

or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01-AWP-30." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedures.

#### The Proposal

The FAA is considering an amendment to 14 CFR part 71 by modifying the Class E airspace area at Twentynine Palms, CA. The establishment of a RNAV (GPS) RWY 26 SIAP at Twentynine Palms Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS) RWY 26 SIAP at Twentynine Palms Airport. The intended effect of this proposal is to provide adequate controlled airspace for

aircraft executing the RNAV (GPS) RWY 26 SIAP to Twentynine Palms Airport, Twentynine Palms, CA. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposal regulation only involves an established body of technical regulations for which frequent and routing amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### AWP CA E5 Twentynine Palms, CA [Revised]

Twentynine Palms Airport, CA

(Lat. 34°07'56"N, long. 115°56'03"W)

That airspace extending upward from 700 feet above the surface within a 6.6 mile radius of the Twentynine Palms Airport. That airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 34°17'00"N, long. 115°25'03"W.; to lat. 33°28'00"N, long. 115°25'03"W.; to lat. 33°28'00"N, long. 116°18'03"W.; to lat. 34°17'00"N., 116°18'03"W., thence to the point of beginning; excluding that airspace within Restricted Areas R-2501E, R-2501S, and R-2507.

\* \* \* \* \*

Issued in Los Angeles, California, on December 10, 2001.

**Stephen Lloyd,**

*Acting Assistant Manager, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 02-1375 Filed 1-18-02; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Part 650

[FHWA Docket No. FHWA-2000-7122]

RIN 2125-AE88

#### Discretionary Bridge Candidate Rating Factor

**AGENCY:** Federal Highway Administration (FHWA) DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** The FHWA proposes to revise its regulation on the discretionary bridge program rating factor in order to incorporate several administrative considerations that have proven effective in the project selection process and to update the rating factor formula to reflect the most current highway system designation. These proposed changes would make the selection process easier for the FHWA to administer and the application process easier for the States to understand. Except for the formula change for defense highway status, these changes only seek to incorporate selection procedures that have been used effectively for many years. In addition, formerly designated defense highway bridges are included in the national highway system designation, so this change would have minimal impact. None of the proposed changes will have an appreciable effect on either program eligibility or the application process.

**DATES:** Written comments are due on or before March 25, 2002. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Mail or hand deliver comments to the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington DC 20590, or submit electronically at <http://dms.dot.gov/submit>. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e. t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard, or you may print the acknowledgment page that appears after submitting comments electronically.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steven L. Ernst, Office of Bridge Technology, 202-366-4619, or Mr. Steven Rochlis, Office of the Chief Counsel, 202-366-1395, FHWA, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e. t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resources locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and at the Government Printing Office's web page at <http://www.access.gpo.gov/nara>.

**Background**

This proposed rule implements 23 U.S.C. 144(g), as amended by sections 1109 and 1311 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107 (1988). Section 161 of the Surface Transportation Assistance Act of 1982 (STAA), Public Law 97-424, 96 Stat. 2097, at 2135, directed the Secretary of Transportation (Secretary) to establish a rating factor for each discretionary bridge program candidate based on seven specific items. Section 1311 of the

TEA-21, as added by Public Law 105-206, 112 Stat. 836 (1998), requires the Secretary to establish criteria for all discretionary programs, including the discretionary bridge program. On November 17, 1983, using the criteria from the STAA, the FHWA published in the **Federal Register** the discretionary bridge regulations (48 FR 52292).

The funding for the discretionary bridge program is derived from contract authority for the bridge program provided in section 1101(a)(3) of the TEA-21. The allocation of the discretionary bridge funding by fiscal year for the discretionary bridge program is codified at 23 U.S.C. 144(g)(1).

These proposed revisions to the regulation propose to include the several administrative considerations that have proven effective in the project selection process and to update the rating factor formula to reflect the most current highway system designation. These changes would:

(1) Require that candidate projects be ready to begin construction in the fiscal year in which funds are available for obligation. This will incorporate the administrative practice that has proven effective to provide that candidate projects are sufficiently developed and ready for construction and that funds are used in a timely manner. Projects that are not ready for construction may languish for years, encountering design, environmental, or funding problems that tie up scarce Federal funding and deny funding for other projects which are ready to build.

