subsurface LFEC inspection for cracking of the forward edge frame of the number 5 main entry door cutouts, at station 2231, between stringers 23 and 31; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2450, Revision 5, dated January 29, 2009. Repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles.

Corrective Action

(l) If any crack is found during any inspection required this AD, before further flight repair the crack per a method approved by the Manager, Seattle Aircraft Certification Office (SACO), FAA; 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; or in accordance with Boeing Alert Service Bulletin 747–53A2450, Revision 5, dated January 29, 2009. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD. As of the effective date of this AD, repair the crack using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

Post-Repair Inspections

(m) Except as required by paragraph (n) of this AD, for airplanes on which the forward edge frame of the number 5 main entry door cutouts, at station 2231, between stringers 16 and 31, is repaired in accordance with Boeing Alert Service Bulletin 747–53A2450: Within 3,000 flight cycles after doing the repair or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, do the detailed, LFEC, and HFEC inspections of the repaired area for cracks in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2450, Revision 5, dated January 29, 2009. If no cracking is found, repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles. If any crack is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD. Doing the inspections specified in paragraph (m) of this AD terminates the repetitive inspections required by paragraphs (g), (h), (i), (j), and (k) of this AD for the repaired area.

(n) For any frame that is repaired in accordance with a method other than the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2450, Revision 5, dated January 29, 2009, do the inspection in accordance with a method approved in accordance with the procedures specified in paragraph (o) of this AD.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, Seattle Aircraft Certification Office (SACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590; Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2001–16–02, amendment 39–12370, are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), and (l) of this AD.

Issued in Renton, Washington, on November 6, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–27963 Filed 11–19–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 125, 133, 137, 141, 142, 145 and 147

[Docket No. FAA–2008–1154; Notice No. 09–13]

RIN 2120–AJ36

Restrictions on Operators Employing Former Flight Standards Service Aviation Safety Inspectors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would prohibit any person holding a certificate to conduct certain operations from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions would apply if the individual, in the preceding 2-year period: Directly served as, or was directly responsible for the oversight of, a Flight Standards Service Aviation Safety Inspector; and had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. This proposed rule would also apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under specific regulations described in this document. This proposed rule would establish these restrictions to prevent potential organizational conflicts of interests which could adversely affect aviation safety.

DATES: Send your comments to reach us on or before February 18, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–1154 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time and follow the online instructions for accessing the docket, or, go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington,

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule, contact Nancy Lauck Claussen, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166, e-mail *Nancy.L.Claussen@faa.gov.* For legal questions concerning this proposed rule, contact Paul G. Greer, Federal Aviation Administration, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: 202–267–3073, e-mail: *Paul.G.Greer@faa.gov.*

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator, to include the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Chapter 447, Safety Regulation. Under Section 44701(a) the FAA is charged with promoting the safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

I. Background

On March 5, 2008, the FAA proposed a $10.2 million civil penalty against a major airline for operating 46 airplanes without performing mandatory inspections for fuselage fatigue cracking. The FAA alleged that the airline operated 46 Boeing 737 airplanes on almost 60,000 flights from June 2006 to March 2007 while failing to comply with an existing FAA Airworthiness Directive (AD) that required repetitive inspections of certain fuselage areas to detect fatigue cracking.

After investigating these events, the FAA took steps to improve its safety systems and strengthen regulations to minimize the risk of reoccurrence of these or similar events. One such step was to toughen Aviation Safety Inspector (ASI) post employment restrictions to prevent conflicts of interest. This proposed rulemaking would establish restrictions on persons employing former Flight Standards Service (AFS) ASIs and those responsible for their oversight.

Review of FAA's Safety Oversight of Airlines and Use of Regulatory Partnership Programs

On June 30, 2008, the Department of Transportation (DOT) Office of Inspector General issued its review of the FAA's oversight of airlines and use of regulatory partnership programs. The report concluded that the FAA Certificate Management Office overseeing the airline that failed to perform the required inspections had developed an overly collaborative relationship with the airline. That relationship allowed repeated self-disclosures of AD violations without ensuring that the airline had developed a comprehensive solution for those reported safety problems.

