) For Levels C and D Simulators. Tests to verify that control feel dynamics represent the helicopter show that the dynamic damping cycles (free response of the control) match that of the helicopter within the specified tolerances. An acceptable method of evaluating the response and the tolerance to be applied are described below for the underdamped and critically damped cases.

d. Tolerances: (1) Underdamped Response. (a) Two measurements are required for the period, the time to first zero crossing (in case a rate limit is present) and the subsequent frequency of oscillation. It is necessary to measure cycles on an individual basis in case there are nonuniform periods in the response. Each period will be independently compared to the respective period of the helicopter control system and, consequently, will enjoy the full tolerance specified for that period.

(b) The damping tolerance will be applied to overshoots on an individual basis. Care must be taken when applying the tolerance to small overshoots since the significance of such overshoots becomes questionable. Only those overshoots larger than 5 percent of the total initial displacement will be considered significant. The residual band, labeled $T(A_d)$ on Figure 1 of this attachment is ±5 percent of the initial displacement amplitude A_d from the steady state value of the oscillation. Oscillations within the residual band are considered insignificant. When comparing simulator data to helicopter data, the process would begin by overlaying or aligning the simulator and helicopter steady state values and then comparing amplitudes of oscillation peaks, the time of the first zero crossing, and individual periods of oscillation. To be satisfactory, the simulator would show the same number of significant overshoots to within one when compared against the helicopter data. This procedure for evaluating the response is illustrated in Figure 1 of this attachment.

(2) Critically Damped and Overdamped Response. Due to the nature of critically damped responses (no overshoots), the time to reach 90 percent of the steady state (neutral point) value should be the same as the helicopter within ±10 percent. The simulator response must be critically damped also. Figure 2 of this attachment illustrates the procedure.

(3) (a) The following summarizes the tolerances, T, for an illustration of the referenced measurements (See Figures 1 and 2 of this attachment):

$T(P_0)$ ±10% of P_0
$T(P_1)$ ±20% of P_1
$T(A)$ ±10% of A_1, ±20% of Subsequent Peaks
$T(A_d)$ ±10% of A_d = Residual Band
Overshoots ±1

(b) In the event the number of cycles completed outside of the residual band, and thereby significant, exceeds the number depicted in figure 1 of this attachment, the following tolerances (T) will apply:

$T(P_n)$ ±10%(n+1)% of P_n, where ''n'' is the next in sequence.

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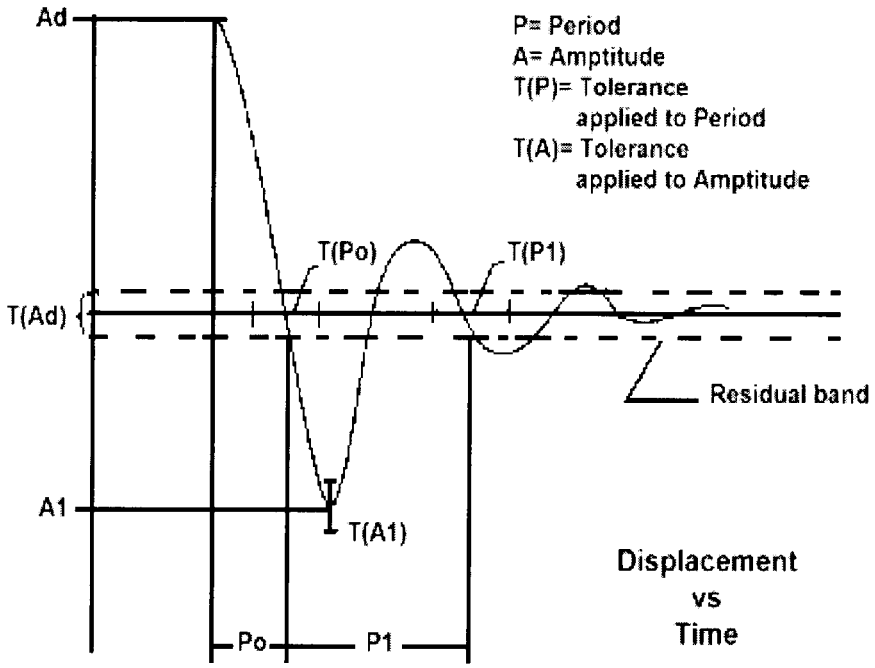
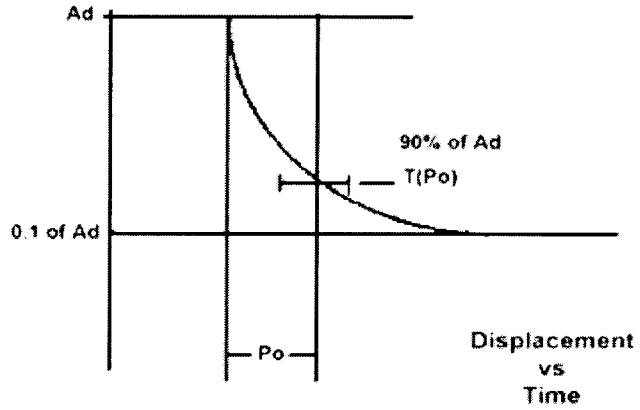
Attachment 2 to Appendix C to Part 60—
Figure 1. Under-Damped Step Response



Attachment 2 to Appendix C to Part 60—
Figure 2. Critically-Damped Step Response



6. Motion Cue Repeatability Testing.

a. The motion system characteristics in the Table of Objective Tests address basic system capability, but not pilot cueing capability. Until there is an objective procedure for determination of the motion cues necessary to support pilot tasks and stimulate the pilot response which occurs in a helicopter for the same tasks, motion systems will continue to be ''tuned'' subjectively. Having tuned a motion system, however, it is important to involve a test to ensure that the system continues to perform as originally qualified. Any motion performance change from the initially qualified baseline can be measured objectively.

b. An objective assessment of motion performance change is accomplished at lease annually using the following testing procedure:

(1) The current performance of the motion system is assessed by comparison with the initial recorded test data.

(2) The parameters to be recorded are the outputs of the motion drive algorithms and the jack position transducers.

(3) The test input signals are inserted at an appropriate point prior to the integrations in the equations of motion (see figure 3 of this attachment).

(4) The characteristics of the test signal (see figure 4 of this attachment) are adjusted to ensure that the motion is exercised through approximately 2/3 of the maximum displacement capability in each axis. The time segment T_0—T_1 , must be of sufficient duration to ensure steady initial conditions.

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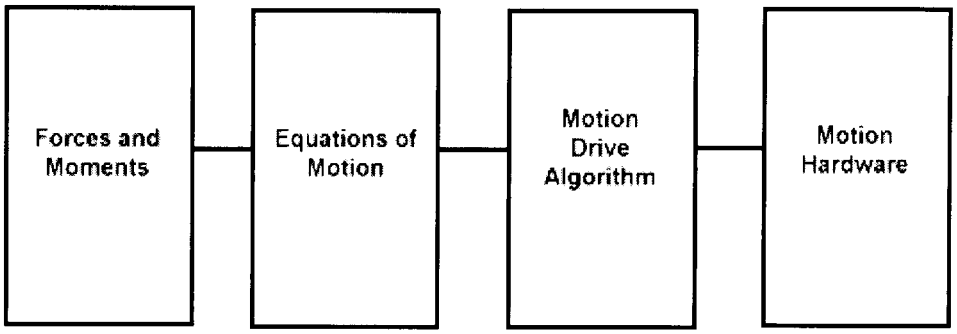
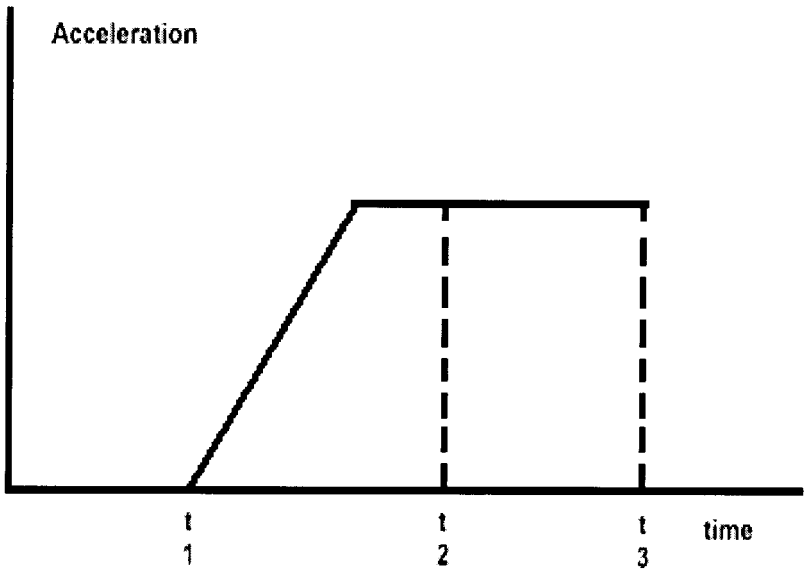
Attachment 2 to Appendix C to Part 60—Figure 3. Acceleration Test Signals



Attachment 2 to Appendix C to Part 60—Figure 4. Test Signal Characteristics



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NOTE: If the simulator weight changes for any reason (i.e., visual change, or structural change), then the motion system baseline performance repeatability tests must be rerun and the new results used for future comparison.

End Information

Attachment 3 to Appendix C to Part 60—Simulator Subjective Tests

1. Discussion

Begin Information

a. The subjective tests and the examination of functions provide a basis for evaluating the capability of the FTD to perform over a typical utilization period; determining that the FTD satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and verifying

correct operation of the FTD controls, instruments, and systems. The items in the list of operations tasks are for FTD evaluation purposes only. They must not be used to limit or exceed the authorizations for use of a given level of FTD as found in the Practical Test Standards or as may be approved by the TPAA. All items in the following paragraphs are subject to an examination of function.

b. The List of Operations Tasks addressing pilot functions and maneuvers is divided by flight phases. All simulated helicopter systems functions will be assessed for normal and, where appropriate, alternate operations. Normal, abnormal, and emergency operations associated with a flight phase will be assessed during the evaluation of maneuvers or events within that flight phase.

c. Systems to be evaluated are listed separately under ''Any Flight Phase'' to ensure appropriate attention to systems checks. Operational navigation systems (including inertial navigation systems, global positioning systems, or other long-range systems) and the associated electronic display systems will be evaluated if installed. The NSP pilot will include in his report to the TPAA, the effect of the system operation and any system limitation.

d. At the request of the TPAA, the NSP Pilot may assess the FTD for a special aspect of a sponsor's training program during the functions and subjective portion of an evaluation. Such an assessment may include a portion of a Line Oriented Flight Training (LOFT) scenario or special emphasis items in the sponsor's training program. Unless directly related to a requirement for the qualification level, the results of such an evaluation would not necessarily affect the qualification of the FTD.

End Information

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2. List of Operations Tasks

Begin QPS Requirements

The NSP pilot, or the pilot designated by the NSPM, will evaluate the FTD in the following Operations Tasks, as applicable to the helicopter and FTD level, using the sponsor's approved manuals and checklists.

a. Preparation for Flight

(1) Preflight. Accomplish a functions check of all switches, indicators, systems, and equipment at all cockpit crewmembers' and instructors' stations, and determine that the cockpit design and functions are identical to that of the helicopter simulated.
(2) APU/Engine start and run-up.
(a) Normal start procedures.
(b) Alternate start procedures.
(c) Abnormal starts and shutdowns (hot start, hung start, etc.)
(d) Rotor engagement.
(e) System checks.
(f) Other.

b. Takeoff

(1) Normal.
(a) From ground.
(b) From hover.
(i) Cat A.
(ii) Cat B.
(c) Running.
(d) Crosswind/tailwind.
(e) Maximum performance.
(f) Instrument.
(2) Abnormal/emergency procedures:
(a) Takeoff with engine failure after critical decision point (CDP).
(i) Cat A.
(ii) Cat B.
(b) Other

A. Climb

(1) Normal.
(2) One engine inoperative.
(3) Other.

d. Cruise

(1) Performance.
(2) Flying qualities.
(3) Turns.
(a) Timed.
(b) Normal.
(c) Steep.
(4) Accelerations and decelerations.
(5) High speed vibrations.
(6) Abnormal/emergency procedures, for example:
(a) Engine fire.
(b) Engine failure.
(c) Inflight engine shutdown and restart.
(d) Fuel governing system failures.
(e) Directional control malfunction.
(f) Hydraulic failure.
(g) Stability system failure.
(h) Rotor vibrations.
(i) Other.

e. Descent

(1) Normal.
(2) Maximum rate.
(3) Other.

f. Approach

(1) Non-precision.
(a) All engines operating.
(b) One or more engines inoperative.
(c) Approach procedures:
(i) NDB
(ii) VOR, RNAV, TACAN
(iii) ASR
(iv) Helicopter only.
(v) Other.
(d) Missed approach.
(i) All engines operating.
(ii) One or more engines inoperative.
(2) Precision.
(a) All engines operating.
(b) One or more engines inoperative.
(c) Approach procedures:
(i) PAR
(ii) MLS
(iii) ILS
(iv) Manual (raw data).
(v) Flight director only.
(vi) Autopilot coupled.
(A) Cat I
(B) Cat II
(vii) Other.
(d) Missed approach.
(i) All engines operating.
(ii) One or more engines inoperative.
(iii) Stability system failure.
(e) Other

g. Any Flight Phase

(1) Helicopter and powerplant systems operation.
(a) Air conditioning.
(b) Anti-icing/deicing.
(c) Auxiliary power plant.
(d) Communications.
(e) Electrical.
(f) Fire detection and suppression
(g) Stabilizer.
(h) Flight controls.
(i) Fuel and oil.
(j) Hydraulic.
(k) Landing gear.
(l) Oxygen.
(m) Pneumatic.
(n) Powerplant.
(o) Flight control computers.
(p) Stability and control augmentation.
(q) Other.
(2) Flight management and guidance system.
(a) Airborne radar.
(b) Automatic landing aids.
(c) Autopilot.
(d) Collision avoidance system.
(e) Flight data displays.
(f) Flight management computers.
(g) Head-up displays.
(h) Navigation systems.
(i) Other.
(3) Airborne procedures.
(a) Holding.
(b) Air hazard avoidance.
(c) Retreating blade stall recovery.
(d) Mast bumping.
(e) Other.

h. Engine Shutdown and Parking

(1) Engine and systems operation.
(2) Parking brake operation.
(3) Rotor brake operation.
(4) Abnormal/emergency procedures.

3. FTD Systems

a. Instructor Operating Station (IOS)

(1) Power switch(es).
(2) Helicopter conditions.
(a) Gross weight, center of gravity, fuel loading and allocation, etc.
(b) Helicopter systems status.
(c) Ground crew functions (e.g., external power connections, push back, etc.)
(d) Other.
(3) Airports or Landing Areas.
(a) Number and selection.
(b) Runway or landing area selection.
(c) Landing surface condition (e.g., rough, smooth, icy, wet, dry, etc.)
(d) Preset positions (e.g. ramp, gate, #1 for takeoff, takeoff position, over FAF, etc.)
(e) Lighting controls.
(f) Other.
(4) Environmental controls.
(a) Temperature.
(b) Climate conditions (e.g., ice, snow, rain, etc.).
(c) Wind speed and direction.
(d) Other.
(5) Helicopter system malfunctions.
(a) Insertion/deletion.
(b) Problem clear.
(c) Other
(6) Locks, freezes, and repositioning.
(a) Problem (all) freeze / release.
(b) Position (geographic) freeze / release.
(c) Repositioning (locations, freezes, and releases).
(d) Two times or one-half ground speed control.

(e) Other
(7) Remote IOS.
(8) Other.

b. Sound Controls. On/off/rheostat

c. Control Loading System. On/off/emergency stop.

d. Observer Stations.

(1) Position.
(2) Adjustments.

End QPS Requirements 10

Attachment 4 to Appendix C to Part 60—Definitions and Abbreviations

1. Definitions

Begin Regulatory Language (14 CFR Part 1 and §60.3)

(From Part 1—Definitions)

Flight simulation device (FSD) means a flight simulator or a flight training device.

Flight simulator means a full size replica of a specific type or make, model, and series aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent the aircraft in ground and flight operations, a visual system providing an out-of-the-cockpit view, a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standards (QPS) for a specific qualification level.

Flight training device (FTD) means a full size replica of aircraft instruments, equipment, panels, and controls in an open flight deck area or an enclosed aircraft cockpit replica. It includes the equipment and computer programs necessary to represent the aircraft or set of aircraft in ground and flight conditions having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standard (QPS) for a specific qualification level.

(From Part 60—Definitions)

Certificate holder. A person issued a certificate under parts 119, 141, or 142 of this chapter or a person holding an approved course of training for flight engineers in accordance with part 63 of this chapter.

Flight test data. Actual aircraft performance data obtained by the aircraft manufacturer (or other supplier of data acceptable to the NSPM) during an aircraft flight test program.

FSD Directive. A document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD.

Master Qualification Test Guide (MQTG). The FAA-approved Qualification Test Guide with the addition of the FAA-witnessed test, performance, or demonstration results, applicable to each individual FSD.

National Simulator Program Manager (NSPM). The FAA manager responsible for the overall administration and direction of the National Simulator Program (NSP), or a person approved by the NSPM .

Objective test. A quantitative comparison of simulator performance data to actual or predicted aircraft performance data to ensure FSD performance is within the tolerances prescribed in the QPS.

Predicted data. Aircraft performance data derived from sources other than direct physical measurement of, or flight tests on, the subject aircraft. Predicted data may include engineering analysis and simulation, design data, wind tunnel data, estimations or extrapolations based on existing flight test data, or data from other models.

Qualification level. The categorization of the FSD, based on its demonstrated technical and operational capability as set out in the QPS.

Qualification Performance Standard (QPS). The collection of procedures and criteria published by the FAA to be used when conducting objective tests and subjective tests, including general FSD requirements, for establishing FSD qualification levels.

Qualification Test Guide (QTG). The primary reference document used for evaluating an aircraft FSD. It contains test results, performance or demonstration results, statements of compliance and capability, the configuration of the aircraft simulated, and other information for the evaluator to assess the FSD against the applicable regulatory criteria.

Set of aircraft. Aircraft that share similar handling and operating characteristics and similar operating envelopes and have the same number and type of engines or power plants.

Sponsor. A certificate holder who seeks or maintains FSD qualification and is responsible for the prescribed actions as set out in this part and the QPS for the appropriate FSD and qualification level.

Subjective test. A qualitative comparison to determine the extent to which the FSD performs and handles like the aircraft being simulated.

Training Program Approval Authority (TPAA). A person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used.

Upgrade. The improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.

End Regulatory Language (14 CFR Part 1 and §60.3)

Begin QPS Requirements

Airspeed—is calibrated airspeed unless otherwise specified and is expressed in terms of nautical miles per hour (knots).

Altitude—is pressure altitude (meters or feet) unless specified otherwise.

Automatic Testing—is simulator testing wherein all stimuli are under computer control.

Bank—is the helicopter attitude with respect to or around the longitudinal axis, or roll angle (degrees).

Breakout—is the force required at the pilot's primary controls to achieve initial movement of the control position.

Closed Loop Testing—is a test method for which the input stimuli are generated by controllers which drive the simulator to follow a pre-defined target response.

Computer Controlled Helicopter—is a helicopter where all pilot inputs to the control surfaces are transferred and augmented by computers.

Control Sweep—is movement of the appropriate pilot controller from neutral to an extreme limit in one direction (Forward, Aft, Right, or Left), a continuous movement back through neutral to the opposite extreme position, and then a return to the neutral position.

Convertible Flight Simulator—is a simulator in which hardware and software can be changed so that the simulator becomes a replica of a different model, usually of the same type helicopter. The same simulator platform, cockpit shell, motion system, visual system, computers, and necessary peripheral equipment can thus be used in more than one simulation.

Critical Engine Parameter—is the parameter which is the most accurate measure of propulsive force.

Deadband—is the amount of movement of the input for a system for which there is no reaction in the output or state of the system observed.

Distance—is the length of space between two points and is expressed in terms of nautical miles unless specified otherwise.

Driven—is a test method where the input stimulus or variable is positioned by automatic means, generally a computer input.

Free Response—is the response of the simulator after completion of a control input or disturbance.

Frozen—is a test condition where one or more variables are held constant with time.

Fuel used—is the amount or mass of fuel used (kilograms or pounds).

Ground Effect—is the change in aerodynamic characteristics due to modification of the air flow past the aircraft caused by the proximity of the earth's surface to the helicopter.

Hands Off—is a test maneuver conducted or completed without pilot control inputs.

Hands On—is a test maneuver conducted or completed with pilot control inputs as required.

Heave—is simulator movement with respect to or along the vertical axis.

Height—is the height above ground level (or AGL) expressed in meters or feet.

Integrated Testing—is testing of the simulator such that all helicopter system models are active and contribute appropriately to the results where none of the models used are substituted with models or other algorithms intended for testing only.

Irreversible Control System—is a control system in which movement of the control surface will not backdrive the pilot's control in the cockpit.

Locked—is a test condition where one or more variables are held constant with time.

Manual Testing—is simulator testing wherein the pilot conducts the test without computer inputs except for initial setup and all modules of the simulation are active.

Medium—is the normal operational weight for a given flight segment.

Nominal—is the normal operational weight, configuration, speed, etc., for the flight segment specified.

Non-Normal Control—is a term used in reference to Computer Controlled Helicopters and is the state where one or more of the intended control, augmentation, or protection functions are not fully working. NOTE: Specific terms such as ALTERNATE, DIRECT, SECONDARY, BACKUP, etc., may be used to define an actual level of degradation.

Normal Control—is a term used in reference to Computer Controlled Helicopters and is the state where the intended control, augmentation, and protection functions are fully working.

Pitch—is the helicopter attitude with respect to or around the lateral axis expressed in degrees.

Power Lever Angle—is the angle of the pilot's primary engine control lever(s) in the cockpit. This may also be referred to as PLA, THROTTLE, or POWER LEVER.

Protection Functions—are systems functions designed to protect a helicopter from exceeding its flight maneuver limitations.

Pulse Input—is a step input to a control followed by an immediate return to the initial position.

Reversible Control System—is a control system in which movement of the control surface will backdrive the pilot's control in the cockpit.

Roll—is the helicopter attitude with respect to or around the longitudinal axis expressed in degrees.

Sideslip—is the angular difference between the helicopter heading and the direction of movement in the horizontal plane.

Simulation Data—are the various types of data used by the simulator manufacturer and the applicant to design, manufacture, and test the simulator.

Simulator Approval—is the extent to which a simulator may be used by a certificate holder as authorized by the FAA. It takes account of helicopter to simulator differences and the training ability of the organization.

Simulator Latency—is the additional time beyond that of the response time of the helicopter due to the response of the simulator.

Snapshot—is a presentation of one or more variables at a given instant of time.

Source Data—are, for the purpose of this document, performance, stability and control, and other necessary test parameters electrically or electronically recorded in a helicopter using a calibrated data acquisition system of sufficient resolution and verified as accurate by the company performing the test to establish a reference set of relevant parameters to which like simulator parameters can be compared.

Statement of Compliance and Capability (SOC)—is a declaration that specific requirements have been met. It must declare that compliance with the requirement is achieved and explain how the requirement is met (*e.g.*, gear modeling approach, coefficient of friction sources, etc.). It must also describe the capability of the simulator to meet the requirement (*e.g.*, computer speed, visual system refresh rate, etc.). In doing this, the statement must provide references to needed sources of information for showing compliance, rationale to explain how the referenced material is used, mathematical equations and parameter values used, and conclusions reached.

Step Input—is an abrupt control input held at a constant value.