(2) Allow leveraged funds from local, State, county, or private sources to be used to reduce the total project cost for use in the rating factor formula. Reducing the total project cost with leveraged funds provides an efficient and equitable assessment of the non-federal participation, over and above the usual State match. This also continues the FHWA commitment to provide an accurate cost-benefit analysis of candidate projects.

(3) Disallow any discretionary allocation to a State that has transferred Highway Bridge Replacement and Rehabilitation Program funds to other categories of Federal funding in the previous fiscal year. Transferring bridge funds to other categories is an indication that a State does not have a pressing need for bridge funds. This administrative requirement has been used effectively to assure that States first exhaust their regularly apportioned bridge funds before applying for discretionary funds.

(4) Change the term "D" in the rating factor formula from defense highway

status to "N" for national highway system status (NHS). This change is necessary because the defense highways are no longer a recognized national system. The factor "D" originated in section 161 of the STAA of 1982, and data is no longer collected for this item. Using the national highway system status is a reasonable alternative, since the NHS is recognized as the nation's premier highway system in 23 U.S.C. 103, and one criteria in the code is that the NHS "meets national defense requirements." In addition, formerly designated defense highway bridges are included in the national highway system, and this change will have little effect on project rankings or selection.

In light of the events of September 11, 2001, and the heightened awareness of security issues, we have determined that discretionary bridge funds could be used for security improvements on eligible bridges.

**Section-by-Section Analysis**

*Section 650.703 Eligible Projects*

Paragraph (b) would be revised to require that only those projects not previously selected which will be ready to begin construction in the fiscal year in which funds are available for obligation will be eligible for funding. This will incorporate the administrative practice that has proven effective to provide that candidate projects are sufficiently developed and ready for construction and that funds are used in a timely manner. Projects that are not ready for construction may languish for years, encountering design, environmental, or funding problems that tie up scarce Federal funding and deny funding for other projects which are ready to build.

Paragraph (c) would be added to make any State that has transferred Highway Bridge Replacement and Rehabilitation funds to other fund categories ineligible for following fiscal year funding. Transferring bridge funds to other categories is an indication that a State does not have a pressing need for bridge funds. This administrative requirement has been used effectively to assure that States first exhaust their regularly apportioned bridge funds before applying for discretionary funds.

*Section 650.707 Rating Factor*

We propose to revise paragraph (b) to change the term "D", "Defense Highway System Status," to "N", "National Highway System Status." This revision will bring the formula in line with the current definition of the Federal-Aid Highway Systems found in 23 U.S.C. 103.

Section 161 of the Surface Transportation Assistance Act of 1982 (STAA) required the Secretary of Transportation to develop a selection process for discretionary bridges authorized to be funded under 23 U.S.C. 144(g). Section 161 further outlined the seven criteria that must be considered in evaluating bridge eligibility. One of these seven criteria was the "defense highway system status."

Created under the Defense Highway Act of 1941 (Pub. L. 77-295, 55 Stat. 765), the Defense Highway System was designed to be a "strategic network of highways that conforms to routes designated on the diagrammatic map of principal highway traffic routes of military importance, dated October 25, 1940, revised to May 15, 1941, and approved by the Secretary of War."

Since the passage of the STAA of 1982, the Defense Highway System is now an element of the National Highway System, created by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914 (1991). Section 1006 of the ISTEA redefined the Federal-aid Highway System to include the Interstate System and the National Highway System. One of the components of the National Highway System is "a strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities of the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be on or off the Interstate System and shall be designated by the Secretary in consultation with the appropriate Federal agencies and the States." (23 U.S.C. 103 (b)(2)(D)).

In comparing the components that make up the National Highway System to the elements of the former Defense Highway System, the "strategic network of highways" is an essential element of both of these highway systems. Therefore, the elements of the former Defense Highway System make up one of the components of what is now referred to as the National Highway System. Consequently, by proposing to change the definition of the factor "D" in the formula from the Defense Highway System Status to "N" for National Highway System Status, we do not propose to change the original intent of the formula as established in the ISTEA.