The report noted that the Regulatory Compliance Manager for the airline was a former FAA ASI who reported directly to the FAA Principal Maintenance Inspector assigned to the airline when the former ASI worked for the FAA. The former employee had become a manager at the airline two weeks after leaving the FAA. In his new position at the airline, the former ASI served as the liaison between the carrier and the FAA and managed both the airline's AD Compliance Program and its Voluntary Disclosure Reporting Program.

The report also concluded that the overly collaborative relationship with the air carrier occurred because the FAA lacked effective management controls over its partnership program. The report stated that effective management controls would address: (1) Adequate segregation of duties; (2) the avoidance of potential conflicts of interests among its employees dealing with the carrier; and (3) verification of the propriety and integrity of corrective actions taken.

The report recommended that the FAA should enhance management controls by implementing post-employment guidance that includes a ''cooling-off'' period to prohibit an air carrier from hiring an FAA ASI who previously inspected the air carrier from acting in any type of liaison capacity between that air carrier and the FAA. A full copy of the report is contained in the docket for this rulemaking.

Proposed Legislation

On July 15, 2008, Congressman James L. Oberstar introduced the Aviation Safety Enhancement Act of 2008 (H.R. 6493). Section 4 of the proposed legislation included post employment restrictions for AFS ASIs. The proposed legislation would prohibit certificate holders from employing or contracting with a former AFS ASI or other person with certificate holder oversight responsibilities to represent that certificate holder in any matter before the FAA for a 2-year period after leaving the FAA. The proposed legislation was passed unanimously by the House of Representatives on July 22, 2008. However, it was not subsequently passed by the Senate prior to adjournment of the 110th Congress.

On May 21, 2009, the House of Representatives passed the FAA Reauthorization Act of 2009 (H.R. 915). Section 333 of the proposed legislation contains language identical to that proposed earlier in section 4 of the Aviation Safety Enhancement Act of 2008. Similar provisions are also found in Section 513 of the FAA Air Transportation Modernization and Safety Improvement Act which was introduced in the Senate on July 14, 2009 (S. 1451).

Managing Risks in Civil Aviation: A Review of the FAA's Approach to Safety

On May 1, 2008, former Secretary of Transportation, Mary E. Peters, appointed an independent review team to examine the FAA's safety culture and its implementation of safety management systems. She asked the team to prepare recommendations that would optimize the FAA's regulatory effectiveness. On September 2, 2008, the independent review team issued its report titled, ''Managing Risks in Civil Aviation: A Review of the FAA's Approach to Safety.'' A full copy of the report may be found in the docket for this rulemaking.

The report stated that ''[t]he FAA, like all other regulators, faces the danger of regulatory capture. Capture occurs when a regulatory agency draws so close to those with whom it deals on a daily basis (*i.e.* the regulated) that the agency ends up elevating their concerns at the expense of the agency's core mission. One feature of the FAA's current structure has the potential to increase this risk: the inspection teams are mostly organized around airlines, rather than cutting across multiple airlines and organizing around some other dimension, like geography, or type of plane. Most regulatory agencies organize by broad functional areas (like

enforcement, education, etc.) and also by geography; as a result, any one inspector normally deals with multiple corporations on a daily basis. By contrast, the majority of FAA airline inspectors are assigned to a specific Certificate Management Office, and deal with one airline, full time, and for many years at a stretch * * *''

Further, the report stated that the panel does ''understand the enhanced risk of regulatory capture that long-standing relationships between regulators and regulated entities might produce. We understand also the countervailing value in accumulating a detailed knowledge of a specific airline's operations. We believe that any enhanced risk of capture can be properly mitigated * * *'' This proposal would serve to mitigate the risks associated with regulatory capture by establishing a ''cooling off'' period for former AFS ASIs, while allowing AFS ASIs assigned to a specific operator to acquire the level of knowledge necessary to conduct effective oversight.

Current Post Employment Restrictions of Former Employees

Section 207(a)(1) of Title 18, United States Code (18 U.S.C.) generally places a permanent restriction on former executive branch employees (including FAA employees) regarding their ability to represent any other person in connection with a particular matter in which the United States government has a direct and substantial interest and in which that person participated personally and substantially.