Surge—is simulator movement with respect to or along the longitudinal axis.

Sway—is simulator movement with respect to or along the lateral axis.

Time History—is a presentation of the change of a variable with respect to time.

Training Program Approval Authority (TPAA)—is the person who exercises authority on behalf of the Administrator in approving the aircraft flight training program for the appropriate helicopter in which the simulator will be used. This person is the principal operations inspector (POI) for programs approved under 14CFR parts 63, 121, 125, or 135; or the training center program manager (TCPM) for programs approved under part 141 or 142.

Transport Delay or ''Throughput''—is the total simulator system processing time required for an input signal from a pilot primary flight control until motion system, visual system, or instrument response. It is the overall time delay incurred from signal input until output response. It does not include the characteristic delay of the helicopter simulated.

Validation Data—are data used to determine if the simulator performance corresponds to that of the helicopter.

Validation Test—is a test by which simulator parameters are compared to the relevant validation data.

Visual System Response Time—is the interval from a control input to the completion of the visual display scan of the first video field containing the resulting different information.

Yaw—is helicopter attitude with respect to or around the vertical axis expressed in degrees.

End QPS Requirements

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2. Abbreviations

Begin QPS Requirements

AFM—Approved Flight Manual.
AGL—Above Ground Level (meters or feet).
AOA—Angle of Attack (degrees).
APD—Aircrew Program Designee.
CCA—Computer Controlled Aircraft.
cd/m ^{2}—candela/meter ^{2}, 3.4263 candela/m ^{2} = 1 ft-Lambert.
CFR—Code of Federal Regulations.
cm(s)—centimeter, centimeters.
daN—decaNewtons, one (1) decaNewton = 2.27 pounds.
deg(s)—degree, degrees.
DOF—Degrees-of-freedom
EPR—Engine Pressure Ratio.
FAA—Federal Aviation Administration (U.S.).
ft—foot/feet, 1 foot = 0.304801 meters.
ft-Lambert—foot-Lambert, 1 ft-Lambert = 3.4263 candela/m ^{2}.
fpm—feet per minute.
g—Acceleration due to Gravity (meters or feet/sec ^{2}); 1g = 9.81 m/sec ^{2} or 32.2 feet/sec ^{2}.
G/S—Glideslope.
IATA—International Airline Transport Association.
ICAO—International Civil Aviation Organization.
ILS—Instrument Landing System.
IQTG—International Qualification Test Guide.
km—Kilometers 1 km = 0.62137 Statute Miles.
kPa—KiloPascal (Kilo Newton/Meters2). 1 psi = 6.89476 kPa.
Kts—Knots calibrated airspeed unless otherwise specified, 1 knot = 0.5148 m/sec or 1.689 ft/sec.
lb(s)—pound(s), one (1) pound = 0.44 decaNewton.
M,m—Meters, 1 Meter = 3.28083 feet.
Min(s)—Minute, minutes.
MLG—Main Landing Gear.
Mpa—MegaPascals (1 psi = 6894.76 pascals).
ms—millisecond(s).
N—NORMAL CONTROL Used in reference to Computer Controlled Aircraft.
N1—Low Pressure Rotor revolutions per minute, expressed in percent of maximum.
N2—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
N3—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
nm—Nautical Mile(s) 1 Nautical Mile = 6,080 feet.
NN—NON-NORMAL CONTROL Used in reference to Computer Controlled Aircraft.
NWA—Nosewheel Angle (degrees).
PAPI—Precision Approach Path Indicator System.
Pf—Impact or Feel Pressure, often expressed as ''q.''.
PLA—Power Lever Angle.
PLF—Power for Level Flight.
psi—pounds per square inch.
QPS—Qualification Performance Standard.
RAE—Royal Aerospace Establishment.
R/C—Rate of Climb (meters/sec or feet/min).
R/D—Rate of Descent (meters/sec or feet/min).
REIL—Runway End Identifier Lights.
RVR—Runway Visual Range (meters or feet).
s—second(s).
sec(s)—second, seconds.
sm—Statute Mile(s) 1 Statute Mile = 5,280 feet.
SOC—Statement of Compliance and Capability.
Tf—Total time of the flare maneuver duration.
Ti—Total time from initial throttle movement until a 10% response of a critical engine parameter.
TIR—Type Inspection Report.
T/O—Takeoff.
Tt—Total time from Ti to a 90% increase or decrease in the power level specified.
VASI—Visual Approach Slope Indicator System.
VGS—Visual Ground Segment.
Vmc—Minimum Control Speed.
Vmca—Minimum Control Speed in the air.

Vmcg—Minimum Control Speed on the ground.
Vmcl—Minimum Control Speed—Landing.
Vmu—The speed at which the last main landing gear leaves the ground.
Vr—Rotate Speed.
Vs—Stall Speed or minimum speed in the stall.
WAT—Weight, Altitude, Temperature.

End QPS Requirements 11

Attachment 5 to Appendix C to Part 60—Sample Documents

Begin Information

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Title of Sample

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End Information

BILLING CODE 4910–13–P

Attachment 5 to Appendix C to Part 60—
Figure 1 – Sample Letter of Request.

INFORMATION

Date

Name, POI, _____(Certificate Holder)

FAA FSDO _____

Address

City, State, Zip

Dear Mr./Ms. _____:

(Sponsor's name) _____ requests evaluation of our (type) _____ helicopter simulator for Level _____ qualification. The (name) _____ simulator with (name) _____visual system is fully defined on page _____ of the accompanying qualification test guide (QTG). We have completed tests of the simulator and confirm that it meets all applicable requirements of Title 14 of the Code of Federal Regulation (14 CFR) part 60 and the requirements of the Helicopter Flight Simulator Qualification Performance Standards (QPS). Appropriate hardware and software configuration control procedures have been established.

Our pilot(s) (name) _____ [and (name)_____], who is(are) qualified on (type) _____ helicopter, has(have) assessed the simulator and found that it conforms to the (sponsor name) _____ (type) _____ helicopter cockpit configuration and that the simulated systems and subsystems have been evaluated and found to function equivalently to those in the helicopter. The above named pilot(s) has(have) found that the simulator represents the respective helicopter in accordance with the attached Configuration List. He/She(They) has(have) also subjectively assessed the performance and flying qualities of the simulator and state that it represents the helicopter. He/She(They) has(have) not subjectively tested the simulator for those tasks on the attached Restrictions-to-Qualification list and we do not seek qualification in these areas.

(Added comments as desired.)

Sincerely,

(Signature of Appropriate Person)

Attachment 5 to Appendix C to Part 60—
Figure 2 – Sample Qualification Test Guide Cover Page

INFORMATION

SPONSOR NAME

SPONSOR ADDRESS

FAA QUALIFICATION TEST GUIDE

(SPECIFIC HELICOPTER MODEL)
(*for example*)
(Vertiflite AB-320)

(Simulator Identification Including Manufacturer, Serial Number, Visual System Used)

(Simulator Level)

(Qualification Performance Standard Used)

(Simulator Location)

FAA Initial Evaluation

Date: _____

_____ Date: _____
(Sponsor)

_____ Date: _____
Manager, National
Simulator Program, FAA

Attachment 5 to Appendix C to Part 60—

Figure 3 – Sample FTD Information Page

INFORMATION

SPONSOR NAME	
SPONSOR SIMULATOR CODE:	AB-320 #1
HELICOPTER MODEL:	Vertiflite AB-320
AERODYNAMIC DATA REVISION:	AB-320, CPX-8D, January 1988
ENGINE MODEL(S) AND REVISION:	CPX-8D; RPT-6, January 1988 DRQ-4002, RPT-3, April 1991
FLIGHT CONTROLS DATA REVISION:	AB-320MMM; May 1988
FLIGHT MANAGEMENT SYSTEM:	Berry XP
SIMULATOR MODEL AND MANUFACTURER:	VTF-320, Tinker Simulators, Inc.
DATE OF SIMULATOR MANUFACTURE:	1988
SIMULATOR COMPUTER:	CIA
VISUAL SYSTEM MODEL, MANUFACTURER, and DISPLAY TYPE:	ClearView, Inc. "Real World H6;" Projected Visual System
VISUAL SYSTEM COMPUTER:	LMB-H6
MOTION SYSTEM:	Tinker 6 DOF

Note to Figure 3: Information in Figure 3 must be updated and kept current with any modifications or changes made to the FTD and reflected on the log of revisions and the list of effective pages.

Attachment 5 to Appendix C to Part 60—

Figure 4 – Sample Statement of Qualification

Federal Aviation Administration
National Simulator Program

Statement of Qualification

This is to certify that representatives of the
National Simulator Program
Completed an evaluation of the

Go-Fast Training Center
Vertiflite AB-320 Flight Simulator

FAA Identification Number 888

And found it to meet the standards set forth
In the Qualification Performance Standards
For a simulator at

Level C

_____ _____

(date) for the NSPM

Subject to the attached
Configuration List and Restrictions

Attachment 5 to Appendix C to Part 60—
Figure 4A – Sample Statement of Qualification; Configuration List

INFORMATION

STATEMENT of QUALIFICATION
CONFIGURATION LIST
Go-Fast Training Center Vertiflite AB-320 -- Level C -- FAA ID# 888

Configuration		Date Qualified
Helicopter Model:.....	AB-320.....	July 12, 1988
Engine Model(s) and Revision:...	☐ CPX-8D, RPT-6.....	July 12, 1988
	☐ DRQ-4002, RPT-3.....	April 1, 1991
Flight Management System:.....	Berry XP.....	July 12, 1988
Visual System / Manufacturer: ☐ CRT Installation:..... ☐ Projected System:.....	Real World H6, Clear View, Inc. ..... 210° Horizontal Viewing Angle.....	 July 12, 1988
Flight Instruments: ☐ Electro-Mechanical:..... ☐ Display (CRT, LCD, etc.)..... ☐ Combination ..... ☐ Heads-Up Display.....	.....	July 12, 1988
Flight Director: ☐ Single Cue..... ☐ Dual Cue..... ☐ None.....	Sperry.....	July 12, 1988
Engine Instruments: ☐ Electro-Mechanical..... ☐ Display (CRT, LCD, etc.)..... ☐ Combination.....	.....	July 12, 1988
Navigation Type(s): ☐ ADF..... ☐ VOR/ILS..... ☐ GPS..... ☐ INS..... ☐ IRS.....		 July 12, 1988 July 12, 1988 July 12, 1988
Weather Radar:	Jones Industries, Inc.	July 12, 1988
TCAS		
ACARS		

Attachment 5 to Appendix C to Part 60—
Figure 4B – Sample Statement of Qualification; Qualified/Non-Qualified Tasks

INFORMATION

STATEMENT of QUALIFICATION
Qualified/Non-Qualified Tasks
Go-Fast Training Center
Vertiflite AB-320 -- Level C -- FAA ID# 888

The following are those items listed in the Helicopter Flight Simulator Qualification Performance Standards (QPS), FAA-S-120-63, dated (May 1, 2000) Appendix 3, Subjective Tests, indicating what tasks and systems are qualified **(Q)** *and what tasks and systems are not qualified* **(NQ)**.

NQ	Q	TASK		NQ	Q	TASK
		A. Preparation for flight.		X		(e) Stability system failure.
	X	1. Preflight.			X	(f) Directional control malfunction.
		2. APU/Engine start.			X	(g) Other.
	X	(a) Normal start procedure.				**D. Translational Flight.**
	X	(b) Alternate start procedure.			X	1. Forward.
	X	(c) Abnormal start/shutdown.			X	2. Sideward.
	X	(d) Rotor engagement.			X	3. Rearward.
	X	(e) System checks.				**E. Takeoff.**
	X	(f) Other.		X		1. Day.
		B. Ground Taxi.			X	2. Dusk (Twilight).
	X	1. Power required to taxi.			X	3. Night.
	X	2. Brake effectiveness.				4. Normal.
	X	3. Ground handling.			X	(a) From ground.
	X	4. Abnormal/emer. procedures.				(b) From hover.
	X	5. Brake system failure.			X	(1) Cat A
	X	6. Ground resonance.			X	(2) Cat B
	X	7. Other.			X	(c) Running.
		C. Hover			X	(d) Crosswind/tailwind.
	X	1. Takeoff to a hover.			X	(e) Maximum performance.
		2. Instrument response.			X	(f) Instrument.
	X	(a) Engine instruments.		X		(g) Confined area.
	X	(b) Flight instruments.		X		(h) Pinnacle/platform.
	X	3. Hovering turns.		X		(i) Slope.
		4. Hover power checks.		X		(j) External load operations.
	X	(a) In ground effect.				5. Abnormal/Emergency.
	X	(b) Out of ground effect.				(a) Takeoff, engine fail prior to DCP.
	X	5. Crosswind/tailwind hover.			X	(1) Cat A
		6. Abnormal/emer. procedures.			X	(2) Cat B
	X	(a) Engine failure.				(b) Rejected takeoff.
	X	(b) Hovering autorotation.			X	(1) Over land.
	X	(c) Fuel governing system failure.			X	(2) Over water.
	X	(d) Settling with power.			X	(c) Other.

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	TASK (Con't.)		NQ	Q	TASK (Con't.)
		F. Climb.		X		(5) SDF.
	X	1. Normal.		X		(6) ASR.
	X	2. Obstacle clearance.		X		(7) Circling.
	X	3. Vertical.			X	(8) Helicopter only.
	X	4. Engine inoperative.			X	(9) Other.
	X	5. Other.				(d) Missed approach.
		G. Cruise.			X	(1) All engines operating.
	X	1. Performance.			X	(2) Engine inoperative.
	X	2. Flying qualities.				2. Precision.
		3. Turns.			X	(a) All engines operating.
	X	(a) Timed.			X	(b) Engine inoperative.
	X	(b) Normal.				(c) Approach procedures:
	X	(c) Steep.		X		(1) PAR
	X	4. Accelerations/Decelerations.		X		(2) MLS
	X	5. High speed vibrations.				(3) ILS
X		6. External load operations.			X	(i) Manual/raw data.
		7. Abnormal/emergency			X	(ii) Flight director only.
	X	(a) Engine fire.			X	(iii) Autopilot coupled.
	X	(b) Engine failure.			X	(iv) Cat I
	X	(c) Inflight shutdown/restart.			X	(v) Cat II
	X	(d) Fuel governing system fail.				(d) Missed approach.
	X	(e) Direction control malfunction.			X	(1) All engines operating.
	X	(f) Hydraulic failure.			X	(2) Engine inoperative.
X		(g) Stability system failure.				(3) Visual.
	X	(h) Rotor vibrations.			X	(i) Normal.
	X	(i) Other.			X	(ii) Steep.
		H. Descent.			X	(iii) Shallow.
	X	1. Normal.			X	(iv) Cat A profile.
	X	2. Maximum rate.			X	(v) Cat B profile.
		3. Autorotative.			X	(vi) Visual segment from ILS.
	X	(a) Straight in.			X	(vii) Visual segment from circle.
	X	(b) Turn.				(vii) Abnormal/emergency
	X	4. Other.			X	A. Directional control failure.
		I. Approach.			X	B. Hydraulic failure.
		1. Non-precision.			X	C. Fuel governing system failure.
	X	(a) All engines operating.			X	D. Autorotation.
	X	(b) Engine inoperative.		X		E. Stability system failure.
		(c) Approach procedures:			X	F. Other.
	X	(1) NDB				**J. Landing**
	X	(2) VOR				1. Normal.
	X	(3) RNAV			X	(a) From a hover.
X		(4) TACAN			X	(b) Running.

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	TASK (Con't.)		NQ	Q	TASK (Con't.)
X		(c) Pinnacle/platform.				**L. Engine Shutdown / Parking**
X		(d) Confined area.			X	1. Engine and systems operations.
X		(e) Slope.			X	2. Parking brake operation.
	X	(f) Crosswind/tailwind.			X	3. Rotor brake operation.
		2. Abnormal/emergency			X	4. Abnormal/emergency.
	X	(a) From autorotation.				
	X	(b) Engine inoperative.				
	X	(c) Directional control failure.				
	X	(d) Hydraulic failure.				
X		(e) Stability system failure.				
	X	(f) Other.				
		K. Any Flight Phase.				
		1. Helicopter systems operation.				
	X	(a) Air conditioning.				
	X	(b) Anti-icing/deicing.				
	X	(c) Auxiliary power plant.				
	X	(d) Communications.				
	X	(e) Electrical.				
	X	(f) Fire detection/supression.				
	X	(g) Flight controls.				
	X	(h) Fuel and oil.				
	X	(i) Hydraulic.				
	X	(j) Landing gear.				
	X	(k) Oxygen.				
	X	(l) Pneumatic.				
	X	(m) Powerplant.				
	X	(n) Flight control computers.				
X		(o) Stability/control augmentation.				
	X	(p) Other.				
		2. Flight management/guidance.				
	X	(a) Airborne radar.				
X		(b) Automatic landing aids.				
	X	(c) Autopilot.				
X		(d) TCAS				
	X	(e) Flight data displays.				
	X	(f) Flight management computer.				
X		(g) Head-up displays.				
	X	(h) Navigation systems.				
	X	(i) Other.				

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	SIMULATOR SYSTEM		NQ	Q	SIMULATOR SYSTEM
		A. Inst. Ops. Station (IOS).				**B. Sound Controls.**
	X	1. Power switch(es).			X	-- On / off / rheostat
		2. Airplane conditions.				**C. Motion/Cont. Load. System.**
	X	(a) GW, CG, Fuel weight, etc.			X	1. On / off / emergency stop.
	X	(b) Airplane systems status.			X	2. Crosstalk
	X	(c) Ground crew functions			X	3. Smoothness
	X	(d) Other.				**D. Observer Stations.**
		3. Airports.			X	1. Position.
	X	(a) Number and selection.				
	X	(b) Runway selection.				
	X	(c) Runway surface condition				
	X	(d) Preset positions				
	X	(e) Lighting controls.				
	X	(f) Other.				
		4. Environmental controls.				
	X	(a) Clouds (base and tops).				
	X	(b) Visibility				
	X	(c) Runway visual range				
	X	(d) Temperature.				
	X	(e) Climate conditions				
	X	(f) Wind speed and direction.				
X		(g) Windshear.				
	X	(h) Other.				
		5. Airplane system malfunctions.				
	X	(a) Insertion / deletion.				
	X	(b) Problem clear.				
	X	(c) Other				
		6. Locks, freezes, repositioning.				
	X	(a) Problem freeze / release.				
	X	(b) Position freeze / release.				
	X	(c) Repositioning				
	X	(d) Ground speed control				
	X	(e) Other				
X		7. Remote IOS.				
	X	8. Other.				

Initials _____ Date_____ -- End --

Attachment 5 to Appendix C to Part 60—
Figure 5 – Sample Recurrent Evaluation Requirements Page

INFORMATION

Recurrent Evaluation Requirements ***Completed at conclusion of Initial Evaluation***	
Recurrent Evaluations to be conducted each _(fill in)__ months Allotting _____ hours of FTD time. Signed: _____ NSPM / Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

(Repeat as Necessary)

Attachment 5 to Appendix C to Part 60—
Figure 6 – Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date

INFORMATION

Mr. Edward Cook
Manager, National Simulator Program
Federal Aviation Administration
P.O. Box 20636 (AFS-205)
Atlanta, GA 30320

Dear Mr. Cook:

RE: Request for Initial [Upgrade / Reinstatement] Evaluation Date

This is to advise you of our intent to request an evaluation of our (Aircraft Type/Level) Simulator located in (City/State) at the (Facility) on (proposed evaluation date). [The proposed evaluation date shall not be more than 180 days following the date of this letter.] This simulator [has / has not] been previously qualified by the FAA [and had been issued FAA identification number XXX]. [The history of this simulator is as follows: _____.]

We agree to provide a Qualification Test Guide (QTG) to your staff not later than 45 days prior to the proposed evaluation date (if tests not run at training site, an additional "1/3 on-site" tests must be provided not later than 14 days prior the proposed evaluation date). If we are unable to meet the above date for the evaluation, this may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation.

[Added comments from Operator/Sponsor, if any]

Please contact (Name and Telephone Number of Sponsor's Contact) to confirm the date for this initial evaluation. We understand a member of your National Simulator Program staff will respond to this request within 14 days.

A copy of this letter of intent has been provided to our Principal Operations Inspector (POI) and/or Training Center Program Manager (TCPM).

Sincerely,

(Signature)

Acknowledgement:

____ We concur with your proposed dates.

____ The date requested is not available, however, we propose the following date:

____ Please provide us with the following information:

_____ _____
Scheduler, National Simulator Program Date

Attachment 5 to Appendix C to Part 60—
Figure 7 – Sample MQTG Index of Effective FSD Directives

INFORMATION

Index of Effective FSD Directives Filed in this Section

Notification Number	Received From: (TPAA/NSPM)	Date of Notification	Date of Modification Completion

Continue as Necessary....

BILLING CODE 4910–13–C

Attachment 6 to Appendix C to Part 60—Record of FSD Directives

Begin QPS Requirements

When the FAA determines that modification of an FTD is necessary for safety reasons, all affected FTDs must be modified accordingly, regardless of the original qualification standards applicable to any specific FTD.

a. A copy of the notification to the sponsor from the TPAA or NSPM that a modification is necessary will be filed in and maintained as part of this appendix.

b.The effective FSD Directives, including the date of the directive, the direction to make these changes, and the date of completion of any resulting modification must be maintained in a separate section of the MQTG and index accordingly. The MQTG must also be updated to include the information described in § 60.15(b)(4) as may be appropriate as a result of the FSD Directive. See Appendix 5 for a sample Index of Effective FSD Directives.

End QPS Requirements

Appendix D to Part 60—Qualification Performance Standards for Helicopter Flight Training Devices

This appendix establishes the standards for Helicopter Flight Training Device (FTD) evaluation and qualification at one of the established levels. The Flight Standards Service, National Simulator Program (NSP) staff, under the direction of the NSP Manager (NSPM), is responsible for the development, application, and interpretation of the standards contained within this appendix.

The procedures and criteria specified in this document will be used by the NSPM, or a person or persons assigned by the NSPM (*e.g.*, FAA pilots and/or FAA aeronautical engineers, assigned to and trained under the direction of the NSP—referred to as NSP pilots or NSP engineers, other FAA personnel, etc.) when conducting helicopter FTD evaluations.

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Attachment 1 to Appendix D to Part 60—General FTD Requirements.
Attachment 2 to Appendix D to Part 60—Flight Training Device (FTD) Objective Tests.
Attachment 3 to Appendix D to Part 60—FTD Subjective Tests.
Attachment 4 to Appendix D to Part 60—Definitions and Abbreviations.
Attachment 5 to Appendix D to Part 60—Sample Documents.
Attachment 6 to Appendix D to Part 60—Record of FSD Directives.

1. Introduction

a. This appendix contains background information as well as information that is either directive or guiding in nature. Information considered directive is described in this document in terms such as ''will,'' ''shall,'' and ''must,'' and means that the actions are mandatory. Guidance information is described in terms such as ''should,'' or ''may,'' and indicate actions that are desirable, permissive, or not mandatory and provide for flexibility.

b. To assist the reader in determining what areas are directive or required and what areas are guiding or permissive—

(1) The text in this appendix is contained within sections, separated by horizontal lines; headings associated with these horizontal lines will indicated that a particular section begins or ends. All of the text falls into one of three sections: a direct quote or a paraphrasing of the Part 60 rule language; additional requirements that are also regulatory but are found only in this appendix; and advisory or informative material.