#### *Section 650.709 Special Considerations*

Paragraph (a) would be revised so that leveraged funds from local, State,

county, or private sources may be used to reduce the total project cost to calculate the rating factor. Reducing the total project cost with leveraged funds provides an efficient and equitable assessment of the non-Federal participation, over and above the usual State match. This also continues the FHWA commitment to provide an accurate cost-benefit analysis of candidate projects.

Paragraph (c) would be revised so that only those continuing projects which will be ready to begin construction in the fiscal year in which funds are available for obligation will be considered for funding. This extends the requirement established in § 650.703(b) so that previously selected projects must be ready for construction to the same extent as new projects. As with new projects, previously selected projects that are not ready for construction tie up Federal funds that can be used for ready-to-build projects.

#### **Rulemaking Analysis and Notices**

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to the late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

#### **Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures**

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 nor significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. This rulemaking merely proposes to amend current regulations. It is not anticipated that these proposed changes would affect the

total Federal funding available. Consequently, a full regulatory evaluation is not required.

#### **Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA has evaluated the effects of this proposed rule on small entities, such as city and county governments. The modifications are substantially dictated by the statutory provisions of 23 U.S.C. and the TEA-21 and will substantially improve the selection process. Accordingly, the FHWA hereby certifies that this proposed action would not have a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act. Comments on these conclusions are welcomed and should be submitted to the docket.

#### **Unfunded Mandates Reform Act of 1995**

This proposed rule will not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

#### **Executive Order 13132 (Federalism)**

The proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined this action does not have a substantial direct affect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

#### **Executive Order 13175 (Tribal Consultation)**

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposal will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

#### **Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

### National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action would not have any effect on the quality of the environment.

### Executive Order 12630 (Taking of Private Property)

This proposed rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

### Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Executive Order 13045 (Protection of Children)

We have analyzed this proposed action under Executive Order 13045, Protection of Children from

Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

### Executive Order 13211 (Energy Effects)

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

### List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements, Soil conservation.

Issued on: January 8, 2002.

Mary E. Peters,

*Federal Highway Administrator.*

In consideration of the foregoing, the FHWA proposes to revise title 23, Code

of Federal Regulations, part 650, subpart G as set forth below:

### PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

1. Revise the authority citation for part 650 to read as follows:

**Authority:** 23 U.S.C. 109(a) and (h), 144, 151, 315, and 319; 33 U.S.C. 401, 491 *et seq.*; 511 *et seq.*; sec. 4(b) of Pub. L. 97–134, 95 Stat. 1699 (1981); sec. 161 of Pub. L. 97–424, 96 Stat. 2097, at 3135 (1983); sec. 1311 of Pub. L. 105–178, as added by Pub. L. 105–206, 112 Stat. 842 (1998); 23 CFR 1.32; 49 CFR 1.48(b); E.O. 11988 (3 CFR, 1977 Comp., p. 117); Department of Transportation Order 5650.2, dated April 23, 1979 (44 FR 24678).

2. Revise § 650.703(b) and add § 650.703(c) to read as follows:

#### § 650.703 Eligible projects.

\* \* \* \* \*

(b) After February 21, 2002, only candidate bridges not previously selected with a computed rating factor of 100 or less and ready to begin construction in the fiscal year in which funds are available for obligation will be eligible for consideration.

(c) Projects from States that have transferred Highway Bridge Replacement and Rehabilitation funds to other funding categories will not be eligible for funding the following fiscal year.

3. Revise § 650.707(a) and (b) to read as follows:

#### § 650.707 Rating factor.

(a) The following formula is to be used in the selection process for ranking discretionary bridge candidates:

$$\text{Rating Factor (RF)} = \frac{\text{SR}}{\text{N}} \times \frac{\text{TPC}}{\text{ADT}'} \times \left[ 1 + \frac{\text{Unobligated HBRRP Balance}}{\text{Total HBRRP Funds Received}} \right]$$

The lower the rating factor, the higher the priority for selection and funding.