In addition, it also places a 2-year restriction on those same former employees concerning their ability to represent any other person in connection with a particular matter in which the U.S. government has a direct and substantial interest and which that person knew, or reasonably should have known, was pending under his or her official responsibility within 1 year of their separation. Section 207(a)(2) basically restricts a person's ability to represent an entity before the FAA on particular matters in which they were involved. It does not limit a former FAA employee's ability to obtain employment with any entity.

Current FAA Flight Standards Service Policy

In order to minimize the influence of a particular carrier on the FAA, AFS policy provides for a 2-year ''cooling off'' period for newly employed ASIs, which prohibits them from having certificate management responsibilities for their former aviation employer. The proposed rule would not change this longstanding FAA policy. It would, however, create a corresponding requirement applicable to operators who seek to employ certain former FAA ASIs and those responsible for their oversight. Current AFS policy was first set forth in a memorandum, dated May 10, 1990 from the Director, Flight Standards Service (AFS–1) to all AFS staff. It was reiterated in two subsequent AFS–1 memoranda dated July 18, 1996 and April 9, 2008.

II. Discussion of the Proposal

The FAA has considered the proposed legislation, the current ethics regulations, and the recommendations raised in the previously discussed reports. Although 18 U.S.C. 207 establishes some general restrictions for Federal employees after they leave government service, the FAA proposes additional safety-based restrictions on certificate holders conducting operations under parts 121, 125, 133, 135, 137, 141, 142, 145 or 147. (Parts 121, 125, 133, 135, 137, 141, 142, 145 and 147 apply to: Air carriers conducting domestic, flag, or supplemental operations; operators of airplanes having a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more; rotorcraft external-load operations; commuter and on-demand operations; agricultural aircraft operations; pilot schools; training centers; repair stations; and aviation maintenance technician schools, respectively). The proposed restrictions would apply if the certificate holder employs (or makes a contractual arrangement with) a former AFS ASI or a person directly responsible for the oversight of the ASI and either person had direct responsibility to inspect, or oversee the inspection of, the certificate holder. The proposed restrictions would also apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations using fractional ownership program aircraft under subpart K of part 91.

The proposed rule would address a significant concern highlighted in the report issued by the independent review team—the need to address ''regulatory capture'' to mitigate risk. Although the report did not specifically recommend a ''cooling off period'' for former AFS ASIs after they leave the FAA, this proposed rule is consistent with the FAA's commitment to take steps to mitigate the risk that a current FAA employee may engage inappropriately with a regulated party. This proposed rule would establish restrictions on these operators that exceed current restrictions applicable to most businesses who hire former Federal employees.

The proposed rule would specifically apply to AFS ASIs and those persons directly responsible for their oversight. The FAA considers an AFS ASI to be a properly credentialed individual who holds FAA Form 110A and is authorized under the provisions of 49 U.S.C. 40113 to perform inspections and investigations.

This proposal would prohibit any person conducting operations under parts 121, 125, 133, 135, 137, 141, 142, 145, 147, or subpart K of part 91 from knowingly employing or contracting with a former AFS ASI (Avionics, Cabin Safety, Dispatch, Maintenance, or Operations), or other person with oversight responsibilities for that operator, to represent that operator in any matter before the FAA. These restrictions would apply if the person, in the preceding 2-year period has served as, or was directly responsible for the oversight of, an AFS ASI and had the direct responsibility to inspect, or oversee the inspection of, the operator. Operators, however, would only be restricted from employing or making a contractual arrangement with former AFS ASIs who had inspection or oversight responsibilities for that particular operator. The proposed rule would not apply if an operator employs or contracts with an AFS ASI who had inspection or oversight responsibilities for another operator that has (or may have had) a marketing, code share, business partnership, or similar relationship with the operator. The FAA contends that these often temporary business arrangements between separate and distinct operators do not warrant the application of the restrictions set forth in this proposed rule.

The FAA would consider the proposed restrictions to apply only to those operators employing persons who had an office location in a Flight Standards District Office or a Certificate Management Office with oversight responsibilities for the operator (e.g. Office Managers, Assistant Office Managers, Unit Supervisors, and Aviation Safety Inspectors). AFS ASIs directly engaged in certificate management typically develop extensive knowledge of an operator's practices. They also develop close working relationships with other AFS ASIs with whom they share direct oversight responsibilities for that particular operator. The FAA believes that aviation safety could be compromised if a former AFS ASI, acting on behalf of the operator, is able to exert undue influence on current

FAA employees with whom he or she had established close working relationships while working at a Flight Standards District Office or a Certificate Management Office. This proposed rule would address these concerns.