(2) The text presented between horizontal lines beginning with the heading ''Begin Rule Language'' and ending with the heading ''End Rule Language,'' is a direct quote or is paraphrased from Part 60 of the regulations. For example: the rule uses the terms ''flight simulation device (FSD)'' and ''aircraft;'' however, in this appendix the rule is paraphrased and the term ''simulator'' is used instead of FSD, and ''airplane'' is used instead of aircraft. Additionally, the rule uses the terms ''this part'' and ''appropriate QPS;'' however, in this appendix the rule is paraphrased and the terms ''Part 60'' and ''this appendix,'' respectively, are used instead. (Definitions are not paraphrased or modified in any way.) For ease of referral, the Part 60 reference is noted at the beginning and the end of the bordered area.

(3) The text presented between horizontal lines beginning with the heading ''Begin QPS Requirements'' and ending with the heading ''End QPS Requirements,'' is also regulatory but is found only in this appendix.

(4) The text presented between horizontal lines beginning with the heading ''Begin Information'' and ending with the heading ''End Information,'' is advisory or informative.

5. The tables in this appendix have rows across the top of each table—

(a) The data presented in columns under the heading ''QPS REQUIREMENTS'' is regulatory but is found only in this appendix.

(b) The data presented in columns under the heading ''INFORMATION'' is advisory or informative.

Important Note: While this appendix contains quotes and paraphrasing directly from the rule, the reader is cautioned *not* to rely solely on this appendix for regulatory requirements regarding flight simulators. For regulatory references for airplane flight simulators, the reader is referred to paragraphs 3. a through h of this appendix.

c. Questions regarding the contents of this publication should be sent to: U.S. Department of Transportation, Federal Aviation Administration, Flight Standards Service, National Simulator Program Staff, AFS–205, PO Box 20636, Atlanta, Georgia, 30320. Telephone contact numbers are: phone, 404–305–6100; fax, 404–305–6118. The National Simulator Program Internet Web Site address is: *www.faa.gov/nsp*. On this Web Site you will find an NSP personnel list with contact information, a list of qualified flight simulation devices, advisory circulars, a description of the qualification process, NSP policy, and an NSP ''In-Works'' section. Also linked from this site are additional information sources, handbook bulletins, frequently asked questions, a listing and text of the Federal Aviation Regulations, Flight Standards Inspector's handbooks, and other FAA links.

d. The NSPM encourages the use of electronic media for communication and the gathering, storage, presentation, or transmission of any record, report, request, test, or statement required by this QPS provided the media used has adequate provision for security and is acceptable to the NSPM. The NSPM recommends inquiries on system compatibility prior to any such activity. Minimum System requirements may be found on the NSP Web Site.

End Information

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2. Definitions

See Attachment 4 of this appendix for a list of definitions and abbreviations. Attachment 4 of this appendix contains definitions directly quoted from Part 1 or Part 60, contained within a bordered area with Red-colored left hand columns, indicating they are quoted from 14 CFR Part 1 or Part 60 and are regulatory. Additional definitions and abbreviations used in reading and understanding this document are contained within bordered areas with Blue-colored left hand columns, indicating they are also regulatory but appear only within this document. For purposes of accuracy, the definitions listed are directly quoted, and are not paraphrased.

End Information

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3. Related Reading References.

Begin Information

a. 14 CFR part 60
b. 14 CFR part 61.
c. 14 CFR part 63.
d. 14 CFR part 121.
e. 14 CFR part 125
f. 14 CFR part 135.
g. 14 CFR part 141
h. 14 CFR part 142
i. Advisory Circular (AC) 120–28C, Criteria for Approval of Category III Landing Weather Minima.
j. AC 120–29, Criteria for Approving Category I and Category II Landing Minima for part 121 operators.
k. AC 120–35B, Line Operational Simulations: Line-Oriented Flight Training, Special Purpose Operational Training, Line Operational Evaluation.
l. AC 120–41, Criteria for Operational Approval of Airborne Wind Shear Alerting and Flight Guidance Systems.
m. AC 120–57A, Surface Movement Guidance and Control System (SMGS).
n. AC 150/5300–13, Airport Design.
o. AC 150/5340–1G, Standards for Airport Markings.
p. AC 150/5340–4C, Installation Details for Runway Centerline Touchdown Zone Lighting Systems.
q. AC 150/5340–19, Taxiway Centerline Lighting System.
r. AC 150/5340–24, Runway and Taxiway Edge Lighting System.
s. AC 150/5345–28D, Precision Approach Path Indicator (PAPI) Systems
t. International Air Transport Association document, ''Flight Simulator Design and Performance Data Requirements,'' Fifth Edition (1996).
u. AC 29–2B, Flight Test Guide for Certification of Transport Category Rotorcraft.
v. AC 27–1A, Flight Test Guide for Certification of Normal Category Rotorcraft.
x. International Civil Aviation Organization (ICAO) Manual of Criteria for the Qualification of Flight Simulators, First Edition, 1994 Doc 9625–AN/938.
y. Airplane Flight Simulator Evaluation Handbook, Volume I (February, 1995) and Volume II (July, 1996), The Royal Aeronautical Society, London, UK.
z. FAA Publication FAA-S–8081 series (Practical Test Standards for Airline Transport Pilot Certificate, Type Ratings, Commercial Pilot, and Instrument Ratings).

End Information

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4. Background [Reserved]

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5. Quality Assurance Program

Begin Rule Language (§ 60.5)

a. After [date 6 months after the effective date of the final rule], no sponsor may use or allow the use of or offer the use of an FTD for flightcrew member training or for obtaining flight experience to meet any requirement of this chapter unless the sponsor has established and follows a quality assurance (QA) program, acceptable to the NSPM, for the continuing surveillance and analysis of the sponsor's performance and effectiveness in providing a satisfactory FTD for use on a regular basis as described in the appropriate QPS.

b. The QA program must provide a process for identifying deficiencies in the program and for documenting how the program will be changed to address these deficiencies.

c. Whenever the NSPM finds that the QA program does not adequately address the procedures necessary to meet the requirements of this part, the sponsor must, after notification by the NSPM, change the program so the procedures meet the requirements of this part.

d. Each sponsor of an FTD must identify to the NSPM and to the TPAA, by name, one individual, who is an employee of the

sponsor, to be the management representative (MR) and the primary contact point for all matters between the sponsor and the FAA regarding the qualification of that FTD as provided for in this part.

End Rule Language (§ 60.5)

Begin QPS Requirements

e. The Director of Operations for a Part 119 certificate holder, the Chief Instructor for a Part 141 certificate holder, or the equivalent for a Part 142 or Flight Engineer School sponsor, must designate a management representative who has the responsibility and authority to establish and modify the sponsor's policies, practices, and procedures regarding the QA program for the recurring qualification of, and the day-to-day use of, each FTD.

f. An acceptable Quality Assurance (QA) Program must contain a complete, accurate, and clearly defined written description of and/or procedures for—

(1) The method used by management to communicate the importance of meeting the regulatory standards contained in Part 60 and this QPS and the importance of establishing and meeting the requirements of a QA Program as defined in this paragraph f.

(2) The method(s) used by management to determine that the regulatory standards and the QA program requirements are being met, and if or when not met, what actions are taken to correct the deficiency and prevent its recurrence.

(3) The method used by management to determine that the sponsor is, on a timely and regular basis, presenting a qualified FTD.

(4) The criteria for and a definition or description of the workmanship expected for normal upkeep, repair, parts replacement, modification, etc., on the FTD and how, when, and by whom such workmanship is determined to be satisfactorily accomplished.

(5) The method used to maintain and control appropriate technical and reference documents, appropriate training records, and other documents for—

(a) continuing FTD qualification; and

(b) the QA program.

(6) The criteria the sponsor uses (*e.g.*, training, experience, etc.) to determine who may be assigned to duties of inspection, testing, and maintenance (preventive and corrective) on FTD's.

(7) The method used to track inspection, testing, and maintenance (preventive and corrective) on each FTD.

(8) The method used by the sponsor to inform the TPAA in advance of each scheduled NSPM-conducted evaluation and after the completion, the results of each such evaluation.

(9) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, are capable of determining what circumstance(s) constitute(s) a discrepancy regarding the FTD and its operation.

(10) The method used to ensure that instructors, check airmen, and those who conduct the daily preflight, record in the FTD discrepancy log each FTD discrepancy and each missing, malfunctioning, or inoperative FTD component.

(11) The method used to ensure that instructors and check airmen are completely and accurately logging the number of disruptions and time not available for training or for obtaining flight experience during a scheduled FTD use-period, including the cause(s) of the disruption.

(12) The method used by the sponsor to notify users of the FTD of missing, malfunctioning, or inoperative components that restrict the use of the FTD.

(13) The method of recording NSPM-conducted evaluations and other inspections (*e.g.*, daily preflight inspections, NASIP inspections, sponsor conducted quarterly inspections, etc.), including the evaluation or inspection date, test results, discrepancies and recommendations, and all corrective actions taken.

(14) The method for ensuring that the FTD is configured the way the helicopter it represents is configured and that if the configuration is authorized to be changed that the newly configured system(s) function(s) correctly.

(15) The method(s) for:

(a) determining whether or not proposed modifications of the helicopter will affect the performance, handling, or other functions or characteristics of the helicopter; and

(b) determining whether or not proposed modifications of the FTD will affect the performance, handling, or other functions or characteristics of the FTD;

(c) coordinating and communicating items 5.f.(15)(a) and (b) of this appendix, as appropriate, with the sponsor's training organization, other users (*e.g.*, lease or service contract users), the TPAA, and the NSPM.

(16) How information found in the discrepancy log is used to correct discrepancies and how this information is used to review and, if necessary, modify existing procedures for FTD maintenance.

(17) The method for how and when software or hardware modifications are accomplished and tracked, documenting all changes made from the initial submission.

(18) The method used for determining that the FTD meets appropriate standards each day that it is used.

(19) The method for acquiring independent feedback regarding FTD operation (from persons recently completing training or obtaining flight experience; instructors and check airmen using the FTD for training or flight experience sessions; and FTD technicians and maintenance personnel) including a description of the process for addressing these comments.

(20) How devices used to test, measure, and monitor correct FTD operation are calibrated and adjusted for accuracy, including traceability of that accuracy to a recognized standard, and how these devices are maintained in good operating condition.

(21) How, by whom, and how frequently internal audits of the QA program are conducted and where and how the results of such audits are maintained and reported to Responsible Management, the NSPM, and the TPAA.

End QPS Requirements

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g. Additional Information.

Begin Information

(1) In addition to specifically designated QA evaluations, the NSPM will evaluate the sponsor's QA program as part of regularly scheduled recurrent FTD evaluations and no-notice FTD evaluations, focusing in large part on the effectiveness and viability of the QA program and its contribution to the overall capability of the FTD to meeting the requirements of this part.

(2) The sponsor, through the MR, may delegate duties associated with maintaining the qualification of the FTD (*e.g.*, corrective and preventive maintenance, scheduling for and the conducting of tests and/or inspections, functional preflight checks, etc.) but retains the responsibility and authority for the initial and day-to-day qualification and quality of the FTD. One person may serve in this capacity for more than one FTD, but one FTD would not have more than one person serving in this capacity.

(3) Should a sponsor include a ''foreign FTD'' (*i.e.*, one maintained by a non-US certificate holder) under their sponsorship, the sponsor remains responsible for the QA program for that FTD. However, if that foreign FTD is maintained under a QA program accepted by that foreign regulatory authority and that authority and the NSPM have agreed to accept each other's QA programs (*e.g.*, the Joint Aviation Authorities, JAA, of Europe), the sponsor will be required only to perform an ''external audit'' of the non-US certificate holder's compliance with the accepted foreign QA program, with the results of that audit submitted to and accepted by the NSPM.

End Information

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6. Sponsor Qualification Requirements

Begin Rule Language (§ 60.7)

a. A person is eligible to apply to be a sponsor of an FTD if the following conditions are met:

(1) The person holds, or is an applicant for, a certificate under part 119, 141, or 142 of this chapter; or holds, or is an applicant for, an approved flight engineer course in accordance with part 63 of this chapter.

(2) The FTD will be used, or will be offered for use, in the sponsor's FAA-approved flight training program for the helicopter being simulated as evidenced in a request for evaluation submitted to the NSPM through the TPAA.

b. A person is a sponsor of the FTD if the following conditions are met:

(1) The person is a certificate holder under part 119, 141, or 142 of this chapter or has an approved flight engineer course in accordance with part 63 of this chapter.

(2) The person has operations specifications authorizing the use of the helicopter type being simulated by the FTD or has training specifications or a course of training authorizing the use of an FTD for that helicopter type.

(3) The person has an approved quality assurance program in accordance with § 60.5.

(4) The NSPM has approved the person as the sponsor of the FTD and that approval has not been withdrawn by the FAA.

c. A person continues to be a sponsor of an FTD, if the following conditions are met:

(1) Beginning 12 calendar months after the initial qualification and every 12 calendar months thereafter, the FTD must have been used within the sponsor's FAA-approved flight training program for the helicopter type for a minimum of 600 hours.

(2) The use of the FTD described in paragraph (c)(1) of this section must be dedicated to meeting the requirements of parts 61, 63, 91, 121, or 135 of this chapter.

(3) If the use requirements of paragraphs (c)(1) and (2) of this section are not met, the person will continue to sponsor the FTD on a provisional basis for a period not longer than 12 calendar months; and—

(i) If the FTD is used as described in paragraphs (c)(1) and (2) of this section within this additional 12 calendar month period, the provisional status will be removed and regular sponsorship resumed; or

(ii) If the FTD is not used as described in paragraphs (c)(1) and (2) of this section within the additional 12 calendar month period, the FTD is not qualified and the sponsor will not be eligible to apply to sponsor that FSD for at least 12 calendar months.

End Rule Language (§ 60.7)

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7. Additional Responsibilities of the Sponsor

Begin Rule Language (§ 60.9)

a. The sponsor must not allow the FTD to be used for flightcrew member training or evaluation or for attaining flight experience for the flightcrew member to meet any of the requirements under this chapter unless the sponsor, upon request, allows the NSPM to inspect immediately the FTD, including all records and documents relating to the FTD, to determine its compliance with this part.

b. The sponsor must, for each FTD ''

(1) Establish a mechanism for the following persons to provide comments regarding the FTD and its operation and provide for receipt of those comments:

(i) Flightcrew members recently completing training or evaluation or recently obtaining flight experience in the FTD;

(ii) Instructors and check airmen using the FTD for training, evaluation, or flight experience sessions; and

(iii) FTD technicians and maintenance personnel performing work on the FTD.

(2) Examine each comment received under paragraph (b)(1) of this section for content and importance and take appropriate action.

(3) Maintain a liaison with the manufacturer of the helicopter being simulated by the FTD to facilitate compliance with § 60.13(f) when necessary.

(4) Post in or adjacent to the FTD the Statement of Qualification issued by the NSPM.

End Rule Language (§ 60.9)

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8. FTD Use

Begin Rule Language (§60.11)

No person may use or allow the use of or offer the use of an FTD for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless, in accordance with the QPS for the specific device—

a. It has a single sponsor who is qualified under § 60.9. The sponsor may arrange with another person for services of document preparation and presentation, as well as FTD inspection, maintenance, repair, and servicing; however, the sponsor remains responsible for ensuring that these functions are conducted in a manner and with a result of continually meeting the requirements of this part.

b. It is qualified as described in the Statement of Qualification that is required to be posted pursuant to § 60.9(b)(4)—

(1) For the make, model, and series of helicopter; and

(2) For all tasks and configurations.

c. It remains qualified, through satisfactory inspection, recurrent evaluations, appropriate maintenance, and use requirements in accordance with this part and the appropriate QPS.

d. Its software and active programming used during the training, evaluation, or flight experience is the same as the software and active programming that was evaluated by the NSPM.

End Rule Language (§ 60.11)

Begin QPS Requirements

e. Only those FTDs that are used by a certificate holder (as defined for use in Part 60 and this QPS) will be evaluated by the NSPM. However, other FTD evaluations may be conducted on a case-by-case basis as the Administrator deems appropriate, but only in accordance with applicable agreements.

End QPS Requirements

Begin Information

f. Each FTD must be evaluated as completely as possible. To ensure a thorough and uniform evaluation, each FTD is subjected to the objective tests listed in attachment 2 and the subjective tests listed in attachment 3 of this appendix. The evaluation(s) described in this paragraph f herein will include, but not necessarily be limited to the following, as appropriate, for the qualification level of the FTD.

(1) Aerodynamic responses, including control responses in the longitudinal, lateral-directional, and vertical directions; as well as low airspeed responses (see attachment 2 of this appendix);

(2) Performance in authorized portions of the simulated helicopter's operating envelope, to include tasks suitable to the NSPM in the areas of ground operations, takeoff, climb, cruise, descent, approach, landing, and vertical climb, as well as abnormal and emergency operations (see paragraph 23 and attachment 2 of this appendix);

(3) Control checks (see attachment 1 and attachment 2 of this appendix);

(4) Cockpit configuration (see attachment 1 of this appendix);

(5) Pilot and instructor station functions checks (see attachment 1 and attachment 3 of this appendix);

(6) Helicopter, or set of helicopters, systems and sub-systems (as attachment) as compared to the helicopter or set of helicopters simulated (see attachment 1 and attachment 3 of this appendix);

(7) FTD systems and sub-systems, including force cueing (motion), visual, and aural (sound) systems, as appropriate (see attachment 1 and attachment 2 of this appendix); and

(8) Certain additional requirements, depending upon the complexity of the FTD qualification level sought, including equipment or circumstances that may become hazardous to the occupants. The sponsor may be subject to Occupational Safety and Health Administration requirements.

g. The NSPM administers the objective and subjective tests, which includes an examination of functions. The tests include a qualitative assessment of the FTD by an NSP pilot. The NSP evaluation team leader may assign other qualified personnel to assist in accomplishing the functions examination and/or the objective and subjective tests performed during an evaluation when required.

(1) Objective tests are used to compare FTD and helicopter data objectively to ensure that the FTD performance and handling qualities are within specified tolerances.

(2) Subjective tests provide a basis for:

(a) evaluating the capability of the FTD to perform over a typical utilization period;

(b) determining that the FTD satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and

(c) verifying correct operation of the FTD controls, instruments, and systems.

h. The tolerances for the test parameters listed in attachment 2 of this appendix are the maximum acceptable to the NSPM for FTD validation and are not to be confused with design tolerances specified for FTD manufacture. In making decisions regarding tests and test results, the NSPM relies on the use of operational and engineering judgment in the application of data (including consideration of the way in which the flight test was flown and way the data was gathered and applied) data presentations, and the applicabletolerances for each test.

i. In addition to the scheduled recurrent evaluation (see paragraph 13 of this appendix), each FTD is subject to evaluations conducted by the NSPM at any time with no prior notification to the sponsor. Such evaluations would be accomplished in a normal manner (*i.e.*, requiring exclusive use of the FTD for the conduct of objective and subjective tests and an examination of functions) if the FTD is not being used for flightcrew member training, testing, or checking. However, if the FTD were being

used, the evaluation would be conducted in a non-exclusive manner. This non-exclusive evaluation will be conducted by the FTD evaluator accompanying the check airman, instructor, Aircrew Program Designee (APD), or FAA inspector aboard the FTD along with the student(s) and observing the operation of the FTD during the training, testing, or checking activities. While the intent is to observe the operation and interaction of the device and not the check airman, instructor, APD, FAA inspector, or student(s), the FTD evaluator is a qualified FAA operations inspector and must, without question, report any obvious lack of proficiency to the appropriate POI or TCPM.

End Information

9. FTD Objective Data Requirements

Begin Rule Language (§ 60.13)

a. Except as provided in paragraph (b) and (c) of this section, for the purposes of validating FTD performance and handling qualities during evaluation for qualification, the sponsor must submit the helicopter manufacturer's flight test data to the NSPM.

b. The sponsor may submit flight test data from a source in addition to or independent of the helicopter manufacturer's data to the NSPM in support of an FTD qualification, but only if this data is gathered and developed by that source in accordance with flight test methods, including a flight test plan, as described in the appropriate QPS.

c. The sponsor may submit alternative data acceptable to the NSPM for consideration, approval and possible use in particular applications for FTD qualification.

d. Data or other material or elements must be submitted in a form and manner acceptable to the NSPM.

e. The NSPM may require additional flight testing to support certain FTD qualification requirements.

f. When an FTD sponsor learns, or is advised by a helicopter manufacturer or supplemental type certificate (STC) holder, that an addition to, an amendment to, or a revision of the data used to program and operate an FTD used in the sponsor's training program is available, the sponsor must immediately notify the NSPM.

End Rule Language (§ 60.13)

Begin QPS Requirements

g. Flight test data used to validate FTD performance and handling qualities must have been gathered in accordance with a flight test program containing the following:

(1) A flight test plan, that contains:

(a) The required maneuvers and procedures.

(b) For each maneuver or procedure—

(i) The procedures and control input the flight test pilot and/or engineer are to use.

(ii)B The atmospheric and environmental conditions.

(iii)C The initial flight conditions.

(iv)D The helicopter configuration, including weight and center of gravity.

(v)E The data that is to be gathered.

(vi)F Any other appropriate factors.

(2) Appropriately qualified flight test personnel.

(3) An understanding of the accuracy of the data to be gathered.

(4) Appropriate and sufficient data acquisition equipment or system(s), including appropriate data reduction and analysis methods and techniques, as would be acceptable to the FAA's Aircraft Certification Service.

(5) Calibration of data acquisition equipment and helicopter performance instrumentation must be current and traceable to a recognized standard.

h. The data presented, regardless of source, must be presented:

(1) in a format that supports the FTD validation process;

(2) in a manner that is clearly readable and annotated correctly and completely;

(3) with resolution sufficient to determine compliance with the tolerances set forth in attacment 2 of this appendix.

(4) with any necessary guidance information provided; and

(5) without alteration, adjustments, or bias; however the data may be re-scaled, digitized, or otherwise manipulated to fit the desired presentation.

i. After completion of any additional flight test, a flight test report must be submitted in support of the objective data. The report must contain sufficient data and rationale to support qualification of the FTD at the level requested.

End QPS Requirements

Begin Information

j. Any necessary data and the flight test plan should be reviewed with the NSP staff well in advance of commencing the flight test.

End Information

10. Special Equipment and Personnel Requirements for Qualification of the FTD

Begin Rule Language (§ 60.14)

a. When notified by the NSPM, the sponsor must make available all special equipment and specifically qualified personnel needed to accomplish or assist in the accomplishment of tests during initial, recurrent, or special evaluations.

End Rule Language (§ 60.14)

Begin Information

b. Examples of a special evaluation would be an evaluation conducted at the request of the TPAA or as a result of comments received from users of the FTD that, upon analysis and confirmation, might cause a question as to the continued qualification or use of the FTD.

c. The NSPM will notify the sponsor at least 24 hours in advance of the evaluation if special equipment or personnel will be required to conduct the evaluation. Examples of special equipment include spot photometers, flight control measurement devices, sound analyzer, etc. Examples of special personnel would be those specifically qualified to install or use any special equipment when its use is required.

End Information

11. Initial (and Upgrade) Qualification Requirements

Begin Rule Language (§ 60.15)

a. For each FTD, the sponsor must submit a request through the TPAA to have the NSPM evaluate the FTD for initial qualification at a specific level. The request must be submitted in the form and manner described in the appropriate QPS.

b. The request must include all of the following:

(1) A statement that the FTD meets all of the applicable provisions of this part.

(2) A statement that the sponsor has established a procedure to verify that the configuration of hardware and software present during the evaluation for initial qualification will be maintained, except where modified as authorized in § 60.23. The statement must include a description of the procedure.

(3) A statement signed by at least one pilot who meets the requirements of paragraph (c) of this section asserting that each pilot so approved has determined that the following requirements have been met:

(i) The FTD systems and sub-systems function equivalently to those in the helicopter or set of helicopters.