(b) The terms in the rating factor are defined as follows:

SR is Sufficiency Rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition); (If SR is less than 1.0, use SR=1.0);

ADT is Average Daily Traffic in thousands taking the most current value from the national bridge inventory data;

ADTT is Average Daily Truck Traffic in thousands (Pick up trucks and light delivery trucks not included);

For load posted bridges, the ADTT furnished should be that which would use the bridge if traffic were not restricted.

The ADTT should be the annual average volume, not peak or seasonal. N is National Highway System Status N=1 if not on the National Highway System

N=1.5 if bridge carries a National Highway System road

The last term of the rating factor expression includes the State's unobligated balance of funds received under 23 U.S.C. 144 as of June 30 preceding the date of calculation, and

the total funds received under 23 U.S.C. 144 for the last four fiscal years ending with the most recent fiscal year of the FHWA's annual call for discretionary bridge candidate submittals; (if unobligated HBRRP balance is less than \$10 million, use zero balance);

TPC is Total Project Cost in millions of dollars;

HBRRP is Highway Bridge Replacement and Rehabilitation Program;

ADT' is ADT plus ADTT.

4. In § 650.709, revise paragraphs (a) and (c) to read as follows:

**§ 650.709 Special considerations.**

(a) The selection process for new discretionary bridge projects will be based upon the rating factor priority ranking. However, although not specifically included in the rating factor formula, special consideration will be given to bridges that are closed to all traffic or that have a load restriction of less than 10 tons. Consideration will also be given to bridges with other unique situations, and to bridge candidates in States which have not previously been allocated discretionary bridge funds. In addition, consideration will be given to candidates with leveraged funds from local, State, county, or private sources, but not from Federal sources. Leveraged funds may be used to reduce the total project cost for use in the rating factor formula.

\* \* \* \* \*

(c) Priority consideration will be given to the continuation and completion of projects previously begun with discretionary bridge funds which will be ready to begin construction in the fiscal year in which funds are available for obligation.

[FR Doc. 02-1028 Filed 1-18-02; 8:45 am]

BILLING CODE 4910-22-P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-115054-01]

RIN 1545-AY83

**Treatment of Community Income for Certain Individuals Not Filing Joint Returns**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the treatment of community income under section 66 for certain married individuals in community property states who do not file joint individual Federal income tax returns. The regulations also reflect changes in the law made by the Internal Revenue Service Restructuring and Reform Act of 1998.

**DATES:** Written or electronically generated comments and requests for a public hearing must be received by April 22, 2002.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-115054-01), room 5226, Internal Revenue Service, POB

7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-115054-01), room 5226, Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.ustreas.gov/tax\\_regs/regslst.html](http://www.irs.ustreas.gov/tax_regs/regslst.html).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Robin M. Tuczak, 202-622-4940; concerning submissions of comments and requests for a public hearing, Guy Traynor, 202-622-7190 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by March 25, 2002.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in § 1.66-4. An

individual who wishes to be relieved of the operation of community property law under § 1.66-4 must request relief from joint and several liability by timely filing Form 8857, "Request for Innocent Spouse Relief" (or other specified form), or a written statement, signed under penalties of perjury, indicating why he or she should be relieved of the operation of community property law. This collection of information is required for an individual to request relief from the operation of community property law. This information will be used to carry out the internal revenue laws. The likely respondents are individuals.

The burden contained in § 1.66-4 is reflected in the burden of Form 8857.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Background**

For married taxpayers living in community property states, income that is community property under the laws of the state or jurisdiction in which the spouses reside is generally taxed in equal shares to the husband and the wife. Thus, if a husband and wife do not elect to file a joint individual Federal income tax return (joint return) under section 6013, each spouse is generally required to report one-half of the community income on his or her married filing separate individual Federal income tax return (separate return). Section 66 contains four exceptions to the general rule that community income is taxed in equal shares to the husband and the wife.

Section 66(a) provides rules for the treatment of community income when the spouses live apart and do not share income for the entire taxable year. Section 66(b) authorizes the Secretary to disregard community property laws where one spouse is not notified of the nature and amount of items of community income. Section 66(c) directs the Secretary to prescribe regulations regarding relief from the operation of community property law in certain other cases. This provision is analogous to the relief provision in section 6015(b) relating to joint filers. Section 66(c) also authorizes the