The intent of the proposed rule is not to affect employment relationships entered into prior to the effective date of this rule. Therefore, the proposed rule would not affect any operator currently employing a former AFS ASI in any capacity. A former AFS ASI hired by an operator prior to the effective date of the rule may continue to act as a representative of that operator in any matter before the FAA. The proposal would only prohibit an operator from hiring or making a contractual arrangement with an individual to act as a representative of the operator in any matter before the FAA if the individual had direct certificate oversight responsibilities for that operator in the previous 2 years and that employment commenced on or after the effective date of the rule.

The following examples further explain the provisions of this proposed rule:

(1) A former AFS ASI who was assigned direct oversight responsibilities for air carrier X, who is currently working for air carrier X in any position which includes representing air carrier X to the FAA prior to the effective date of the rule, may continue in that position.

(2) In order to be hired by training center A for a position which includes representing the training center in any matter before the FAA, on or after the effective date of the rule, the former AFS ASI must be able to look back over the 2 years preceding his or her being hired by training center A and determine that during that preceding 2 years the former ASI was not assigned oversight responsibilities for training center A.

(3) A former AFS ASI who was assigned direct oversight responsibilities for repair station Q may immediately go to work for any repair station other than repair station Q in any position.

(4) A former AFS ASI who was assigned direct oversight responsibilities for aviation maintenance technician school Q may immediately go to work for aviation maintenance technician school Q in any position that does not require representing aviation maintenance technician school Q to the FAA.

The FAA has many employees other than AFS ASIs with direct oversight responsibilities for various regulated entities. However, after considering the potential safety risks and in light of the findings of recent reports, the FAA proposes only to establish restrictions for operators who employ or make contractual arrangements with former AFS ASIs who previously had direct oversight responsibility for that operator. This action is necessary to address the development of overly collaborative relationships that may occur during routine AFS surveillance of certain operators. Such relationships occur when a regulatory agency draws so close to those with whom it deals on a daily basis (*i.e.* the regulated) that the agency ends up elevating their concerns at the expense of the agency's core safety mission.

The proposed rule would not prohibit an operator from employing a former AFS ASI to serve in any capacity if that former AFS ASI did not have direct oversight responsibilities for that operator within the previous 2 years. The FAA acknowledges that the skills and expertise former FAA employees bring to the aviation industry are valuable and enhance safety. The agency notes that there are many employment opportunities for former FAA employees that would not be restricted by the proposed rule. There are numerous positions that would typically not require representing an operator to the FAA, but would take advantage of the unique skill set that a former AFS ASI would possess. For example, under most circumstances, working in operations or maintenance as an aircraft dispatcher, flight attendant, maintenance technician, training instructor, or pilot would not be prohibited by the proposed rule. As long as the covered employee did not act as an agent or representative of the operator before the FAA, the employee would be able to provide highly beneficial expertise and enhance safety in areas such as safety management systems, continuous analysis programs, operational training programs, crewmember training programs, maintenance training programs, aircraft dispatcher training programs, ETOPs (Extended Range Operations), operational control systems, maintenance, accident investigation, and regulatory compliance.

Based on recent events and reviews of the FAA's safety oversight programs, the agency has determined that the proposed restrictions set forth in this notice must be placed on the employment of persons holding certain agency positions that could lead to organizational conflicts of interest. This proposed rule would enhance the FAA's ability to properly perform its safety mission and ensure the integrity of the programs administered by the FAA.

During the development of this proposal, the FAA considered a prohibition on operators employing a former AFS ASI to serve in any capacity if that former AFS ASI had direct oversight responsibilities for that operator within the previous 2 years. The FAA determined that as long as the former AFS ASI did not act as an agent or a representative of the operator in any matter before the FAA, serving in other positions with the operator (e.g. aircraft dispatcher, flight attendant, maintenance technician, pilot, or training instructor) would not be prohibited by the proposed rule. The FAA also consulted with representatives of the Professional Aviation Safety Specialists (PASS) to determine their views on the scope of the restrictions; a record of that meeting is available in the docket. The FAA is seeking specific comments on whether the prohibition on operators should be more restrictive than as proposed.