(ii) The performance and flying qualities of the FTD are equivalent to those of the helicopter or set of helicopters.

(iii) For cockpit specific FTDs, the cockpit configuration conforms to the configuration of the helicopter make, model, and series being simulated.

(4) A list of all of the operations tasks or FTD systems in the subjective test appendix of the appropriate QPS for which the FTD has not been subjectively tested (e.g., circling approaches, windshear training, etc.) and for which qualification is not sought.

(5) A qualification test guide (QTG) that includes all of the following:

(i) Objective data obtained from helicopter testing or another approved source.

(ii) Correlating objective test results obtained from the performance of the FTD as prescribed in the appropriate QPS.

(iii) The general FTD performance or demonstration results prescribed in the appropriate QPS.

(iv) A description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification.

c. The pilot or pilots who make the statement required by paragraph (b)(3) of this section must—

(1) Be designated by the sponsor;

(2) Be approved by the TPAA; and

(3) Be qualified in—

(i) The helicopter or set of helicopters being simulated; or

(ii) For helicopter types not yet issued a type certificate, a helicopter type similar in size and configuration.

d. The subjective tests that form the basis for the statements described in paragraph (b)(3) of this section and the objective tests referenced in paragraph (b)(5) of this section must be accomplished at the sponsor's training facility except as provided for in the appropriate QPS.

e. The person seeking to qualify the FTD must provide the NSPM access to the FTD for the length of time necessary for the NSPM to complete the required evaluation of the FTD for initial qualification, which includes the conduct and evaluation of objective and subjective tests, including general FTD requirements, as described in the appropriate QPS, to determine that the FTD meets the standards in that QPS.

f. When the FTD passes an evaluation for initial qualification, the NSPM issues a Statement of Qualification that includes all of the following:

(1) Identification of the sponsor.

(2) Identification of the make, model, and series of the helicopter, or set of helicopters being simulated.

(3) Identification of the configuration of the helicopter being simulated (*e.g.*, engine model or models, flight instruments, navigation or other systems, etc.).

(4) A statement that the FTD is qualified.

(5) Identification of the qualification level of the FTD.

(6) A list of all of the operations tasks or FTD systems in the subjective test appendix of the appropriate QPS for which the FTD has not been subjectively tested and for which the FTD is not qualified (*e.g.*, circling approaches, windshear training, etc.).

g. After the NSPM completes the evaluation for initial qualification, the sponsor must update the QTG, with the results of the FAA-witnessed tests and demonstrations together with the results of all the objective tests and demonstrations described in the appropriate QPS.

h. Upon issuance of the Statement of Qualification the updated QTG becomes the MQTG and must then be made available to the FAA upon request.

End Rule Language (§ 60.15)

Begin QPS Requirements

i. The QTG described in paragraph 11.b(4)of this appendix must provide the documented proof of compliance with the FTD objective tests in attachment 2 of this appendix.

j. The QTG is prepared and submitted by the sponsor, or the sponsor's agent on behalf of the sponsor, through the TPAA to the NSPM for review and approval, and must include, for each objective test:

(1) parameters, tolerances, and flight conditions;

(2) pertinent and complete instructions for the conduct of automatically and manually conducted tests;

(3) a means of comparing the FTD's test results to the objective data;

(4) statements of how a particular test was accomplished or that certain requirements have been met (see appendices to this document for additional information);

(5) other information appropriate to the qualification level of the FTD.

k. The QTG described in paragraph 11.b.(4) of this appendix must include the following:

(1) A QTG cover page with sponsor and FAA approval signature blocks (see attachment 5, Figure 2, of this appendix for a sample QTG cover page).

(2) A recurrent evaluation schedule requirements page—to be used by the NSPM to establish and record the frequency with which recurrent evaluations must be conducted and any subsequent changes that may be determined by the NSPM. See attachment 5, Figure 4, of this appendix for a sample Recurrent Evaluation Schedule Requirements page.

(3) An FTD information page that provides the information listed below (see attachment 5, Figure 3, of this appendix for a sample FTD information page). For convertible FTDs, a separate page is submitted for each configuration of the FTD.

(a) The sponsor's FTD identification number or code.

(b) The helicopter model and series, or set of helicopters, being simulated.

(c) The aerodynamic data revision number or reference.

(d) The engine model(s) and its data revision number or reference.

(e The flight control data revision number or reference.

(f) The flight management system identification and revision level.

(g) The FTD model and manufacturer.

(h) The date of FTD manufacture.

(i) The FTD computer identification.

(j) The visual system model and manufacturer, including display type, if applicable.

(k) The motion system type and manufacturer, including degrees of freedom, if applicable.

(4) A Table of Contents.

(5) A log of revisions and a list of effective pages.

(6) The source data.

(7) A glossary of terms and symbols used (including sign conventions and units).

(8) Statements of compliance and capability (SOC's) with certain requirements. SOC's must provide references to the sources of information for showing the capability of the FTD to comply with the requirement, a rationale explaining how the referenced material is used, mathematical equations and parameter values used, and the conclusions reached; *i.e.* that the FTD complies with the requirement. Refer to the ''Additional Details'' column in attachment 1 of this appendix, ''FTD Standards,'' or in the ''Test Details'' column in attachment 2 of this appendix, ''FTD Objective Tests,'' to see when SOC's are required.

(9) Recording procedures or equipment required to accomplish the objective tests.

(10) The following information for each objective test designated in attachment 2 of this appendix, as applicable to the qualification level sought.

(a) Name of the test.

(b) Objective of the test.

(c) Initial conditions.

(d) Manual test procedures.

(e) Automatic test procedures (if applicable).

(f) Method for evaluating FTD objective test results.

(g) List of all parameters driven or constrained during the automatically conducted test(s).

(h) List of all parameters driven or constrained during the manually conducted test(s).

(i) Tolerances for relevant parameters.

(j) Source of Helicopter Test Data (document and page number).

(k) Copy of the Helicopter Test Data (if located in a separate binder, a cross reference for the identification and page number for pertinent data location must be provided).

(l) FTD Objective Test Results as obtained by the sponsor. Each test result must reflect the date completed and must be clearly labeled as a product of the device being tested.

l. Form and manner of presentation of objective test results in the QTG:

(1) The sponsor's FTD test results must be recorded in a manner, acceptable to the NSPM, that will allow easy comparison of the FTD test results to helicopter test data (*e.g.*, use of a multi-channel recorder, line printer, cross plotting, overlays, transpariencies, etc.).

(2) FTD results must be labeled using terminology common to helicopter parameters as opposed to computer software identifications.

(3) Helicopter data documents included in a QTG may be photographically reduced only if such reduction will not alter the graphic scaling or cause difficulties in scale interpretation or resolution.

(4) Scaling on graphical presentations must provide the resolution necessary to evaluate the parameters shown in attachment 2 of this appendix.

(5) For tests involving time histories, flight test data sheets (or transparencies thereof) and FTD test results must be clearly marked with appropriate reference points to ensure an accurate comparison between FTD and helicopter with respect to time. Time histories recorded via a line printer are to be clearly identified for cross-plotting on the helicopter data. Over-plots must not obscure the reference data.

m. The sponsor may elect to complete the QTG objective tests at the manufacturer's facility. Tests performed at this location must be conducted after assembly of the FTD has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate FTD performance at the sponsor's training facility by repeating a representative sampling of all the objective tests in the QTG and submitting these repeated test results to the NSPM. This sample must consist of at least one-third of the QTG objective tests. The QTG must be clearly annotated to indicate when and where each test was accomplished.

n. The sponsor may elect to complete the subjective tests at the manufacturer's facility. Tests performed at this location will be conducted after assembly of the FTD has been essentially completed, the systems and sub-systems are functional and operate in an interactive manner, and prior to the initiation of disassembly for shipment. The sponsor must substantiate FTD performance at the

sponsor's training facility by having the pilot(s) who performed these tests originally (or similarly qualified pilot(s)), repeat a representative sampling of these subjective tests and submit a statement to the NSPM that the FTD has not changed from the original determination. The report must clearly indicate when and where these repeated tests were completed, but need not take more than one normal FTD period (e.g., 4 to 8 hours) to complete.

o. The sponsor must maintain a copy of the MQTG at the FTD location. After [date 6 years from the effective date of this rule] all MQTG's, regardless of initial qualification date of the FTD, must be available in an electronic format, acceptable to the NSPM. The electronic MQTG must include all objective data obtained from helicopter testing, or another approved source (reformatted or digitized), together with correlating objective test results obtained from the performance of the FTD (reformatted or digitized) as prescribed in this document, the general FTD performance or demonstration results (reformatted or digitized) prescribed in this document, and a description of the equipment necessary to perform the evaluation for initial qualification and the recurrent evaluations for continuing qualification. This electronic MQTG must include the original helicopter flight test data used to validate FTD performance and handling qualities in either the original digitized format from the data supplier or an electronic scan of the original flight test time-history plots that were provided by the data supplier. An electronic copy of MQTG must be provided to the NSPM.

End QPS Requirements

Begin Information

p. Problems with objective test results are handled according to the following:

(1) If a problem with an objective test result is detected by the NSP evaluation team during an evaluation, the test may be repeated and/or the QTG may be amended.

(2) If it is determined that the results of an objective test do not support the level requested but do support a lower level, the NSPM may qualify the FTD at that lower level. For example, if a Level 6 evaluation is requested and the FTD fails to meet the Level 6 Spiral Stability test tolerances but does meet the Level 5 tolerances, it could be qualified at Level 5.

q. After the NSPM issues a statement of qualification to the sponsor when an FTD is successfully evaluated, the FTD is recommended to the TPAA, who will exercise authority on behalf of the Administrator in approving the FTD in the appropriate helicopter flight training program.

r. Under normal circumstances, the NSPM establishes a date for the initial or upgrade evaluation within 10 working days after determining that a complete QTG is acceptable. Unusual circumstances may warrant establishing an evaluation date before this determination is made; however, once a schedule is agreed to, any slippage of the evaluation date at the sponsor's request may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation. A sponsor may commit to an initial evaluation date under this early process, in coordination with and the agreement of the NSPM, but the request must be in writing and must include an acknowledgment of the potential schedule impact if the sponsor slips the evaluation from this early-committed date. See Attachment 5, figure 5, of this appendix Sample Request for Initial Evaluation Date.

s. A convertible FTD is addressed as a separate FTD for each model and series helicopter or set of helicopters to which it will be converted and for the FAA qualification level sought. An NSP evaluation is required for each configuration. For example, if a sponsor seeks qualification for two models of a helicopter type using a convertible FTD, two QTG's, or a supplemented QTG, and two evaluations are required.

t. The numbering system used for objective test results in the QTG should closely follow the numbering system set out in attachment 2 of this appendix, FTD Objective Tests.

End Information

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12. Additional Qualifications for a Currently Qualified FTD

Begin Rule Language (§60.16)

a. A currently qualified FTD is required to undergo an additional qualification process if a user intends to use the FTD for meeting training, evaluation, or flight experience requirements of this chapter beyond the qualification issued to the sponsor. This process consists of the following—

(1) The sponsor:

(i) Must submit to the NSPM all modifications to the MQTG that are required to support the additional qualification.

(ii) Must describe to the NSPM all modifications to the FTD that are required to support the additional qualification.

(iii) Must submit a statement to the NSPM that a pilot, designated by the sponsor in accordance with § 60.15(c) and approved by the TPAA for the user, has subjectively evaluated the FTD in those areas not previously evaluated.

(2) The FTD must successfully pass an evaluation ''

(i) For initial qualification, in accordance with § 60.15, in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification (e.g., objective tests, performance demonstrations, or subjective tests) designated as necessary by the NSPM.

b. In making the determinations described in paragraph (a)(2) of this section, the NSPM considers factors including the existing qualification of the FTD, any modifications to the FTD hardware or software that are involved, and any additions or modifications to the MQTG.

c. The FTD is qualified for the additional uses when the NSPM issues an amended Statement of Qualification in accordance with § 60.15(f).

d. The sponsor may not modify the FTD except as described in § 60.23.

End Rule Language (§ 60.16)

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13. Previously Qualified FTDs

Begin Rule Language (§60.17)

a. Unless otherwise specified by an FSD Directive, further referenced in the appropriate QPS, or as specified in paragraph (e) of this section, an FTD qualified before [the effective date of the final rule] will retain its qualification as long as it continues to meet the standards, including the performance demonstrations and the objective test results recorded in the MQTG, under which it was originally evaluated, regardless of sponsor, and as long as the sponsor complies with the applicable provisions of this part.

b. If the FTD qualification is lost under § 60.27 and not restored under § 60.27 for two (2) years or more, the qualification basis for the re-qualification will be those standards in effect and current at the time of re-qualification application.

c. Except as provided in paragraph (d) of this section, any change in FTD qualification level initiated on or after [the effective date of this rule] requires an evaluation for initial qualification in accordance with this part.

d. The NSPM may downgrade a qualified FTD without requiring and without conducting an initial evaluation for the new qualification level. Subsequent recurrent evaluations will use the existing MQTG, modified as necessary to reflect the new qualification level.

e. When the sponsor has appropriate validation data available and receives approval from the NSPM, the sponsor may adopt tests and associated tolerances described in the current qualification standards as the tests and tolerances applicable for the continuing qualification of a previously qualified FTD. The updated test(s) and tolerance(s) must be made a permanent part of the MQTG.

End Rule Language (§ 60.17)

Begin Information

f. Other certificate holders or persons desiring to use an FTD may contract with FTD sponsors to use those FTDs already qualified at a particular level for a helicopter type, or set of helicopters, and approved for use within an FAA-approved flight training program. Such FTDs are not required to undergo an additional qualification process, except as described in paragraph 12, above.

Note: The reader is reminded of the requirement that each FTD user obtain approval for use of each FTD in an FAA-approved flight training program from the appropriate TPAA.

End Information

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14. Inspection, Maintenance, and Recurrent Evaluation Requirements

Begin Rule Language (§ 60.19)

a. Inspection. No sponsor may use or allow the use of or offer the use of an FTD for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification unless the sponsor does the following:

(1) Accomplishes all appropriate QPS Attachment 1 performance demonstrations and all appropriate QPS Attachment 2 objective tests each year. To do this, the sponsor must conduct a minimum of four evenly spaced inspections throughout the year, as approved by the NSPM. The performance demonstrations and objective test sequence and content of each inspection in this sequence will be developed by the sponsor and submitted to the NSPM for approval. In deciding whether to approve the test sequence and the content of each inspection, the NSPM looks for a balance and a mix from the performance demonstrations and objective test requirement areas listed as follows:

(i) Performance.
(ii) Handling qualities.
(iii) Motion system.
(iv) Visual system.
(v) Sound system (where appropriate).
(vi) Other FTD systems.

(2) Completes a functional preflight check in accordance with the appropriate QPS each calendar day prior to the start of the first FTD period of use that begins in that calendar day.

(3) Completes at least one functional preflight check in accordance with the appropriate QPS in every 7 consecutive calendar days.

(4) Maintains a discrepancy log.

(5) Ensures that, when a discrepancy is discovered, the following requirements are met:

(i) Each discrepancy entry must be maintained in the log until the discrepancy is corrected as specified in § 60.25(b) and for at least 30 days thereafter.

(ii) The corrective action taken for each discrepancy and the date that action is taken must be entered in the log. This entry concerning the corrective action must be maintained for at least 30 days thereafter.

(iii) The discrepancy log is kept in a form and manner acceptable to the Administrator and is kept in or immediately adjacent to the FTD.

b. Recurrent evaluation.

(1) This evaluation consists of performance demonstrations, objective tests, and subjective tests, including general FTD requirements, as described in the appropriate QPS or as may be amended by an FSD Directive.

(2) The sponsor must contact the NSPM to schedule the FTD for recurrent evaluations not later than 60 days before the recurrent evaluation is due.

(3) The sponsor must provide the NSPM access to the objective test results and general FTD performance or demonstration results in the MQTG, and access to the FTD for the length of time necessary for the NSPM to complete the required recurrent evaluations, weekdays between 6 o'clock AM (local time) and 6 o'clock PM (local time).

(4) No sponsor may use, or allow the use of, or offer the use of, an FTD for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless the FTD has passed an NSPM-conducted recurrent evaluation within the previous 12 calendar months or as otherwise provided for in the MQTG.

(5) Recurrent evaluations conducted in the calendar month before or after the calendar month in which these recurrent evaluations are required will be considered to have been conducted in the calendar month in which they were required.

c. *Maintenance.* The sponsor is responsible for continuing corrective and preventive maintenance on the FTD to ensure that it continues to meet the requirements of § 60.15(b).

End Rule Language (§ 60.19)

Begin QPS Requirements

d. The preflight inspections described in paragraphs 14.a. (2) and (3), of this appendix, must consist of, as a minimum ''

(1) an exterior inspection of the FTD for appropriate hydraulic (if applicable), pneumatic, and electrical connections (*e.g.*, in place, not leaking, appear serviceable);

(2) a check that the area around the FTD is free of potential obstacles throughout the motion system range (if applicable);

(3) a review of the FTD discrepancy log;

(4) a functional check of the major FTD systems and simulated helicopter, or set of helicopters, systems (*e.g.*, cockpit instrumentation, control loading, and adequate air flow for equipment cooling) by doing the following:

(i) Turn on main power, including motion system (if applicable), and allow to stabilize.

(ii) Connect helicopter power. This may be connected through ''quick start'' of helicopter engines, auxiliary power unit, or ground power. Helicopter operations will require operating engines.

(iii) A general look for light bulb function, lighted instruments and switches, etc., as well as inoperative ''flags'' or other such indications.

(iv) Check Flight Management System(s) (and other date-critical information) for proper date range.

(v) Select takeoff position and from either pilot position, if applicable, observe the visual system, for proper operation (including light-point color balance and convergence, edge-matching and blending, etc.).

(vi) If applicable, adjust visibility value to inside of the far end of the runway and release ''position freeze or flight freeze.'' From either pilot position, advance power to taxi/ hover taxi (as applicable) down the runway (if applicable), observe visual system (if applicable); check sound system and engine instrument response(as applicable) and apply wheel brakes (if applicable); check normal operation and continued deceleration.

(vii) Select position on final approach, at least five (5) miles out (if applicable, observe visual scene). From either pilot position, adjust helicopter configuration appropriately (if applicable, check for normal landing gear operation). If applicable, adjust visibility to see entire airport. Release ''position freeze'' or ''flight freeze.'' Make a rapid left and right bank (check control feel and freedom; observe proper helicopter response; and exercise motion system, if applicable). Observe simulated helicopter systems operation.

(viii) Extend landing gear,

(ix) Fly to and land at airport, or select takeoff position.

(x) Shut down engines, turn off lights, turn off main power supply and motion system, as applicable.

(xi) Record ''functional preflight'' in the FTD discrepancy log book, including any item found to be missing, malfunctioning, or inoperative.

End QPS Requirements

Begin Information

e. If the NSP evaluator plans to accomplish specific tests during a normal recurrent evaluation that requires the use of special equipment or technicians, the sponsor will be notified as far in advance of the evaluation as practical; usually not less than 24 hours. These tests include latencies, control dynamics, sounds and vibrations, motion, and/or some visual system tests as may be applicable.

f. The recurrent evaluations described in paragraph 13.a.(7), of this appendix, require approximately eight (8) hours of FTD time and consist of the following:

(1) a review of the results of the objective tests and all the designated FTD performance demonstrations conducted by the sponsor since the last scheduled recurrent evaluation.

(2) at the discretion of the evaluator, a selection of approximately 20 percent of those objective tests conducted since the last scheduled recurrent evaluation and a selection of approximately 10 percent of the remaining objective tests in the MQTG. The tests chosen will be performed either automatically or manually, at the discretion of the evaluator.

(3) a subjective test of the FTD to perform a representative sampling of the tasks set out in attachment 3 of this appendix, selected at the discretion of the evaluator.

(4) an examination of the functions of the FTD, including, but not necessarily limited to the motion, visual, and sound system as applicable, and the instructor operating station, including the normal and simulated malfunctions of the simulated helicopter systems.

End Information

15. Logging FTD Discrepancies

Begin Rule Language (§60.20)

Each instructor, check airman, or representative of the Administrator conducting training or evaluation, or

observing flight experience for flightcrew member certification or qualification, and each person conducting the preflight inspection (§ 60.19(a)(2), (3), and (4)), who discovers a discrepancy, including any missing, malfunctioning, or inoperative components in the FTD, must write or cause to be written a description of that discrepancy into the discrepancy log at the end of the FTD preflight or FTD use session.

End Rule Language (§ 60.20)

16. [Reserved]

17. Modifications to FTDs

Begin Rule Language (§60.23)

a. When the sponsor or the FAA determines that any of the following circumstances exist and the FAA determines that the FTD cannot be used adequately to train, evaluate, or provide flight experience for flightcrew members, the sponsor must modify the FTD accordingly:

(1) The helicopter manufacturer or another approved source develops new data regarding the performance, functions, or other characteristics of the helicopter being simulated;

(2) A change in helicopter performance, functions, or other characteristics occurs;

(3) A change in operational procedures or requirements occurs; or

(4) Other circumstances as determined by the NSPM.

b. When the FAA determines that FTD modification is necessary for safety of flight reasons, the sponsor of each affected FTD must ensure that the FTD is modified according to the FSD Directive regardless of the original qualification standards applicable to any specific FTD.

c. Before modifying a qualified FTD, the sponsor must notify the NSPM and the TPAA as follows:

(1) The notification must include a complete description of the planned modification, including a description of the operational and engineering effect the proposed modification will have on the operation of the FTD.

(2) The notification must be submitted in a form and manner as specified in the appropriate QPS.

d. If the sponsor intends to add additional equipment or devices intended to simulate helicopter appliances; modify hardware or software which would affect flight or ground dynamics, including revising FTD programming or replacing or modifying the host computer; or if the sponsor is changing or modifying the control loading system (or motion, visual, or sound system for FTD levels requiring these tests and measurements), the following applies:

(1) The sponsor must meet the notification requirements of paragraph (c) of this section and must include in the notification the results of all objective tests that have been re-run with the modification incorporated, including any necessary updates to the MQTG.

(2) However, the sponsor may not use, or allow the use of, or offer the use of, the FTD with the proposed modification for flightcrew member training or evaluation or for obtaining flight experience for the flightcrew member to meet the requirements of this chapter unless or until the sponsor receives written notification from the NSPM approving the proposed modification. Prior to approval, the NSPM may require that the modified FTD be evaluated in accordance with the standards for an evaluation for initial qualification or any part thereof before it is placed in service.

e. The sponsor may not modify a qualified FTD until one of the following has occurred:

(1) For circumstances described in paragraph (b) or (d) of this section, the sponsor receives written approval from the NSPM that the modification is authorized.

(2) For circumstances other than those described in paragraph (b) or (d) of this section, either:

(i) Twenty-one days have passed since the sponsor notified the NSPM and the TPAA of the proposed modification and the sponsor has not received any response from the NSPM or TPAA; or

(ii) The NSPM or TPAA approves the proposed modification in fewer than 21 days since the sponsor notified the NSPM and the TPAA of the proposed modification.

f. When a modification is made to an FTD, the sponsor must notify each certificate holder planning to use that FTD of that modification prior to that certificate holder using that FTD the first time after the modification is complete.

g. The MQTG must be updated with current objective test results in accordance with § 60.15(b)(5) and appropriate flight test data in accordance with § 60.13, each time an FTD is modified and an objective test is affected by the modification. If this update is initiated by an FSD Directive, the direction to make the modification and the record of the modification completion must be filed in the MQTG.

End Rule Language (§ 60.23)

Begin QPS Requirements

h. The notification described in paragraph 17.c.(1), of this appendix, will include a statement signed by a pilot, qualified in the helicopter type, or set of helicopters, being simulated and designated by the sponsor, that, with the modification proposed—

(1) the FTD systems and sub-systems function equivalently to those in the helicopter, or set of helicopters, being simulated;

(2) the performance and flying qualities of the FTD are equivalent to those of the helicopter, or set of helicopters, being simulated; and

(3) the cockpit configuration conforms to the configuration of the helicopter, or set of helicopters, being simulated.

End QPS Requirements

18. Operations with Missing, Malfunctioning, or Inoperative Components

Begin Rule Language (§60.25)

a. No person may use or allow the use of or offer the use of an FTD with a missing, malfunctioning, or inoperative component for meeting training, evaluation, or flight experience requirements of this chapter for flightcrew member certification or qualification during maneuvers, procedures, or tasks that require the use of the correctly operating component.

b. Each missing, malfunctioning, or inoperative component must be repaired or replaced within 30 calendar days unless otherwise authorized by the NSPM. Failure to repair or replace this component within the prescribed time may result in loss of FTD qualification.

c. Each missing, malfunctioning, or inoperative component must be placarded as such on or adjacent to that component in the FTD and a list of the currently missing, malfunctioning, or inoperative components must be readily available in or immediately adjacent to the FTD for review by users of the device.

End Rule Language (§ 60.25)

19. Automatic Loss of Qualification and Procedures for Restoration of Qualification

Begin Rule Language (§60.27)

a. An FTD is not qualified if any of the following occurs:

(1) The FTD is not used in the sponsor's FAA-approved flight training program in accordance with § 60.9(b)(4).

(2) The FTD is not maintained and inspected in accordance with § 60.19.

(3) The FTD is physically moved from one location to another, regardless of distance.

(4) The FTD is disassembled (*e.g.*, for repair or modification) to such an extent that it cannot be used for training, evaluation, or experience activities.

(5) The MQTG is missing or otherwise not available and a replacement is not made within 30 days.

b. If FTD qualification is lost under paragraph (a) of this section, qualification is restored when either of the following provisions are met:

(1) The FTD successfully passes an evaluation:

(i) For initial qualification, in accordance with § 60.15 in those circumstances where the NSPM has determined that a full evaluation for initial qualification is necessary; or

(ii) For those elements of an evaluation for initial qualification approved as necessary by the NSPM.

(2) The NSPM or the TPAA advises the sponsor that an evaluation is not necessary.

c. In making the determinations described in paragraph (b) of this section, the NSPM considers factors including the number of inspections and recurrent evaluations missed, the amount of disassembly and re-assembly of the FTD that was accomplished, and the care that had been taken of the device since the last evaluation.

End Rule Language (§ 60.27)

20. Other Losses of Qualification and Procedures for Restoration of Qualification

Begin Rule Language (§60.29)

a. Except as provided in paragraph (c) of this section, when the NSPM or the TPAA notifies the sponsor that the FTD no longer meets qualification standards, the following procedure applies:

(1) The NSPM or the TPAA notifies the sponsor in writing that the FTD no longer meets some or all of its qualification standards.

(2) The NSPM or the TPAA sets a reasonable period (but not less than 7 days) within which the sponsor may submit written information, views, and arguments on the FTD qualification.

(3) After considering all material presented, the NSPM or the TPAA notifies the sponsor of the FTD qualification.

(4) If the NSPM or the TPAA notifies the sponsor that some or all of the FTD is no longer qualified, it becomes effective not less than 30 days after the sponsor receives notice of it unless—

(i) The NSPM or the TPAA find under paragraph (c) of this section that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce; or

(ii) The sponsor petitions for reconsideration of the NSPM or the TPAA finding under paragraph (b) of this section.

b. When a sponsor seeks reconsideration of a decision from the NSPM or the TPAA concerning the FTD qualification, the following procedure applies:

(1) The sponsor must petition for reconsideration of that decision within 30 days of the date that the sponsor receives a notice that some or all of the FTD is no longer qualified.

(2) The sponsor must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of the determination by the NSPM or the TPAA that the FTD is no longer qualified unless the NSPM or the TPAA has found, under paragraph (c) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

c. If the NSPM or the TPAA find that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The NSPM or the TPAA withdraws qualification of some or all of the FTD and makes the withdrawal of qualification effective on the day the sponsor receives notice of it.

(2) In the notice to the sponsor, the NSPM or the TPAA articulates the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the finding.

End Rule Language (§ 60.29)

21. Recordkeeping and Reporting

Begin Rule Language (§60.31)

a. The FTD sponsor must maintain the following records for each FTD it sponsors:

(1) The MQTG and each amendment thereto.

(2) A copy of the programming used during the evaluation of the FTD for initial qualification and for any subsequent upgrade qualification, and a copy of all programming changes made since the evaluation for initial qualification.

(3) A copy of all of the following:

(i) Results of the evaluations for the initial and each upgrade qualification.

(ii) Results of the quarterly objective tests and the approved performance demonstrations conducted in accordance with § 60.19(a) for a period of 2 years.

(iii) Results of the previous three recurrent evaluations, or the recurrent evaluations from the previous 2 years, whichever covers a longer period.

(iv) Comments obtained in accordance with § 60.9(b)(1) for a period of at least 18 months.

(4) A record of all discrepancies entered in the discrepancy log over the previous 2 years, including the following:

(i) A list of the components or equipment that were or are missing, malfunctioning, or inoperative.

(ii) The action taken to correct the discrepancy.

(iii) The date the corrective action was taken.

(5) A record of all modifications to FTD hardware configurations made since initial qualification.

b. The FTD sponsor must keep a current record of each certificate holder using the FTD. The sponsor must provide a copy of this list to the NSPM at least semiannually.

c. The records specified in this section must be maintained in plain language form or in coded form, if the coded form provides for the preservation and retrieval of information in a manner acceptable to the NSPM.

d. The sponsor must submit an annual report, in the form of a comprehensive statement signed by the quality assurance primary contact point, certifying that the FTD continues to perform and handle as qualified by the NSPM.

End Rule Language (§ 60.31)

22. Applications, Logbooks, Reports, and Records: Fraud, Falsification, or Incorrect Statements

Begin Rule Language (§60.33)

a. No person may make, or cause to be made, any of the following:

(1) A fraudulent or intentionally false statement in any application or any amendment thereto, or any other report or test result required by this part or the QPS.

(2) A fraudulent or intentionally false statement in or omission from any record or report that is kept, made, or used to show compliance with this part or the QPS, or to exercise any privileges under this chapter.

(3) Any reproduction or alteration, for fraudulent purpose, of any report, record, or test result required under this part or the QPS.

b. The commission by any person of any act prohibited under paragraph a of this section is a basis for any one or any combination of the following:

(1) A civil penalty.

(2) Suspension or revocation of any certificate held by that person that was issued under this chapter.

(3) The removal of FTD qualification and approval for use in a training program.

c. The following may serve as a basis for removal of qualification of an FTD including the withdrawal of authorization for use of an FTD; or denying an application for a qualification.

(1) An incorrect statement, upon which the FAA relied or could have relied, made in support of an application for a qualification or a request for approval for use.

(2) An incorrect entry, upon which the FAA relied or could have relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for an FTD qualification or an approval for use.

End Rule Language (§ 60.33)

23. [Reserved]

24. [Reserved]

25. [Reserved]

Attachment 1 to Appendix D to Part 60—General FTD Requirements

1. General

Begin QPS Reqirements

a. Requirements

Certain FTD requirements included in this appendix must be supported with a Statement of Compliance and Capability (SOC) and, in designated cases, FTD performance must be recorded and the results made part of the QTG. In the following tabular listing of FTD standards, requirements for SOC's are indicated in the ''Additional Details'' column.

End QPS Requirements

b. Discussion

Begin Information

(1) This attachment describes the minimum requirements for qualifying Level 2 through Level 6 flight training devices. To determine the complete requirements for a specific level FTD, the objective tests in attachment 2 of this appendix and the subjective tests listed in attachment 3 of this appendix for this QPS must be consulted.

(2) The material contained in this attachment is divided into the following categories:

(a) General cockpit configuration.

(b) Simulator programming.

(c) Equipment operation.

(d) Equipment and facilities for instructor/evaluator functions.

(e) Sound system.

End Information

TABLE OF MINIMUM FTD REQUIREMENTS INFORMATION

QPS Requirement								Notes
General FTD Standards	FTD level						Additional details	
	1	2	3	4	5	6		
2. General Cockpit Configuration:								
a. The FTD must have a cockpit that is a full-scale replica of the helicopter, or set of helicopters, simulated with controls, equipment, observable cockpit indicators, circuit breakers, and bulkheads properly located, functionally accurate and replicating the helicopter or set of helicopters. The direction of movement of controls and switches must be identical to that in the helicopter or set of helicopters.			X			X	Level 3 must be representative of a single set of helicopters, and must have navigation controls, displays, and instrumentation as set out in Part 91, § 91.33 for operation in accordance with instrument flight rules (IFR). Crewmember seats must afford the capability for the occupant to be able to achieve the design ''eye position'' for specific helicopters, or to approximate such a position for a generic set of helicopters.	For FTD purposes, the cockpit consists of all that space forward of a cross section of the fuselage at the most extreme aft setting of the pilots' seats including additional, required crewmember duty stations and those required bulkheads aft of the pilot seats.
b. The FTD must have equipment (i.e., instruments, panels, systems, and controls) simulated sufficiently for the authorized training/checking events to be accomplished. The installed equipment, must be located in a spatially correct configuration, and may be in a cockpit or an open flight deck area. Actuation of this equipment must replicate the appropriate function in the helicopter.		X		X	X		Level 2 must be representative of a single set of helicopters.	
c. Circuit breakers must function accurately when they are involved in operating procedures or malfunctions requiring or involving flight crew response.		X	X		X	X	Level 6 devices must have installed circuit breakers properly located in the FTD cockpit.	
3. Programming:								
a. The FTD must provide the proper effect of aerodynamic changes for the combinations of drag and thrust normally encountered in flight. This must include the effect of change in helicopters attitude, thrust, drag, altitude, temperature, and configuration.		X	X		X	X	Levels 3 and 6 additionally require the effects of change in gross weight and center of gravity. Levels 2, 3, and 5 require only generic aerodynamic programming.	
b. The FTD must have the computer (analog or digital) capability (i.e., capacity, accuracy, resolution, and dynamic response) needed to meet the qualification level sought.		X	X	X	X	X		

TABLE OF MINIMUM FTD REQUIREMENTS INFORMATION—Continued

QPS Requirement								Notes
General FTD Standards	FTD level						Additional details	
	1	2	3	4	5	6		
c. The FTD hardware and programming must be updated within 6 months of any helicopters modifications or data releases (or any such modification or data releases applicable to the set of helicopters) unless, with prior coordination, the NSPM authorizes otherwise.		X	X	X	X	X		
d. Relative responses of the cockpit instruments (and the visual and motion systems, if installed and training, testing, or checking credits are being sought) must be coupled closely to provide integrated sensory cues. The instruments (and the visual and motion systems, if installed, and training, testing, or checking credits are being sought) must respond to abrupt input at the pilot's position within the allotted time, but not before the time, when the helicopter or set of helicopters would respond under the same conditions. (If a visual system is installed and training, testing, or checking credits are sought, the visual scene changes from steady state disturbance must occur within the appropriate system dynamic response limit but not before the instrument response (and not before the motion system onset if a motion system is installed)).		X	X		X	X	A demonstration is required and must simultaneously record: the analog output from the pilot's control column, wheel, and pedals; and the output signal to the pilot's attitude indicator. These recordings must be compared to helicopter response data in the following configurations: takeoff, cruise, and approach or landing. The results must be recorded in the QTG. Additionally, if a visual system is installed and training, testing, or checking credits are sought, the output signal to the visual system display (including visual system analog delays must be recorded); and if a motion system is installed and training, testing, or checking credits are sought, the output from an accelerometer attached to the motion system platform located at an acceptable location near the pilots' seats is also required.	
4. Equipment Operations:								
a. All relevant instrument indications involved in the simulation of the helicopter (or set of helicopters) must automatically respond to control movement or external disturbances to the simulated helicopter or set of helicopters; e.g., turbulence or winds.		X	X		X	X		

TABLE OF MINIMUM FTD REQUIREMENTS INFORMATION—Continued

QPS Requirement								Notes
General FTD Standards	FTD level						Additional details	
	1	2	3	4	5	6		
b. Navigation equipment must be installed and operate within the tolerances applicable for the helicopter or set of helicopter.		X	X		X	X	Levels 2 and 5 need have only that navigation equipment necessary to fly an instrument approach. Levels 3 and 6 must also include communication equipment (inter-phone and air/ground) like that in the helicopter, or set of helicopters, and, if appropriate to the operation being conducted, an oxygen mask microphone system.	
c. Installed systems must simulate the applicable helicopter (or set of helicopters) system operation, both on the ground and in flight. At least one helicopter system must be represented. Systems must be operative to the extent that applicable normal, abnormal, and emergency operating procedures included in the sponsor's training programs can be accomplished.		X	X	X	X	X	Level 6 must simulate all applicable helicopter flight, navigation, and systems operation. Level 3 must have flight and navigational controls, displays, and instrumentation for powered aircraft as set out in part 91, § 91.205 for IFR operation. Levels 2 and 5 must have influenced flight and navigational controls, displays, and instrumentation.	
d. The lighting environmental for panels and instruments must be sufficient for the operation being conducted.		X	X	X	X	X		
e. The FTD must provide control forces and control travel that correspond to the replicated helicopter, or set of helicopters. Control forces must react in the same manner as in the helicopter, or set of helicopters, under the same flight conditions.			X			X		
f. The FTD must provide control forces and control travel of sufficient precision to manually fly an instrument approach. The control forces must react in the same manner as in the helicopter, or set of helicopters, under the same flight conditions.		X			X			
5. Instructor or Evaluator Facilities:								
a. In addition to the flight crewmember stations, suitable seating arrangements for an instructor/check airman and FAA Inspector must be available. These seats must provide adequate view of crewmember's panel(s).		X	X	X	X	X	.....	These seats need not be a replica of an aircraft seat and may be as simple as an office chair placed in an appropriate position.

TABLE OF MINIMUM FTD REQUIREMENTS INFORMATION—Continued

QPS Requirement								Notes
General FTD Standards	FTD level						Additional details	
	1	2	3	4	5	6		
b. The FTD must have instructor controls that permit activation of normal, abnormal, and emergency conditions, as may be appropriate. Once activated, proper system operation must result from system management by the crew and not require input from the instructor controls.		X	X	X	X	X		
6. Motion System:								
a. The FTD may have a motion system; if desired, although it is not required.		X	X	X	X	X	If installed, the motion system operation may not be distracting. The motion system standards set out in QPS FAA–S–120–40C for at least Level A simulators is acceptable.	
7. Visual System:								
a. The FTD may have a visual system; if desired, although it is not required. If a visual system is installed, it must meet the following criteria: (1) Single channel, uncollimated display is acceptable. (2) Minimum field of view: 18° vertical / 24° horizontal for the pilot flying. (3) Maximum paralax error: 10° per pilot. (4) Scene content may not be distracting. (5) Minimum distance from the pilot's eye position to the surface of a direct view display may not be less than the distance to any front panel instrument. (6) Minimum resolution of 5 arc-min. for both computed and displayed pixel size. (7) Maximum latency or through-put must not exceed 300 milliseconds.		X	X	X	X	X	A statement of capability is required. A demonstration of latency or through-put is required. Visual system standards set out in QPS FAA–S–120–40C, for at least Level A simulators is acceptable. However, if additional authorizations (training, testing, or checking credits) are sought that require the use of a visual system, the Level A simulator visual system standards apply.	
8. Sound System:								
a. The FTD must simulate significant cockpit sounds resulting from pilot actions that correspond to those heard in the helicopter.			X			X		

Attachment 2 to Appendix D to Part 60—Flight Training Device (FTD) Objective Tests

1. General

Begin QPS Requirements

a. Test Requirements

(1) The ground and flight tests required for qualification are listed in the following Table of Objective Tests. Computer generated FTD test results must be provided for each test. If a flight condition or operating condition is required for the test but which does not apply to the helicopter being simulated or to the qualification level sought, it may be disregarded (for example: an engine out climb capability for a single-engine helicopter; *etc.*). Each test result is compared against Flight Test Data described in § 60.13, and Paragraph 9 of this document. (See paragraph 1.b, of this attachment for additional information.) Although use of a driver program designed to automatically accomplish the tests is authorized, each test must be able to be accomplished manually while recording all appropriate parameters. The results must be produced on a multi-channel recorder, line printer, or other appropriate recording device acceptable to the NSPM. Time histories are required unless otherwise indicated in the Table of Objective Tests. All results must be labeled using the tolerances and units given.

(2) The Table of Objective Tests in this attachment sets out the test results required, including the parameters, tolerances, and flight conditions for FTD validation. Tolerances are provided for the listed tests because aerodynamic modeling and acquisition/development of reference data are often inexact. All tolerances listed in the following tables are applied to FTD performance. When two tolerance values are given for a parameter, the less restrictive may be used unless otherwise indicated.

(3) Certain tests included in this attachment must be supported with a Statement of Compliance and Capability (SOC). In the following tabular listing of FTD tests, requirements for SOC's are indicated in the ''Test Details'' column.

(4) When operational or engineering judgment is used in making assessments for flight test data applications for FTD validity, such judgment must not be limited to a single parameter. For example, data that exhibit rapid variations of the measured parameters may require interpolations or a ''best fit'' data section. All relevant parameters related to a given maneuver or flight condition must be provided to allow overall interpretation. When it is difficult or impossible to match FTD to helicopter data throughout a time history, differences must be justified by providing a comparison of other related variables for the condition being assessed.

(5) It is not sufficient, nor is it acceptable, to program the FTD so that the aerodynamic modeling is correct only at the validation test points. Unless noted otherwise, tests must represent helicopter performance and handling qualities at normal operating weights and centers of gravity (CG). If a test is supported by aircraft data at one extreme weight or CG, another test supported by aircraft data at mid-conditions or as close as possible to the other extreme is necessary. Certain tests that are relevant only at one extreme CG or weight condition need not be repeated at the other extreme. The results of the tests for Levels 3 and 6 are expected to be indicative of the device's performance and handling qualities throughout the following:

(a) The helicopter weight and CG envelope;

(b) The operational envelope; and

(c) Varying atmospheric ambient and environmental conditions—including the extremes authorized for the respective helicopter or set of helicopters.

(6) When comparing the parameters listed to those of the helicopter, sufficient data must also be provided to verify the correct flight condition and helicopter configuration changes. For example: to show that control force is within ±0.5 pounds (0.22 daN) in a static stability test, data to show the correct airspeed, power, thrust or torque, helicopter configuration, altitude, and other appropriate datum identification parameters must also be given. If comparing short period dynamics, normal acceleration may be used to establish a match to the helicopter, but airspeed, altitude, control input, helicopter configuration, and other appropriate data must also be given. If comparing landing gear change dynamics, pitch, airspeed, and altitude may be used to establish a match to the helicopter, but landing gear position must also be provided. All airspeed values must be clearly annotated as to indicated, calibrated, *etc.*, and like values used for comparison.

(7) The QTG provided by the sponsor must describe clearly and distinctly how the FTD will be set up and operated for each test. Overall integrated testing of the FTD must be accomplished to assure that the total FTD system meets the prescribed standards; *i.e.*, it is not acceptable to test only each FTD subsystem independently. A manual test procedure with explicit and detailed steps for completion of each test must also be provided.

(8) In those cases where the objective test results authorize a ''snapshot'' result in lieu of a time-history result, the sponsor must ensure that a steady state condition exists from 5 seconds prior to, through 2 seconds after, the instant of time captured by the ''snapshot.''

(9) For previously qualified FTDs, the tests and tolerances of this appendix may be used in subsequent recurrent evaluations for any given test providing the sponsor has submitted a proposed MQTG revision to the NSPM and has received NSPM approval.

(10) Tests of handling qualities must include validation of augmentation devices. FTDs for highly augmented helicopters will be validated both in the unaugmented configuration (or failure state with the maximum permitted degradation in handling qualities) and the augmented configuration. Where various levels of handling qualities result from failure states, validation of the effect of the failure is necessary. Requirements for testing will be mutually agreed to between the sponsor and the NSPM on a case-by-case basis.

End QPS Requirements

Begin Information

b. Discussion

If relevant winds are present in the objective data, the wind vector (magnitude and direction) should be clearly noted as part of the data presentation, expressed in conventional terminology, and related to the runway being used for the test.

End Information

TABLE OF OBJECTIVE TESTS

QPS Requirement										Information notes
Test	Tolerence	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
2. Performance **a. Engine Assessment**										
(1) Start Operations: (a) Engine start and acceleration (transient).	Light Off Time—±10% or ±1 sec., Torque—±5%, Rotor Speed—±3%, Fuel Flow—±10%, Gas Generator Speed—±5%, Power Turbine Speed—±5%, Gas Turbine Temp.—±30° C.	Ground with the Rotor Brake Used and Not Used.			X			X	Record each engine start from the initiation of the start sequence to steady state idle and from steady state idle to operating RPM..	

TABLE OF OBJECTIVE TESTS—Continued

QPS Requirement										Information notes
Test	Tolerence	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(b) Steady State Idle and Operating RPM conditions.	Torque—±3%, Rotor Speed—±1.5%, Fuel Flow—±5%, Gas Generator Speed—±2%, Power Turbine Speed—±2%, Turbine Gas Temp.—±20° C.	Ground		X	X		X	X	Record both steady state idle and operating RPM conditions. May be a series of snapshot tests..	
(2) Power Turbine	±10% of total change of power turbine speed.	Ground			X			X	Record engine response to trim system actuation in both directions..	
(3) Engine and Rotor Speed Governing.	Torque—±5%, Rotor Speed—±1.5%.	Climb, Descent			X			X	Record results using a step input to the collective. May be conducted concurrently with climb and descent performance tests..	
b. In Flight										
Performance and Trimmed Flight Control Positions.	Torque—±3%, Pitch Attitude—±1.5°, Sideslip Angle—±2°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%,.	Cruise (Augmentation On and Off).		X	X		X	X	Record results for two gross weight and CG combinations with varying trim speeds throughout the airspeed envelope. May be a series of snapshot tests..	
c. Climb										
Performance and Trimmed Flight Control Positions.	Vertical Velocity—±100 fpm (61m/sec) or ±10%, Pitch Attitude—±1.5%, Sideslip Angle—±2°, Longitudinal Control Position—±5%, Lateral Control Position—±5%, Directional Control Position—±5%, Collective Control Position—±5%.	All engines operating, One engine inoperative, Augmentation System(s) On and Off.		X	X		X	X	Record results for two gross weight and CG combinations. The data presented must be for normal climb power conditions. May be a series of snapshot tests..	
d. Descent										
(1) Descent Performance and Trimmed Flight Control Positions.	Torque-±3%, Pitch Attitude-±1.5°, Sideslip Angle-±2°, Longitudinal Control Position-±5%, Lateral Control Position-±5%, Directional Control Position-±5%, Collective Control Position-±5%.	At or near 1,000 fpm rate of descent (RoD) at normal approach speed. Augmentation System(s) On and Off.		X	X		X	X	Record results for two gross weight and CG combinations. May be a series of snapshot tests.	
(2) Autorotation Performance and Trimmed Flight Control Positions.	Torque-±3%, Pitch Attitude-±1.5°, Sideslip Angle-±2°, Longitudinal Control Position-5%, Lateral Control Position-±5%, Directional Control Position-±5%, Collective Control Position-±5%..	Steady descents. Augmentation System(s) On and Off.		X	X		X	X	Record results for two gross weight conditions. Data must be recorded for normal operating RPM. (Rotor speed tolerance applies only if collective control position is full down.) Data must be recorded for speeds from approximately 50 kts. through at least maximum glide distance airspeed. May be a series of snapshot tests.	

TABLE OF OBJECTIVE TESTS—Continued

QPS Requirement										Information notes
Test	Tolerence	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
d. Autorotation										
Entry	Rotor Speed-±3%, Pitch Attitude ±22°, Roll Attitude-3°, Yaw Attitude-±5°, Airspeed-±5 kts., Vertical Velocity-±200 fpm (1.00m/sec) or 10%.	Cruise; or Climb			X			X	Record results of a rapid throttle reduction to idle. If accomplished in cruise, results must be for the maximim range airspeed. If accomplished in climb, results must be for the maximum rate of climb airspeed at or near maximum continuous power.	
3. Handling Qualities										
a. Control System Mechanical Characteristics For FTDs requiring Static or Dynamic tests at the controls (i.e., cyclic, collective, and pedal), special test fixtures will not be required during initial or upgrade evaluations if the sponsor's QTG/MQTG shows both test fixture results and the results of an alternative approach, such as computer plots produced concurrently, that show satisfactory agreement. Repeat of the alternative method during the initial or upgrade evaluation would then satisfy this test requirement. For initial and upgrade evaluations, the control dynamic characteristics must be measured at and recorded directly from the cockpit controls, and must be accomplished in climb, cruise, and autorotation.										Contact the NSPM for clarification of any issue regarding helicopters with reversible controls.
(1) Cyclic	Breakout—±0.25 lbs. (0.112 daN) or 25% Force—±1.0 lb. (0.224 daN) or 10%.	Ground; Static conditions. Trim on and Off. Friction Off. Augmentation On and Off.		X	X		X	X	Record results for an uninterrupted control sweep to the stops. (This test does not apply if aircraft hardware modular controllers are used.)	
(2) Collective and Pedals.	Breakout—±0.5 lbs. (0.224 daN) or 25% Force—±1.0 lb. (0.224 daN) or 10%.	Ground; Static conditions. Trim on and Off. Friction Off. Augmentation On and Off.		X	X		X	X	Record results for an uninterrupted control sweep to the stops.	
(3) Brake Pedal Force vs Position.	±5 lbs. (2.224 daN) or 10%.	Ground; Static conditions.		X	X		X	X		
(4) Trim System Rate (all applicable systems).	Rate—±10%	Ground Static conditions. Trim On. Friction Off.		X	X		X	X	The tolerance applies to the recorded value of the trim rate.	
(5) Control Dynamics (all axes).	±10% of time for first zero crossing and ±10 (N+1)% of period thereafter. ±10% of amplitude of first overshoot. ±20% of amplitude of 2nd and subsequent overshoots greater than 5% of initial displacement. ±1 overshoot greater than 5% of initial displacement ±1 overshoot.	Hover/Cruise. Trim On, Friction Off.		.....	.....		.....	X	Results must be recorded for a normal control displacement in both directions in each axis (approximately 25% to 50% of full throw).	Control Dynamics for irreversible control systems may be evaluated in a ground/static condition. Refer to paragraph 3 of this appendix for additional information ''N'' is the sequential period of full cycle of oscillation.
(6) Freepay	±0.10 in	Ground; Static conditions.		X	X		X	X	Record and compare results for all controls.	
B. Longitudinal Handling Qualities										
(1) Control Response	Pitch Rate—±10% or ±2°/sec., Pitch Attitude Change—±10% or ±1.5°.	Cruise; Augmentation on and Off.		X	X		X	X	Results must be recorded for two cruise airspeeds to include minimum power required speed. Record data for a step control input. The Off-axis response must show correct trend for unaugmented cases.	

TABLE OF OBJECTIVE TESTS—Continued

QPS Requirement										Information notes
Test	Tolerence	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(2) Static Stability	Longitudinal Control Position: ±10% of change from trim or ±0.25 in. (6.3 mm) or Longitudinal Control Force: ±0.5 lb. (0.223 daN) or ±10%.	Cruise or Climb. Autorotation. Augmentation on and Off.		X	X		X	X	Record results for a minimum of two speeds on each side of the trim speed. May be a series of snapshot tests..	
(3) Dynamic Stability:										
(a) Long Term Response.	±10% of calculated period. ±10% of time to ½ or double amplitude, or ±0.02 of damping ratio.	Cruise Augmentation On and Off.		X	X		X	X	Record results for three full cycles (6 overshoots after input completed) or that sufficient to determine time to ½ or double amplitude, whichever is less. For non-periodic responses, the time history must be matched.	
(b) Short Term Response.	±1.5% Pitch or ±2%/sec. Pitch Rate. ±0.1 g Normal Acceleration.	Cruise or Climb. Augmentation On and Off.						X	Record results for at least two airspeeds.	
(4) Maneuvering Stability.	Longitudinal Control Position±10% of change from trim or ±0.25 in. (6.3 mm) or Longitudinal Control Forces±0.5 lb. (0.223 daN) or ±10%.	Cruise or Climb. Augmentation On and Off.						X	Record results for at least two airspeeds. Record results for Approximately 30°–45° bank angle. The force may be shown as a cross plot for irreversible systems. May be a series of snapshot tests.	
(5) Landing Gear Operating Times.	±1 sec	Takeoff (Retraction), Approach (Extension).		X	X		X	X	.	
d. Lateral and Directional Handling Qualities										
(1) Control Response:										
(a) Lateral	Roll Rate—±10% or ±3°/sec. Roll Attitude Change—±10% or ±3°.	Cruise Augmentation On and Off.		X	X		X	X	Record results for at least two airspeeds, including the speed at or near the minimum power required airspeed. Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	
(b) Directional	Yaw Rate—±10% or ±2°/sec., Yaw Attitude Change—±10% or ±2°.	Cruise; Augmentation On and Off.		X	X		X	X	Record data for at least two Airspeeds, including the speed at or near the minimum power required airspeed. Record results for a step control input. The Off-axis response must show correct trend for unaugmented cases.	

TABLE OF OBJECTIVE TESTS—Continued

QPS Requirement										Information notes
Test	Tolerence	Flight conditions	Flight training device level						Test details	
			1	2	3	4	5	6		
(2) Directional Static Stability.	Lateral Control Position—±10% of change from trim or ±0.25 in. (6.3mm) or Lateral Control Force—±0.5 lb. (0.223daN) or 10% Roll Attitude—±1.5, Directional Control Position—±10% of change from trim or ±0.25 in. (6.3mm) or Directional Control Force—±1 lb. (0.448 daN) or 10%.. Longitudinal Control Position—±10% of change from trim or ±0.25 in. (6.3 mm). Vertical Velocity—±100 fpm (0.50 m/sec) or 10 %.	(1) Cruise; or (2) Climb (may use Descent instead of Climb if desired) Augmentation On and Off.		X	X		X	X	Record results for at least two sideslip angles on either side of the trim point. The force may be shown as a cross plot for irreversible systems. May be a series of snapshot tests.	This is a steady heading sideslip test.
(3) Dynamic Lateral and Directional Stability:										
(a) Lateral—Directional Oscillations.	±0.5 sec. or ±10% of period. ±10% of time to ½ or double amplitude or ±0.02 of damping ratio ±20% or ±1 sec of time difference between peaks of bank and sideslip.	Cruise or Climb; Augmentation On/Off.		X	X		X	X	Record results for at least two airspeeds. The test must be initiated with a cyclic or a pedal doublet input. Record results for six full cycles (12 overshoots after input completed) or that sufficient to determine time to ½ or double amplitude, which is less. For non-periodic response, the time history must be matched.	
(b) Spiral Stability ..	Correct Trend, ±2° bank or ±10% in 20 sec.	Cruise or Climb. Augmentation On and Off.		X	X		X	X	Record the results of a release from pedal only or cyclic only turns. Results must be recorded from turns in both directions.	
(c) Adverse/Proverse Yaw.	Correct Trend, ±2° transient sideslip angle.	Cruise or Climb. Augmentation On and Off.		X	X		X	X	Record the time history of initial entry into cyclic only turns, using only a moderate rate for cyclic input. Results must be recorded for turns in both directions.	

4. Control Dynamics

Begin Information

a. The characteristics of a helicopter flight control system have a major effect on the handling qualities. A significant consideration in pilot acceptability of a helicopter is the ''feel'' provided through the cockpit controls. Considerable effort is expended on helicopter feel system design in order to deliver a system with which pilots will be comfortable and consider the helicopter desirable to fly. In order for an FTD to be representative, it too must present the pilot with the proper feel; that of the respective helicopter.

b. Recordings such as free response to an impulse or step function are classically used to estimate the dynamic properties of electromechanical systems. In any case, it is only possible to estimate the dynamic properties as a result of only being able to estimate true inputs and responses. Therefore, it is imperative that the best possible data be collected since close matching of the FTD control loading system to the helicopter systems is essential. Control feel dynamic tests are described in the Table of Objective Tests in this appendix. Where accomplished, the free response is measured after a step or pulse input is used to excite the system.

c. For initial and upgrade evaluations, it is required that control dynamic characteristics be measured at and recorded directly from the cockpit controls. This procedure is usually accomplished by measuring the free response of the controls using a step or pulse input to excite the system. The procedure must be accomplished in hover, climb, cruise, and autorotation. For helicopters with irreversible control systems, measurements may be obtained on the ground. Proper pitot-

static inputs (if appropriate) must be provided to represent airspeeds typical of those encountered in flight.

d. It may be shown that for some helicopters, climb, cruise, and autorotation have like effects. Thus, some tests for one may suffice for some tests for another. If either or both considerations apply, engineering validation or helicopter manufacturer rationale must be submitted as justification for ground tests or for eliminating a configuration. For FTDs requiring static and dynamic tests at the controls, special test fixtures will not be required during initial and upgrade evaluations if the sponsor's QTG shows both test fixture results and the results of an alternative approach, such as computer plots which were produced concurrently and show satisfactory agreement. Repeat of the alternative method during the initial evaluation would then satisfy this test requirement.

e. Control Dynamics Evaluations. The dynamic properties of control systems are often stated in terms of frequency, damping, and a number of other classical measurements which can be found in texts on control systems. In order to establish a consistent means of validating test results for FTD control loading, criteria are needed that will clearly define the interpretation of the measurements and the tolerances to be applied. Criteria are needed for both the underdamped system and the overdamped system, including the critically damped case. In the case of an underdamped system with very light damping, the system may be quantified in terms of frequency and damping. In critically damped or overdamped systems, the frequency and damping is not readily measured from a response time history. Therefore, some other measurement must be used.

f. Tests to verify that control feel dynamics represent the helicopter must show that the dynamic damping cycles (free response of the control) match that of the helicopter within specified tolerances. The method of evaluating the response and the tolerance to be applied are described below for the underdamped and critically damped cases.

g. Tolerances. (1) Underdamped Response. (a) Two measurements are required for the period, the time to first zero crossing (in case a rate limit is present) and the subsequent frequency of oscillation. It is necessary to measure cycles on an individual basis in case there are nonuniform periods in the response. Each period will be independently compared to the respective period of the helicopter control system and, consequently, will enjoy the full tolerance specified for that period.

(b) The damping tolerance will be applied to overshoots on an individual basis. Care must be taken when applying the tolerance to small overshoots since the significance of such overshoots becomes questionable. Only those overshoots larger than 5 percent of the total initial displacement will be considered significant. The residual band, labeled $T(A_d)$ on Figure 1 of this attachment is ±5 percent of the initial displacement amplitude A_d from the steady state value of the oscillation. Oscillations within the residual band are considered insignificant. When comparing simulator data to helicopter data, the process would begin by overlaying or aligning the simulator and helicopter steady state values and then comparing amplitudes of oscillation peaks, the time of the first zero crossing, and individual periods of oscillation. To be satisfactory, the simulator must show the same number of significant overshoots to within one when compared against the helicopter data. This procedure for evaluating the response is illustrated in Figure 1 of this attachment.

(2) Critically Damped and Overdamped Response. Due to the nature of critically damped responses (no overshoots), the time to reach 90 percent of the steady state (neutral point) value must be the same as the helicopter within ±10 percent. The simulator response must be critically damped also. Figure 2 of this attachment illustrates the procedure.

(3)(a) The following summarizes the tolerances, T, for an illustration of the referenced measurements (See Figures 1 and 2, of this attachment):

$T(P_0)$ ±10% of P_0
$T(P_1)$ ±20% of P_1
$T(A)$ ±10% of A_1, ±20% of Subsequent Peaks
$T(A_d)$ ±10% of A_d = Residual Band
Overshoots ±1

(b) In the event the number of cycles completed outside of the residual band, and thereby significant, exceeds the number depicted in figure 1 of this attachment, the following tolerances (T) will apply:

$T(P_n)$ ±10%(n+1)% of P_n, where ''n'' is the next in sequence.

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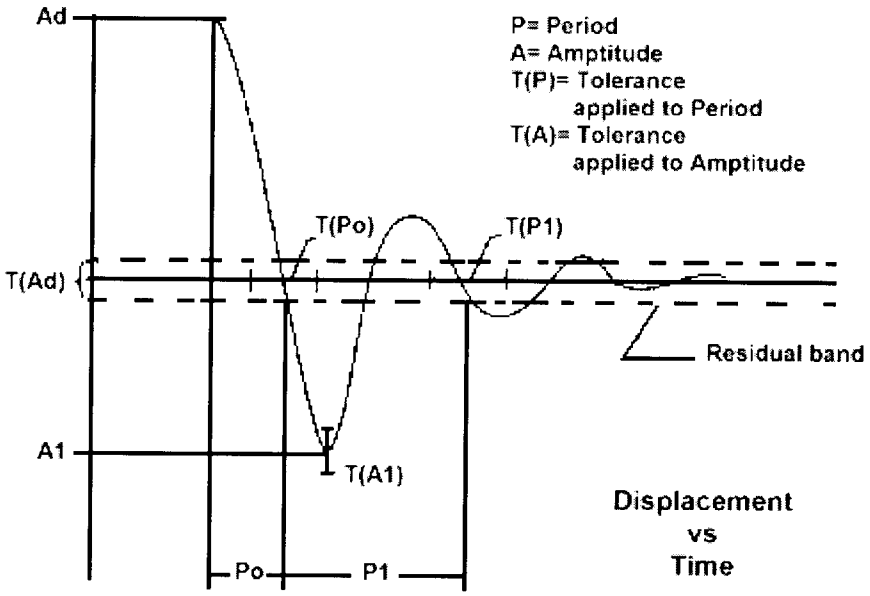
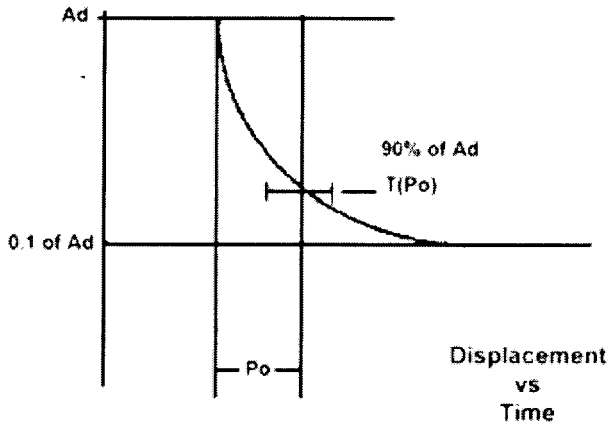
Attachment 2 to Appendix D to Part 60—

FIGURE 1. UNDER-DAMPED STEP RESPONSE



Attachment 2 to Appendix D to Part 60—

FIGURE 2. CRITICALLY-DAMPED STEP RESPONSE



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Attachment 3 to Appendix D to Part 60—FTD Subjective Tests

1. Discussion

Begin Information

a. The subjective tests and the examination of functions provide a basis for evaluating the capability of the FTD to perform over a typical utilization period; determining that the FTD satisfactorily meets the appropriate training/testing/checking objectives and competently simulates each required maneuver, procedure, or task; and verifying correct operation of the FTD controls, instruments, and systems. The items in the list of operations tasks are for FTD evaluation

purposes only. They must not be used to limit or exceed the authorizations for use of a given level of FTD as found in the Practical Test Standards or as may be approved by the TPAA. All items in the following paragraphs are subject to an examination of function.

b. The List of Operations Tasks addressing pilot functions and maneuvers is divided by flight phases. All simulated helicopter systems functions will be assessed for normal and, where appropriate, alternate operations. Normal, abnormal, and emergency operations associated with a flight phase will be assessed during the evaluation of maneuvers or events within that flight phase.

c. Systems to be evaluated are listed separately under ''Any Flight Phase'' to ensure appropriate attention to systems checks. Operational navigation systems (including inertial navigation systems, global positioning systems, or other long-range systems) and the associated electronic display systems will be evaluated if installed. The NSP pilot will include in his report to the TPAA, the effect of the system operation and any system limitation.

d. At the request of the TPAA, the NSP Pilot may assess the FTD for a special aspect of a sponsor's training program during the functions and subjective portion of an evaluation. Such an assessment may include a portion of a Line Oriented Flight Training (LOFT) scenario or special emphasis items in the sponsor's training program. Unless directly related to a requirement for the qualification level, the results of such an evaluation would not necessarily affect the qualification of the FTD.

End Information

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2. List of Operations Tasks

Begin QPS Requirements

The NSP pilot, or the pilot designated by the NSPM, will evaluate the FTD in the following Operations Tasks, as applicable to the helicopter and FTD level, using the sponsor's approved manuals and checklists.

a. Preparation for Flight

(1) Preflight. Accomplish a functions check of all switches, indicators, systems, and equipment at all cockpit crewmembers' and instructors' stations, and determine that the cockpit design and functions are identical to that of the helicopter simulated.
(2) APU/Engine start and run-up.
(a) Normal start procedures.
(b) Alternate start procedures.
(c) Abnormal starts and shutdowns (hot start, hung start, *etc.*)
(d) Rotor engagement.
(e) System checks.
(f) Other.

b. Takeoff

(1) Normal.
(a) From ground.
(b) From hover.
(i) Cat A.
(ii) Cat B.
(c) Running.
(d) Crosswind/tailwind.
(e) Maximum performance.
(f) Instrument.
(2) Abnormal/emergency procedures:
(a) Takeoff with engine failure after critical decision point (CDP).
(i) Cat A.
(ii) Cat B.
(b) Other

c. Climb

(1) Normal.
(2) One engine inoperative.
(3) Other.

d. Cruise

(1) Performance.
(2) Flying qualities.
(3) Turns.
(a) Timed.
(b) Normal.
(c) Steep.
(4) Accelerations and decelerations.
(5) High speed vibrations.
(6) Abnormal/emergency procedures, for example:
(a) Engine fire.
(b) Engine failure.
(c) Inflight engine shutdown and restart.
(d) Fuel governing system failures.
(e) Directional control malfunction.
(f) Hydraulic failure.
(g) Stability system failure.
(h) Rotor vibrations.
(i) Other.

e. Descent

(1) Normal.
(2) Maximum rate.
(3) Other.

f. Approach

(1) Non-precision.
(a) All engines operating.
(b) One or more engines inoperative.
(c) Approach procedures:
(i) NDB
(ii) VOR, RNAV, TACAN
(iii) ASR
(iv) Helicopter only.
(v) Other.
(d) Missed approach.
(i) All engines operating.
(ii) One or more engines inoperative.
(2) Precision.
(a) All engines operating.
(b) One or more engines inoperative.
(c) Approach procedures:
(i) PAR
(ii) MLS
(iii) ILS
(iv) Manual (raw data).
(v) Flight director only.
(vi) Autopilot coupled.
(A) Cat I
(B) Cat II
(vii) Other.
(d) Missed approach.
(i) All engines operating.
(ii) One or more engines inoperative.
(iii) Stability system failure.
(e) Other

g. Any Flight Phase

(1) Helicopter and powerplant systems operation.
(a) Air conditioning.
(b) Anti-icing/deicing.
(c) Auxiliary power plant.
(d) Communications.
(e) Electrical.
(f) Fire detection and suppression.
(g) Stabilizer.
(h) Flight controls.
(i) Fuel and oil.
(j) Hydraulic.
(k) Landing gear.
(l) Oxygen.
(m) Pneumatic.
(n) Powerplant.
(o) Flight control computers.
(p) Stability and control augmentation.
(q) Other.
(2) Flight management and guidance system.
(a) Airborne radar.
(b) Automatic landing aids.
(c) Autopilot.
(d) Collision avoidance system.
(e) Flight data displays.
(f) Flight management computers.
(g) Head-up displays.
(h) Navigation systems.
(i) Other.
(3) Airborne procedures.
(a) Holding.
(b) Air hazard avoidance.
(c) Retreating blade stall recovery.
(d) Mast bumping.
(e) Other.

h. Engine Shutdown and Parking

(1) Engine and systems operation.
(2) Parking brake operation.
(3) Rotor brake operation.
(4) Abnormal/emergency procedures.

3. FTD Systems

a. Instructor Operating Station (IOS)

(1) Power switch(es).
(2) Helicopter conditions.
(a) Gross weight, center of gravity, fuel loading and allocation, etc.
(b) Helicopter systems status.
(c) Ground crew functions (e.g., external power connections, push back, etc.)
(d) Other.
(3) Airports or Landing Areas.
(a) Number and selection.
(b) Runway or landing area selection.
(c) Landing surface condition (*e.g.*, rough, smooth, icy, wet, dry, *etc.*)
(d) Preset positions (*e.g.* ramp, gate, #1 for takeoff, takeoff position, over FAF, *etc.*)
(e) Lighting controls.
(f) Other.
4. Environmental controls.
(a) Temperature.
(b) Climate conditions (*e.g.*, ice, snow, rain, *etc.*).
(c) Wind speed and direction.
(d) Other.
5. Helicopter system malfunctions.
(a) Insertion / deletion.
(b) Problem clear.
(c) Other
6. Locks, freezes, and repositioning.
(a) Problem (all) freeze / release.
(b) Position (geographic) freeze / release.
(c) Repositioning (locations, freezes, and releases).
(d) Two times or one-half ground speed control.
(e) Other
7. Remote IOS.
8. Other.

b. Sound Controls—On / Off / Rheostat

c. Control Loading System. On / Off / Emergency stop

d. Observer Stations

1. Position.
2. Adjustments.

End QPS Requirements

Attachment 4 to Appendix D to Part 60—Definitions and Abbreviations

1. Definitions

Begin Rule Language (14 CFR Part 1 and § 60.3)

(From Part 1—Definitions)

Flight simulation device (FSD) means a flight simulator or a flight training device.

Flight simulator means a full size replica of a specific type or make, model, and series aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent the aircraft in ground and flight operations, a visual system providing an out-of-the-cockpit view, a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standards (QPS) for a specific qualification level.

Flight training device (FTD) means a full size replica of aircraft instruments, equipment, panels, and controls in an open flight deck area or an enclosed aircraft cockpit replica. It includes the equipment and computer programs necessary to represent the aircraft or set of aircraft in ground and flight conditions having the full range of capabilities of the systems installed in the device as described in part 60 of this chapter and the qualification performance standard (QPS) for a specific qualification level.

(From Part 60—Definitions)

Certificate holder. A person issued a certificate under parts 119, 141, or 142 of this chapter or a person holding an approved course of training for flight engineers in accordance with part 63 of this chapter.

Flight test data. Actual aircraft performance data obtained by the aircraft manufacturer (or other supplier of data acceptable to the NSPM) during an aircraft flight test program.

FSD Directive. A document issued by the FAA to an FSD sponsor, requiring a modification to the FSD due to a recognized safety-of-flight issue and amending the qualification basis for the FSD.

Master Qualification Test Guide (MQTG). The FAA-approved Qualification Test Guide with the addition of the FAA-witnessed test, performance, or demonstration results, applicable to each individual FSD.

National Simulator Program Manager (NSPM). The FAA manager responsible for the overall administration and direction of the National Simulator Program (NSP), or a person approved by the NSPM .

Objective test. A quantitative comparison of simulator performance data to actual or predicted aircraft performance data to ensure FSD performance is within the tolerances prescribed in the QPS.

Predicted data. Aircraft performance data derived from sources other than direct physical measurement of, or flight tests on, the subject aircraft. Predicted data may include engineering analysis and simulation, design data, wind tunnel data, estimations or extrapolations based on existing flight test data, or data from other models.

Qualification level. The categorization of the FSD, based on its demonstrated technical and operational capability as set out in the QPS.

Qualification Performance Standard (QPS). The collection of procedures and criteria published by the FAA to be used when conducting objective tests and subjective tests, including general FSD requirements, for establishing FSD qualification levels.

Qualification Test Guide (QTG). The primary reference document used for evaluating an aircraft FSD. It contains test results, performance or demonstration results, statements of compliance and capability, the configuration of the aircraft simulated, and other information for the evaluator to assess the FSD against the applicable regulatory criteria.

Set of aircraft. Aircraft that share similar handling and operating characteristics and similar operating envelopes and have the same number and type of engines or power plants.

Sponsor. A certificate holder who seeks or maintains FSD qualification and is responsible for the prescribed actions as set out in this part and the QPS for the appropriate FSD and qualification level.

Subjective test. A qualitative comparison to determine the extent to which the FSD performs and handles like the aircraft being simulated.

Training Program Approval Authority (TPAA). A person authorized by the Administrator to approve the aircraft flight training program in which the FSD will be used.

Upgrade. The improvement or enhancement of an FSD for the purpose of achieving a higher qualification level.

End Rule Language (14 CFR Part 1 and §60.3)

Begin QPS Requirement

Airspeed—is calibrated airspeed unless otherwise specified and is expressed in terms of nautical miles per hour (knots).

Altitude—is pressure altitude (meters or feet) unless specified otherwise.

Automatic Testing—is simulator testing wherein all stimuli are under computer control.

Bank—is the helicopter attitude with respect to or around the longitudinal axis, or roll angle (degrees).

Breakout—is the force required at the pilot's primary controls to achieve initial movement of the control position.

Closed Loop Testing—is a test method for which the input stimuli are generated by controllers which drive the simulator to follow a pre-defined target response.

Computer Controlled Helicopter—is a helicopter where all pilot inputs to the control surfaces are transferred and augmented by computers.

Control Sweep—is movement of the appropriate pilot controller from neutral to an extreme limit in one direction (Forward, Aft, Right, or Left), a continuous movement back through neutral to the opposite extreme position, and then a return to the neutral position.

Convertible Flight Simulator—is a simulator in which hardware and software can be changed so that the simulator becomes a replica of a different model, usually of the same type helicopter. The same simulator platform, cockpit shell, motion system, visual system, computers, and necessary peripheral equipment can thus be used in more than one simulation.

Critical Engine Parameter—is the parameter which is the most accurate measure of propulsive force.

Deadband—is the amount of movement of the input for a system for which there is no reaction in the output or state of the system observed.

Distance—is the length of space between two points and is expressed in terms of nautical miles unless specified otherwise.

Driven—is a test method where the input stimulus or variable is positioned by automatic means, generally a computer input.

Free Response—is the response of the simulator after completion of a control input or disturbance.

Frozen—is a test condition where one or more variables are held constant with time.

Fuel used—is the amount or mass of fuel used (kilograms or pounds).

Ground Effect—is the change in aerodynamic characteristics due to modification of the air flow past the aircraft caused by the proximity of the earth's surface to the helicopter.

Hands Off—is a test maneuver conducted or completed without pilot control inputs.

Hands On—is a test maneuver conducted or completed with pilot control inputs as required.

Heave—is simulator movement with respect to or along the vertical axis.

Height—is the height above ground level (or AGL) expressed in meters or feet.

Integrated Testing—is testing of the simulator such that all helicopter system models are active and contribute appropriately to the results where none of the models used are substituted with models or other algorithms intended for testing only.

Irreversible Control System—is a control system in which movement of the control surface will not backdrive the pilot's control in the cockpit.

Locked—is a test condition where one or more variables are held constant with time.

Manual Testing—is simulator testing wherein the pilot conducts the test without computer inputs except for initial setup and all modules of the simulation are active.

Medium—is the normal operational weight for a given flight segment.

Nominal—is the normal operational weight, configuration, speed, *etc.*, for the flight segment specified.

Non-Normal Control—is a term used in reference to Computer Controlled Helicopters and is the state where one or more of the intended control, augmentation, or protection functions are not fully working. **Note:** Specific terms such as ALTERNATE, DIRECT, SECONDARY, BACKUP, *etc.*, may be used to define an actual level of degradation.

Normal Control—is a term used in reference to Computer Controlled Helicopters and is the state where the intended control, augmentation, and protection functions are fully working.

Pitch—is the helicopter attitude with respect to or around the lateral axis expressed in degrees.

Power Lever Angle—is the angle of the pilot's primary engine control lever(s) in the cockpit. This may also be referred to as PLA, THROTTLE, or POWER LEVER.

Protection Functions—are systems functions designed to protect a helicopter from exceeding its flight maneuver limitations.

Pulse Input—is a step input to a control followed by an immediate return to the initial position.

Reversible Control System—is a control system in which movement of the control surface will backdrive the pilot's control in the cockpit.

Roll—is the helicopter attitude with respect to or around the longitudinal axis expressed in degrees.

Sideslip—is the angular difference between the helicopter heading and the direction of movement in the horizontal plane.

Simulation Data—are the various types of data used by the simulator manufacturer and the applicant to design, manufacture, and test the simulator.

Simulator Approval—is the extent to which a simulator may be used by a certificate holder as authorized by the FAA. It takes account of helicopter to simulator differences and the training ability of the organization.

Simulator Latency—is the additional time beyond that of the response time of the helicopter due to the response of the simulator.

Snapshot—is a presentation of one or more variables at a given instant of time.

Source Data—are, for the purpose of this document, performance, stability and control, and other necessary test parameters electrically or electronically recorded in a helicopter using a calibrated data acquisition system of sufficient resolution and verified as accurate by the company performing the test to establish a reference set of relevant parameters to which like simulator parameters can be compared.

Statement of Compliance and Capability (SOC)—is a declaration that specific requirements have been met. It must declare that compliance with the requirement is achieved and explain how the requirement is met (*e.g.*, gear modeling approach, coefficient of friction sources, *etc.*). It must also describe the capability of the simulator to meet the requirement (*e.g.*, computer speed, visual system refresh rate, *etc.*). In doing this, the statement must provide references to needed sources of information for showing compliance, rationale to explain how the referenced material is used, mathematical equations and parameter values used, and conclusions reached.

Step Input—is an abrupt control input held at a constant value.

Surge—is simulator movement with respect to or along the longitudinal axis.

Sway—is simulator movement with respect to or along the lateral axis.

Time History—is a presentation of the change of a variable with respect to time.

Training Program Approval Authority (TPAA)—is the person who exercises authority on behalf of the Administrator in approving the aircraft flight training program for the appropriate helicopter in which the simulator will be used. This person is the principal operations inspector (POI) for programs approved under 14CFR parts 63, 121, 125, or 135; or the training center program manager (TCPM) for programs approved under part 141 or 142.

Transport Delay or ''Throughput''—is the total simulator system processing time required for an input signal from a pilot primary flight control until motion system, visual system, or instrument response. It is the overall time delay incurred from signal input until output response. It does not include the characteristic delay of the helicopter simulated.

Validation Data—are data used to determine if the simulator performance corresponds to that of the helicopter.

Validation Test—is a test by which simulator parameters are compared to the relevant validation data.

Visual System Response Time—is the interval from a control input to the completion of the visual display scan of the first video field containing the resulting different information.

Yaw—is helicopter attitude with respect to or around the vertical axis expressed in degrees.

End QPS Requirements

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2. Abbreviations

Begin QPS Requirements

AFM—Approved Flight Manual.
AGL—Above Ground Level (meters or feet).
AOA—Angle of Attack (degrees).
APD—Aircrew Program Designee.
CCA—Computer Controlled Aircraft.
cd/m2—candela/meter^2, 3.4263 candela/m^2 = 1 ft-Lambert.
CFR—Code of Federal Regulations.
cm(s)—centimeter, centimeters.
daN—decaNewtons, one (1) decaNewton = 2.27 pounds.
deg(s)—degree, degrees.
DOF—Degrees-of-freedom.
EPR—Engine Pressure Ratio.
FAA—Federal Aviation Administration (U.S.).
fpm—feet per minute.
ft—foot/feet, 1 foot = 0.304801 meters.
ft-Lambert—foot-Lambert, 1 ft-Lambert = 3.4263 candela/m^2.
g—Acceleration due to Gravity (meters or feet/sec^2); 1g = 9.81 m/sec^2 or 32.2 feet/sec^2.
G/S—Glideslope.
IATA—International Airline Transport Association.
ICAO—International Civil Aviation Organization.
ILS—Instrument Landing System.
IQTG—International Qualification Test Guide.
km—Kilometers 1 km = 0.62137 Statute Miles.
kPa—KiloPascal (Kilo Newton/Meters2). 1 psi = 6.89476 kPa.
Kts—Knots calibrated airspeed unless otherwise specified, 1 knot = 0.5148 m/sec or 1.689 ft/sec.
lb(s)—pound(s), one (1) pound = 0.44 decaNewton.
M,m—Meters, 1 Meter = 3.28083 feet.
Min(s)—Minute, minutes.
MLG—Main Landing Gear.
Mpa—MegaPascals (1 psi = 6894.76 pascals).
ms millisecond(s).
N—NORMAL CONTROL Used in reference to Computer Controlled Aircraft.
N1—Low Pressure Rotor revolutions per minute, expressed in percent of maximum.
N2—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
N3—High Pressure Rotor revolutions per minute, expressed in percent of maximum.
nm—Nautical Mile(s) 1 Nautical Mile = 6,080 feet.
NN—NON-NORMAL CONTROL Used in reference to Computer Controlled Aircraft.
NWA—Nosewheel Angle (degrees).
PAPI—Precision Approach Path Indicator System.
PLA—Power Lever Angle.
Pf—Impact or Feel Pressure, often expressed as ''q.''.
PLF—Power for Level Flight. psi pounds per square inch.
QPS—Qualification Performance Standard.
RAE—Royal Aerospace Establishment.
R/C—Rate of Climb (meters/sec or feet/min).
R/D—Rate of Descent (meters/sec or feet/min).
REIL—Runway End Identifier Lights.
RVR—Runway Visual Range (meters or feet).
s—second(s).
sec(s)—second, seconds.
sm—Statute Mile(s) 1 Statute Mile = 5,280 feet.
SOC—Statement of Compliance and Capability.
T/O—Takeoff.
Tf—Total time of the flare maneuver duration.
Ti—Total time from initial throttle movement until a 10% response of a critical engine parameter.
TIR—Type Inspection Report.
T/O—Takeoff.
Tt—Total time from Ti to a 90% increase or decrease in the power level specified.
VASI—Visual Approach Slope Indicator System.
VGS—Visual Ground Segment.
Vmc—Minimum Control Speed.

Vmca—Minimum Control Speed in the air.
Vmcg—Minimum Control Speed on the ground.

End QPS Requirements 7

Attachment 5 to Appendix D to Part 60—Sample Documents

Begin Information

Title of Sample

Table of Contents

Figure 1. Sample Letter of Request
Figure 2. Sample Qualification Test Guide Cover Page
Figure 3. Sample FTD Information Page
Figure 4. Sample Statement of Qualification
4A Sample Statement of Qualification; Configuration List
4B Sample Statement of Qualification; Qualified/Non-Qualified Tasks
Figure 5. Sample Recurrent Evaluation Requirements Page
Figure 6. Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date
Figure 7. Sample MQTG Index of Effective FSD Directives

End Information

BILLING CODE 4910–13–P

Attachment 5 to Appendix D to Part 60—

Figure 1 – Sample Letter of Request

INFORMATION

Date

Name, POI, _____(Certificate Holder)

FAA FSDO _____

Address

City, State, Zip

Dear Mr./Ms. _____:

(Sponsor's name) _____ requests evaluation of our (type) _____ helicopter FTD for Level _____ qualification. The (name) _____ FTD with (name) _____visual system is fully defined on page _____ of the accompanying qualification test guide (QTG). We have completed tests of the FTD and confirm that it meets all applicable requirements of Title 14 of the Code of Federal Regulation (14 CFR) part 60 and the requirements of the Helicopter Flight FTD Qualification Performance Standards (QPS). Appropriate hardware and software configuration control procedures have been established.

Our pilot(s) (name) _____ [and (name)_____], who is(are) qualified on (type) _____ helicopter, has(have) assessed the FTD and found that it conforms to the (sponsor name) _____ (type) _____ helicopter cockpit configuration and that the simulated systems and subsystems have been evaluated and found to function equivalently to those in the helicopter. The above named pilot(s) has(have) found that the FTD represents the respective helicopter in accordance with the attached Configuration List. He/She(They) has(have) also subjectively assessed the performance and flying qualities of the FTD and state that it represents the helicopter. He/She(They) has(have) not subjectively tested the FTD for those tasks on the attached Restrictions-to-Qualification list and we do not seek qualification in these areas.

(Added comments as desired.)

Sincerely,

(Signature of Appropriate Person)

Attachment 5 to Appendix D to Part 60—

Figure 2 – Sample Qualification Test Guide Cover Page

INFORMATION

SPONSOR NAME

SPONSOR ADDRESS

FAA QUALIFICATION TEST GUIDE

(SPECIFIC HELICOPTER MODEL)
(*for example*)
(Vertiflite AB-320)

(FTD Identification Including Manufacturer, Serial Number, Visual System Used)

(FTD Level)

(Qualification Performance Standard Used)

(FTD Location)

FAA Initial Evaluation

Date: _____

_____ Date: _____
(Sponsor)

_____ Date: _____
Manager, National
Simulator Program, FAA

Attachment 5 to Appendix D to Part 60—

Figure 3 – Sample FTD Information Page

INFORMATION

SPONSOR NAME	
SPONSOR FTD CODE:	AB-320 #1
HELICOPTER MODEL:	Vertiflite AB-320
AERODYNAMIC DATA REVISION:	AB-320, CPX-8D, January 1988
ENGINE MODEL(S) AND REVISION:	CPX-8D; RPT-6, January 1988 DRQ-4002, RPT-3, April 1991
FLIGHT CONTROLS DATA REVISION:	AB-320MMM; May 1988
FLIGHT MANAGEMENT SYSTEM:	Berry XP
FTD MODEL AND MANUFACTURER:	VTF-320, Tinker Simulators, Inc.
DATE OF FTD MANUFACTURE:	1988
FTD COMPUTER:	CIA
VISUAL SYSTEM MODEL, MANUFACTURER, and DISPLAY TYPE:	ClearView, Inc. "Real World H1;" CRT Visual System
VISUAL SYSTEM COMPUTER:	LMB-H1
MOTION SYSTEM:	N/A

Information on this page must be updated and kept current with any modifications or changes made to the FTD and reflected on the log of revisions and the list of effective pages.

Attachment 5 to Appendix D to Part 60—

Figure 4 – Sample Statement of Qualification

Federal Aviation Administration
National Simulator Program

Statement of Qualification

This is to certify that representatives of the
National Simulator Program
Completed an evaluation of the

Go-Fast Training Center
Vertiflite AB-320 Flight Training Device

FAA Identification Number 889

And found it to meet the standards set forth
In the Qualification Performance Standards
For a flight training device at

Level 6

_____ _____

(date) for the NSPM

Subject to the attached
Configuration List and Restrictions

Attachment 5 to Appendix D to Part 60—

Figure 4A – Sample Statement of Qualification; Configuration List

INFORMATION

STATEMENT of QUALIFICATION
CONFIGURATION LIST
Go-Fast Training Center Vertiflite AB-320 -- Level 6 -- FAA ID# 889

Configuration		Date Qualified
Helicopter Model:.....	AB-320.....	July 12, 1988
Engine Model(s) and Revision:...	☐ CPX-8D, RPT-6.....	July 12, 1988
	☐ DRQ-4002, RPT-3.....	April 1, 1991
Flight Management System:.....	Berry XP.....	July 12, 1988
Visual System / Manufacturer: ☐ CRT Installation:..... ☐ Projected System:.....	Real World H1, Clear View, Inc. 1 Channel, 2 Window CRT.....	July 12, 1988
Flight Instruments: ☐ Electro-Mechanical:..... ☐ Display (CRT, LCD, etc.)..... ☐ Combination ..... ☐ Heads-Up Display.....	.....	July 12, 1988
Flight Director: ☐ Single Cue..... ☐ Dual Cue..... ☐ None.....	Sperry.....	July 12, 1988
Engine Instruments: ☐ Electro-Mechanical..... ☐ Display (CRT, LCD, etc.)..... ☐ Combination.....	.....	July 12, 1988
Navigation Type(s): ☐ ADF..... ☐ VOR/ILS..... ☐ GPS..... ☐ INS..... ☐ IRS.....		 July 12, 1988 July 12, 1988 July 12, 1988
Weather Radar:		
TCAS		
ACARS		

Attachment 5 to Appendix D to Part 60—

Figure 4B – Sample Statement of Qualification; Qualified/Non-Qualified Tasks

INFORMATION

STATEMENT of QUALIFICATION
Qualified/Non-Qualified Tasks
Go-Fast Training Center
Vertiflite AB-320 -- Level 6 -- FAA ID# 889

The following are those items listed in the Helicopter Flight Training Device Qualification Performance Standards (QPS), FAA-S-120-63FTD, dated (May 1, 2000) Appendix 3, Subjective Tests, indicating what tasks and systems are qualified **(Q)** *and what tasks and systems are not qualified* **(NQ).**

NQ	Q	TASK		NQ	Q	TASK
		A. Preparation for Flight.			X	(a) Timed.
	X	1. Preflight.			X	(b) Normal.
		2. APU/Engine start and run-up.			X	(c) Steep.
	X	(a) Normal start procedures.				4. Accelerations and decelerations.
	X	(b) Alternate start procedures.		X		5. High speed vibrations.
	X	(c) Abnorm. starts / shutdowns.				6. Abnormal/emergency procedures
	X	(d) Rotor engagement.			X	(a) Engine fire.
	X	(e) System checks			X	(b) Engine failure.
	X	(f) Other.			X	(c) Inflight eng. shutdown and restart.
		B. Takeoff.			X	(d) Fuel governing system failures.
		1. Normal.			X	(e) Directional control malfunction
	X	(a) From ground.			X	(f) Hydraulic failure.
		(b) From hover.		X		(g) Stability system failure.
X		(1) Cat A.		X		(h) Rotor vibrations.
X		(2) Cat B.			X	(i) Other.
	X	(c) Running.				**E. Descent.**
	X	(d) Crosswind/tailwind.			X	1. Normal.
	X	(e) Maximum performance.			X	2. Maximum rate.
	X	(f) Instrument.			X	3. Other.
		2. Abnorm./emer. procedures:				**F. Approach.**
		(a) Takeoff, eng. fail after CDP.				1. Non-precision.
	X	(1) Cat A.			X	(a) All engines operating.
	X	(2) Cat B.			X	(b) Engines inoperative.
	X	(b) Other				(c) Approach procedures:
		C. Climb.			X	(1) NDB
	X	1. Normal.			X	(2) VOR
	X	2. One engine inoperative.		X		(3) RNAV
	X	3. Other.		X		(4) TACAN
		D. Cruise.		X		(5) ASR
	X	1. Performance.			X	(6) Helicopter only.
	X	2. Flying qualities.			X	(7) Other.
		3. Turns.				(d) Missed approach.

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	TASK (Con't.)		NQ	Q	TASK (Con't.)
	X	(1) All engines operating.		X		(c) Autopilot.
	X	(2) Engine(s) inoperative.		X		(d) TCAS
		2. Precision.			X	(e) Flight data displays.
	X	(a) All engines operating.			X	(f) Flight management computers.
	X	(b) Engine(s) inoperative.		X		(g) Head-up displays.
		(c) Approach procedures			X	(h) Navigation systems.
X		(1) PAR			X	(i) Other.
X		(2) MLS				3. Airborne procedures.
	X	(3) ILS			X	(a) Holding.
	X	(4) Manual		X		(b) Air hazard avoidance.
	X	(5) With Flight director.			X	(c) Retreating blade stall recovery.
		(6) Autopilot coupled		X		(d) Mast bumping.
X		(i) Cat I			X	(e) Other.
X		(ii) Cat II				**H. Engine Shutdown and Parking.**
	X	(7) Other.			X	1. Engine and systems operation.
		(d) Missed approach.			X	2. Parking brake operation.
	X	(1) All engines operating.			X	3. Rotor brake operation.
	X	(2) Engine(s) inoperative.			X	4. Abnorm./emer. procedures.
	X	(3) Stability system failure.				
	X	(e) Other				
		G. Any Flight Phase.				
		1. Systems operation.				
	X	(a) Air conditioning.				
	X	(b) Anti-icing/deicing.				
	X	(c) Auxiliary power plant.				
	X	(d) Communications.				
	X	(e) Electrical				
	X	(f) Fire detect. and suppression.				
X		(g) Stabilizer.				
	X	(h) Flight controls.				
	X	(i) Fuel and oil.				
	X	(j) Hydraulic.				
	X	(k) Landing gear.				
	X	(l) Oxygen.				
	X	(m) Pneumatic.				
	X	(n) Powerplant.				
	x	(o) Flight control computers.				
X		(p) Stability augmentation.				
	X	(q) Other.				
		2. Flight mgmt. and guide. system.				
X		(a) Airborne radar.				
X		(b) Automatic landing aids.				

Initials _____ Date_____

-- Continued Next Page --

NQ	Q	FTD SYSTEM		NQ	Q	FTD SYSTEM
		A. Inst. Ops. Station (IOS).				**B. Sound Controls.**
	X	1. Power switch(es).			X	-- On / off / rheostat
		2. Helicopter conditions.				**C. Observer Stations.**
	X	(a) GW, CG, Fuel weight, etc.			X	1. Position.
	X	(b) Airplane systems status.			X	2. Adjustments.
	X	(c) Ground crew functions				
	X	(d) Other.				
		3. Airports and Landing Areas.				
	X	(a) Number and selection.				
	X	(b) Runway selection.				
	X	(c) Runway surface condition				
	X	(d) Preset positions				
	X	(e) Lighting controls.				
	X	(f) Other.				
		4. Environmental controls.				
	X	(a) Clouds (base and tops).				
	X	(b) Visibility				
	X	(c) Runway visual range				
	X	(d) Temperature.				
	X	(e) Climate conditions				
	X	(f) Wind speed and direction.				
	X	(g) Other.				
		5. Helicopter system malfunctions.				
	X	(a) Insertion / deletion.				
	X	(b) Problem clear.				
	X	(c) Other				
		6. Locks, freezes, repositioning.				
	X	(a) Problem freeze / release.				
	X	(b) Position freeze / release.				
	X	(c) Repositioning				
	X	(d) Ground speed control				
	X	(e) Other				
X		7. Remote IOS.				
	X	8. Other.				

Initials _____ Date_____ -- End --

Attachment 5 to Appendix D to Part 60—

Figure 5 – Sample Recurrent Evaluation Requirements Page

INFORMATION

Recurrent Evaluation Requirements ***Completed at conclusion of Initial Evaluation***	
Recurrent Evaluations to be conducted each _(fill in)__ months Allotting _____ hours of FTD time. Signed: _____ NSPM / Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

Revision: Based on (enter reasoning):	
Recurrent Evaluations are to be conducted each _(fill in)__ months. Allotting _____ hours. Signed: _____ NSPM Evaluation Team Leader	Recurrent evaluations are due as follows: _(month)__ and __(month)_ and __(month)_ (enter or strike out, as appropriate) _____ Date

(Repeat as Necessary)

Attachment 5 to Appendix D to Part 60—

Figure 6 – Sample Request for Initial, Upgrade, or Reinstatement Evaluation Date

INFORMATION

Mr. Edward Cook
Manager, National Simulator Program
Federal Aviation Administration
P.O. Box 20636 (AFS-205)
Atlanta, GA 30320

Dear Mr. Cook:

RE: Request for Initial [Upgrade / Reinstatement] Evaluation Date

This is to advise you of our intent to request an evaluation of our (Aircraft Type/Level) FTD located in (City/State) at the (Facility) on (proposed evaluation date). [The proposed evaluation date shall not be more than 180 days following the date of this letter.] This FTD [has / has not] been previously qualified by the FAA [and had been issued FAA identification number XXX]. [The history of this FTD is as follows:
_____.]

We agree to provide a Qualification Test Guide (QTG) to your staff not later than 45 days prior to the proposed evaluation date (if tests not run at training site, an additional "1/3 on-site" tests must be provided not later than 14 days prior the proposed evaluation date). If we are unable to meet the above date for the evaluation, this may result in a significant delay, perhaps 45 days or more, in rescheduling and completing the evaluation.

[Added comments from Operator/Sponsor, if any]

Please contact (Name and Telephone Number of Sponsor's Contact) to confirm the date for this initial evaluation. We understand a member of your National Simulator Program staff will respond to this request within 14 days.

A copy of this letter of intent has been provided to our Principal Operations Inspector (POI) and/or Training Center Program Manager (TCPM).

Sincerely,

(Signature)

Acknowledgement:

____ We concur with your proposed dates.

____ The date requested is not available, however, we propose the following date:

____ Please provide us with the following information:

_____ _____
Scheduler, National Simulator Program Date

Attachment 5 to Appendix D to Part 60—

Figure 7 – Sample MQTG Index of Effective FSD Directives

INFORMATION

Index of Effective FSD Directives
Filed in this Section

Notification Number	Received From: (TPAA/NSPM)	Date of Notification	Date of Modification Completion

Continue as Necessary....

BILLING CODE 4910–13–C

Attachment 6 to Appendix D to Part 60—Record of FSD Directives

Begin QPS Requirements

When the FAA determines that modification of an FTD is necessary for safety reasons, all affected FTDs must be modified accordingly, regardless of the original qualification standards applicable to any specific FTD.

a. A copy of the notification to the sponsor from the TPAA or NSPM that a modification is necessary will be filed in and maintained as part of this attachment.

b. The effective FSD Directives, including the date of the directive, the direction to make these changes, and the date of completion of any resulting modification must be maintained in a separate section of the MQTG and index accordingly. The MQTG must also be updated to include the information described in § 60.15(b)(4) as may be appropriate as a result of the FSD Directive. See Attachment 5 of this appendix for a sample Index of Effective FSD Directives.

End QPS Requirements

Begin QPS Requirements

The following FSD Directives have been issued and are filed in this attachment according to the below-listed Notification Number. (Continue as necessary)

Notification No.	Individual FTDs affected	Sponsors affected	Date of notification

Notification No.	Individual FTDs affected	Sponsors affected	Date of notification

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

7. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

8. Section 61.1 is amended by revising paragraphs (b)(1) and (b)(15)(iii), and by removing and reserving paragraphs (b)(5) and (b)(7), to read as follows:

§ 61.1 Applicability and definitions.

* * * * *

(b) * * *

(1) Aeronautical experience means pilot time obtained in an aircraft, a flight simulator, a flight training device, or other device approved under § 61.4(b) for meeting the appropriate training and flight time requirements for an airman certificate, rating, flight review or recency of flight experience requirements of this part.

* * * * *

(15) * * *

(iii) In a flight simulator, a flight training device, or other device approved under § 61.4(b) from an authorized instructor.

9. Section 61.4 is revised to read as follows:

§ 61.4 Flight simulators, flight training devices, or other devices.

(a) Each flight simulator and flight training device used for training, and for which an airman is to receive credit to satisfy any training, testing, or checking requirement under this chapter, must be evaluated and qualified under part 60 of this chapter and must be approved by the Administrator for both of the following:

(1) The training, testing, and checking for which it is used.

(2) Each particular maneuver, procedure, or flightcrew member function performed.

(b) The Administrator may approve a device other than a flight simulator or flight training device for the purpose indicated in those sections of this part where the phrase ''other device'' is used.

10. Section 61.23 is amended by revising paragraphs (b)(7) and (b)(8) to read as follows:

§ 61.23 Medical certificates: Requirement and duration.

* * * * *

(b) * * *

(7) When serving as an examiner or check airman during the administration of a test or check for a certificate, rating, or authorization conducted in a flight simulator, a flight training device, or other device approved under § 61.4(*b*); or

(8) When taking a test or check for a certificate, rating, or authorization conducted in a flight simulator, a flight training device, or other device approved under § 61.4(*b*).

* * * * *

11. Section 61.31 is amended by revising the introductory text of paragraph (g)(3) to read as follows:

§ 61.31 Type rating requirements, additional training, and authorization requirements.

* * * * *

(g) * * *

(3) The training and endorsement required by paragraphs (g)(1) and (g)(2) of this section are not required if that person can document satisfactory accomplishment of any of the following in a pressurized aircraft, a flight simulator, a flight training device, or other device approved under § 61.4(b) that is representative of a pressurized aircraft:

* * * * *

12. Section 61.51 is amended by revising paragraphs (b)(1)(iii), (b)(2)(v), (b)(3)(iii), (g)(4), and (h)(1) to read as follows:

§ 61.51 Pilot logbooks.

* * * * *

(b) * * *

(1) * * *

(iii) Location where the aircraft departed and arrived, or for lessons in a flight simulator, a flight training device, or other device approved under § 61.4(b), the location where the lesson occurred.

* * * * *

(2) * * *

(v) Training received in a flight simulator, a flight training device, or other device approved under § 61.4(b) from an authorized instructor.

(3) * * *

(iii) Simulated instrument conditions in flight, a flight simulator, a flight training device, or other device approved under § 61.4(b).

* * * * *

(g) * * *

(4) A flight simulator, a flight training device, or other device approved under § 61.4(b), may be used by a person to log instrument flight time, provided an authorized instructor is present during the simulated flight.

(h) *Logging training time.* (1) A person may log training time when that person receives training from an authorized instructor in an aircraft, flight simulator, a flight training device, or other device approved under § 61.4(b).

* * * * *

13. Section 61.65 is amended by revising paragraphs (a)(5), (a)(8)(ii), the introductory text of paragraph (c), the heading and introductory text of paragraph (e), and (e)(2) to read as follows:

§ 61.65 Instrument rating requirements.

(a) * * *

(5) Receive and log training on the areas of operation of paragraph (c) of this section from an authorized instructor in an aircraft, a flight simulator, a flight training device, or other device approved under § 61.4(b) that represents an airplane, helicopter, or powered-lift appropriate to the instrument rating sought;

* * * * *

(8) * * *

(ii) A flight simulator, a flight training device, or other device approved under § 61.4(b) appropriate to the rating sought and approved for the specific maneuver or procedure performed. If a flight training device or other device approved under § 61.4(b) is used for the practical test, the instrument approach procedures conducted in that device are limited to one precision and one nonprecision approach, provided the flight training device or other device approved under § 61.4(b) is approved for the procedure performed.

* * * * *

(c) *Flight proficiency.* A person who applies for an instrument rating must receive and log training from an authorized instructor in an aircraft, a flight simulator, a flight training device, or other device approved under § 61.4(b) in accordance with paragraph (e) of this

section, that includes the following areas of operation:

* * * * *

(e) *Use of flight simulators, flight training devices, or other devices approved under § 61.4(b).* If the instrument training was provided by an authorized instructor in a flight simulator, a flight training device or other device approved under § 61.4(*b*)—

* * * * *

(2) A maximum of 20 hours may be performed in that flight simulator, flight training device, or other device approved under § 61.4(b) if the training was not accomplished in accordance with part 142 of this chapter.

14. Section 61.109 is amended by revising paragraphs (i) heading and (i)(1) to read as follows:

§ 61.109 Aeronautical experience.

* * * * *

(i) *Permitted credit for use of a flight simulator, a flight training device, or other device approved under § 61.4(b).* (1) Except as provided in paragraph (i)(2) of this section, a maximum of 2.5 hours of training in a flight simulator, a flight training device, or other device approved under § 61.4(b), representing the category, class, and type, if applicable, of aircraft appropriate to the rating sought, may be credited toward the flight training time required by this section, if received from an authorized instructor.

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

15. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

16. Section 63.39 is amended by revising paragraph (b)(3) to read as follows:

§ 63.39 Skill requirements.

* * * * *

(b) * * *

(3) In flight, in an airplane simulator, or in an appropriately equipped cockpit specific flight training device qualified in accordance with part 60 of this chapter, show that he can satisfactorily perform emergency duties and procedures and recognize and take appropriate action for malfunctions of the airplane, engines, propellers (if appropriate), systems and appliances.

17. Appendix C to part 63 is amended by revising the introductory text of paragraph (a)(3)(iv) to read as follows:

Appendix C to Part 63—Flight Engineer Training Course Requirements

(a) * * *

(3) * * *

(iv) If the Administrator finds a simulator or appropriately equipped cockpit specific flight training device qualified in accordance with part 60 of this chapter to accurately reproduce the design, function, and control characteristics, as pertaining to the duties and responsibilities of a flight engineer on the type of airplane to be flown, the flight training time may be reduced by a ratio of 1 hour of flight time to 2 hours of airplane simulator time, or 3 hours of time in an appropriately equipped cockpit specific flight training device qualified in accordance with part 60 of this chapter, as the case may be, subject to the following limitations:

* * * * *

PART 141—PILOT SCHOOLS

18. The authority citation for part 141 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709, 44711, 45102–45103, 45301–45302.

19. Section 141.41 is amended by revising paragraphs (a) and (b) to read as follows:

§ 141.41 Flight simulators, flight training devices, and training aids.

* * * * *

(a) *Flight simulators.* Each flight simulator used to obtain flight training credit allowed for flight simulators in an approved pilot training course curriculum must be evaluated and qualified under part 60 of this chapter and must be approved by the Administrator for use under an approved training program.

(b) *Flight training devices.* Each flight training device used to obtain flight training credit allowed for flight training devices in an approved pilot training course curriculum must be evaluated and qualified under part 60 of this chapter and must be approved by the Administrator for use under an approved training program.

* * * * *

PART 142—TRAINING CENTERS

20. The authority citation for part 142 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

21. Section 142.3 is amended by removing the definition for ''Advanced Flight Training Device'' and by revising the definition for ''Flight training equipment'' to read as follows:

§ 142.3 Definitions.

* * * * *

Flight training equipment means flight simulators, flight training devices, and aircraft.

* * * * *

22. Section 142.15 is amended by revising paragraph (d) to read as follows:

§ 142.15 Facilities.

* * * * *

(d) An applicant for, or holder of, a training center certificate must have available exclusively, for adequate periods of time and at a location approved by the Administrator, adequate flight training equipment and courseware, including at least one flight simulator or flight training device.

23. Section 142.59 is amended by revising paragraph (c), by removing and reserving paragraph (d), and by removing paragraph (f) to read as follows:

§ 142.59 Flight simulators and flight training devices.

* * * * *

(c) Each flight simulator or flight training device used by a training center must be evaluated and qualified under part 60 of this chapter and must be approved by the Administrator for use under an approved training program.

* * * * *

Issued in Washington, DC, on June 4, 2002.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02–14785 Filed 9–24–02; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Wednesday,
September 25, 2002

Part III

Department of Housing and Urban Development

HUD's Loss Mitigation Default Counseling Demonstration Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4706–N–01]

HUD's Loss Mitigation Default Counseling Demonstration Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice announces the Department's intent to conduct a limited demonstration program to gauge the demand for and the usefulness of including in the loss mitigation actions the reimbursement to mortgagees for default counseling provided to borrowers by HUD approved Housing Counseling Agencies (HCAs). Such counseling may be of particular assistance to borrowers in certain targeted areas where default rates exceed national averages and/or predatory lending practices have been identified by the Department. This demonstration will also further the concept of mitigating insurance claim losses to the Department by increasing mortgagors' access to counseling.

DATES: Comment Due Date: November 25, 2002.

ADDRESSES: Interested persons are invited to submit comments and responses to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) responses are not acceptable. A copy of each response will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. eastern time) at the above address.

FOR FURTHER INFORMATION CONTACT: Laurie Anne Maggiano, Director, Single Family Asset Management and Disposition Division, Room 9286, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410–8000; telephone (202) 708–1672 (this is not a toll free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Department has operated the Loss Mitigation program since 1996, and has, in working with lenders, steadily increased the number of mortgagors who successfully avoided foreclosure or, in those instances where the mortgagors did not have the financial means to retain their homes, helped them avoid the stigma of foreclosure through the use of deeds in lieu of foreclosure or pre-foreclosure sales.

The Department is encouraged by the steadily increasing usage of loss mitigation options by mortgagees. However, there remain geographic areas where default and foreclosure rates are significantly higher than national averages for FHA insured loans and where conditions associated with predatory lending practices are observed.

The Department consistently takes appropriate enforcement actions to ensure that mortgagees follow HUD/FHA loss mitigation requirements. Among loss mitigation tools, counseling can be effective in helping mortgagors avoid foreclosure when possible. Additionally, effective counseling minimizes the risk to the mortgage insurance funds.

Because mortgagors who require counseling are already financially stressed, it is necessary to ensure that the counseling will be offered free of charge to mortgagors who want such counseling. HUD/FHA's experience has been that Housing Counseling Agencies (HCAs) are often backlogged with cases in geographic areas where there is a high incidence of default. Counseling agencies receive limited grant funds from HUD and other sources, and thus may not have the capability to hire additional staff to deal with an increased workload. This demonstration program would address this issue by enabling mortgagees to pay for default counseling in targeted areas via a $200.00 voucher. The mortgagees would then be reimbursed by HUD/FHA from FHA mortgage insurance funds. In order to encourage borrowers to obtain counseling, HUD/FHA will request mortgagees participating in the demonstration project to inform delinquent borrowers in the target area that default counseling is available at no cost through a participating HCA. The borrower will obtain the counseling, and upon completion of the counseling the HCA will make a loss mitigation recommendation to the borrower's mortgage holder. The mortgagee will pay the HCA for the counseling received and will be reimbursed by HUD.

HUD's payment from the insurance fund for Loss Mitigation actions that provides an alternative to foreclosure is authorized by 12 U.S.C 1715u and 24 CFR 203.501. This demonstration adds default counseling as an effective tool in reducing claims and assisting mortgagors.

II. This Notice

The Department has decided to conduct a limited demonstration program to gauge the demand for, and the usefulness of, reimbursement to mortgagees for payments made to HCAs who provide counseling to delinquent mortgagors to avoid foreclosure. This is key in these specific targeted areas where default rates exceed national averages and/or where possible predatory lending practices have been identified. The Department intends to obtain feedback from participating mortgagees, HCAs and other parties so that an assessment of the demonstration can be made and a decision rendered as to whether the program should be continued or expanded. The demonstration should also be helpful in determining appropriate program criteria and procedures if the decision is made to continue the program after the demonstration ends.

Under this demonstration, reimbursement for default counseling as a loss mitigation tool will not be provided on a nationwide basis, but rather offered only in specific targeted areas. HUD/FHA has developed a model for determining areas that have high default and claim rates that may be indicative of predatory lending practices. HUD's proposed procedures will further examine these areas and refine the model.

The demonstration program, which will last 12 months from commencement date, will be conducted in areas that have default rates well above the national average for FHA loans. The demonstration may be extended another 6 months at the discretion of the Assistant Secretary for Housing-Federal Housing Commissioner. The greater Miami, Florida area, including both Dade and Broward counties, are the initial target areas. HUD/FHA may decide to expand the demonstration to include additional areas or may subsequently remove some of the designated areas. Additional areas may be added at the discretion of the Department. HUD/FHA may remove either an HCA or lender from participation if the participant demonstrates sufficient evidence of non-compliance.

III. Authority for Demonstration

HUD is promulgating this Notice pursuant to 42 U.S.C 3542 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181), which states that no HUD demonstration program not expressly authorized in law may begin

until a description of the program is published in the **Federal Register**, and that a comment period of 60 calendar days following the date of publication shall be provided, in which HUD shall fully consider any public comments submitted with respect to the program.

Upon publication of this Notice, the public is invited to comment for a 60-day period on policies, procedures, estimated savings and other aspects of the proposed program. At the conclusion of this period, comments received will be reviewed and, if necessary, another Notice will be published setting forth any changes in requirements necessary to conduct this initial demonstration. If no comments are received or the comments received do not indicate that the changes are needed in these initially established criteria and procedures, the demonstration will take effect and begin 60 days from the date of this notice. For purposes of initiating and evaluating this demonstration, certain procedures and eligibility criteria will be adopted, as discussed below.

IV. Notification of Program

This demonstration program will be operated by selected mortgagees and HCAs doing business in targeted areas. Four mortgagees will participate in this demonstration program along with all HUD approved HCAs in Dade and Broward Counties who are determined to be qualified to provide default counseling as of the date of the Memorandum of Understanding (MOU). If it is consistent with the goals and objectives of the Demonstration Program, additional mortgagees and/or HCAs may be added during the demonstration program period at the sole discretion of HUD. This action will be done by a modification of the MOU. The participating lenders were selected based upon the size of their portfolios and rate of default in their target area. HUD will develop and submit for signature a MOU between the selected mortgagees, HCAs, and the Department. Mortgagees will be asked to notify mortgagors of the availability of this program in the targeted areas covered by this demonstration program when the mortgagors go into default under the terms of their mortgages. Notification will be by a form letter informing the mortgagor to contact qualified HCAs or their mortgage lenders to obtain advice and assistance in determining options for resolving the delinquency.

The HCAs participating in the demonstration will provide comprehensive default counseling. As part of the counseling process HCAs will use loss mitigation analysis software, if available, to analyze foreclosure prevention options and recommend a specific course of action to the borrower and the mortgagee. All recommendations shall be in compliance with HUD's loss mitigation requirements as identified in Mortgagee Letter 2000–5. Participating mortgagees will work cooperatively with the HCAs to ensure that the most appropriate loss mitigation option is implemented in each case. Following delivery of counseling services, the HCA will provide a voucher signed by the borrower, certifying that default counseling has been provided. Upon receipt of the voucher, the mortgagee will pay the HCA $200 per case. HUD will reimburse mortgagees for all qualified counseling vouchers. The MOU will provide detailed information outlining roles and responsibilities of all parties.

V. Program Requirements

In order for a participating mortgagee to be eligible to obtain reimbursement for payment for housing default counseling as part of loss mitigation, the following must be present:

(1) There must be a mortgagor who is an owner-occupant in a single-family dwelling unit with a mortgage insured under section 203(b), 235, 234(c), 221(d)2 or 203(k) of the National Housing Act, 12 U.S.C. 1709(b), 12 U.S.C. 1715*l* (d)(2), or 12 U.S.C. 1715y(c).

(2) The mortgagor must have an account that is in default, *i.e.*, 30 days after the first uncorrected failure to perform any obligation under the mortgage.

(3) The single-family dwelling unit must be located within the designated target area.

(4) The mortgagee must have sent the mortgagor a notice prescribed by HUD informing the mortgagor that housing default counseling is available.

VI. Evaluating the Success of the Demonstration

During the demonstration, HUD will track loan performance data against established benchmarks for the subject loans and a control group of loans. At the conclusion of the Demonstration, HUD will utilize this data to assess success and determine whether to implement a default counseling voucher loss mitigation claim option on a permanent basis either throughout the country or in targeted markets. In conducting this evaluation HUD will assess the following factors: (1) Whether default counseling is an effective loss mitigation tool; and (2) whether to establish additional program criteria and procedures. HUD is also committed to establishing lender incentives for utilization of default counseling vouchers.

The primary objectives of the Housing Counseling Demonstration are to reduce foreclosures and increase use of loss mitigation workouts in the demonstration area. To measure the program's success and to ensure an effective evaluation of the program, HUD intends to establish baseline data for each of the four participating lenders that includes:

1. Monthly and Annual Foreclosure Rates—The monthly rate will be calculated by dividing the number of foreclosures in the target area by the number of loans with FHA insurance in force for the targeted area, for each of the prior 12 months corresponding to the demonstration period. The annual baseline foreclosure rate will be established by averaging the 12 monthly rates.

2. Quarterly Workout Ratio—Using the current formula for our tier ranking system (formal forbearances + loss mitigation claims divided by formal forbearances + loss mitigation claims + foreclosures) HUD intends to calculate a quarterly workout ratio representing only activity in the target area. The most recent quarterly workout ratio will be used as the baseline.

HUD intends to use these indicators to track and report performance of each participating lender within the target area. HUD's anticipated benchmarks for success for each lender are (1) a 10% or greater reduction in their annual foreclosure rate, (2) an improvement each consecutive quarter in their workout ratio, and (3) that each lender attain or maintain an 80% workout to foreclosure ratio for target area activity by the end of the demonstration period.

HUD also intends to establish a control group that will consist of all other FHA loans in the target area. HUD will calculate a foreclosure rate, by dividing target area foreclosures for all lenders except the demonstration participants, by loans with insurance in force for all lenders except demonstration participants. Similarly the workout ratio will exclude demonstration participants but otherwise be computed and tracked as described above.

VII. Other Provisions

The Headquarters office of HUD will work together with the National Servicing Center in Oklahoma to evaluate the results of the demonstration and determine whether the program should be expanded.

VIII. Findings and Certifications

Public Reporting Burden

The method of providing the documentation to verify the claim for reimbursement will result in information collection requirements. This requirement has been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520). This is the only new information collection requirement that is being established in conjunction with this new rule. HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. HUD has obtained an emergency approval from OMB so that the reimbursement for default counseling can proceed until final approval is obtained. That emergency number evidencing approval is 2502–0549. The HCA will be reimbursed each time a completed Loss Mitigation Package is referred to the lender. Each referral must be documented by the HCA. HUD will reimburse the lender for each paid counseling claim. A single response to the information collection requirement would be required per default counseling referral. HUD estimates that the average time per response would be no more than 30 minutes. Accordingly, the estimated annual burden that would be imposed by the proposed information collection requirement is 4,120 hours.

The burden of the new information collection requirement in this Notice is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
IV	see below*	varies	.5	4120

**The number of parties:* 4 lenders have volunteered to participate in this Demonstration and 7 Housing Counseling Agencies. Each will have dedicated staff assigned to work on this Demonstration.

Total Reporting and Recordkeeping Burden (Hours).....4120

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within 60 days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4706–N–01) and must be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and Gloria Diggs, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 7th Street SW., Room 9116, Washington, DC 20410.

Environmental Impact

This Notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 [entitled ''Federalism''] prohibits an agency from publishing any rule or similar regulatory item that has federalism implications if it either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This demonstration program notice would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local and tribal governments, and on the private sector. This demonstration program notice would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Dated: July 11, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 02–24271 Filed 9–24–02; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

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John F. Kennedy Center Plaza Authorization Act of 2002 (Sept. 18, 2002; 116 Stat. 1340)

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