In addition, the agency is proposing the period of restriction as a sliding timeline, with the 2-year clock starting on the last day the AFS ASI or supervisor had direct responsibility for oversight of the operator. The FAA is also seeking specific comments on whether the prohibition should instead begin on the date the individual's employment by the FAA is terminated.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no new information collection requirement associated with this proposed rule.

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 determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

III. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or

adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

The proposed rule would prohibit any of the previously mentioned certificate holders from employing or making a contractual agreement with an individual who was responsible for the direct oversight of an operator as an FAA AFS ASI or who had responsibility to inspect or oversee the inspections of the operator during the preceding 2 years. This proposed rule would also apply to fractional owners or fractional ownership program managers who conduct operations under subpart K of part 91. These proposed restrictions would prevent potential organizational conflicts of interest that could adversely affect aviation safety or create a perception of such conflicts of interest. The proposed rule would have minimal economic impact. The affected former FAA employees would be allowed to work for other operators for which they did not have direct oversight responsibilities. In addition, they would be able to work for operators for which they did have direct oversight responsibilities provided that they do not represent the operator in any matter before the FAA.

Who Would Be Potentially Affected by This Proposed Rule

This proposal would affect current and future AFS ASIs and persons responsible for their oversight who would perform work after the effective date of the rule for an operator for which they had direct oversight responsibilities when employed by the FAA. In addition, this proposal would affect operators that would have hired former FAA employees who had oversight responsibilities for those operators.

Potential Benefits and Costs

The benefits associated with this proposal would arise from preventing potential organizational conflicts of interest. There would also be benefits from reducing the potential public perception that: (1) A current AFS ASI who was offered post-FAA employment with an operator he or she regulates could compromise current aviation safety; and (2) future aviation safety could be compromised if a former FAA employee working for an operator would be able to exert undue influence on current FAA employees with whom he or she had established close working relationships. This prohibition would also apply to the more likely case of former AFS ASIs who would become consultants to the operator. By prohibiting such a close relationship between a former AFS ASI and the operator for which he or she had direct oversight responsibilities, the potential for an overly collaborative relationship leading to a possible lapse in safety standards would be avoided, increasing the public's confidence in the safety and integrity of the FAA inspection system. Such benefits cannot be quantified.

The proposed rule would also create some minor inefficiencies. In general, an operator can benefit from employing a former AFS ASI because that ASI knows more about FAA processes than someone who had not worked for the FAA. In addition, that ASI would know more about the operator than some other former AFS ASI. Further, a former AFS ASI from a specific Flight Standards District Office or Certificate Management Office will have greater knowledge about that office (as well as be better acquainted with the people in that office) than would a former AFS ASI from a different office.

For example, some operators may believe that employing a former AFS ASI who recently had direct oversight responsibilities for their operations would reduce the time to obtain FAA approval for manual revisions partially due to the personal relationships between the former ASI and current FAA employees. Due to the general similarities among the groups of operators, the potential inefficiencies from employing a former ASI who had not had direct oversight responsibilities for that operator would not be significant. Thus, from the societal point of view, the overall losses to some individual former FAA inspectors would be largely offset by gains to other former FAA inspectors or qualified personnel. Although the proposed rule would create income transfers among individuals, at this time, we cannot quantify this overall loss on an individual basis. From a societal basis, the safety differential paid for the incremental loss in knowledge will be very small.

The number of former AFS ASIs who leave the FAA varies from year to year. We took the time period of October 1, 2007 to October 2, 2008 as a representative year-long period. As shown in Table 1, of the 208 AFS ASIs who left FAA employment, 138 voluntarily retired, 8 retired due to disability, 27 resigned, 10 were removed, 10 were terminated during their probation period, 4 had their appointments terminated, and 11 died. Of the voluntary retirements, 13 personnel were from FAA headquarters and were not specifically assigned to an operator. They would not be affected by the proposed rule. The maximum number of AFS ASIs who would have been affected had the proposed rule been in effect are the 160 non-headquarters personnel who retired, resigned, or became disabled. (We assumed that ASIs terminated or removed from their FAA position would be unlikely to be hired by an operator to work with their former FAA office in the absence of this proposed rule, and therefore would not be part of the potential economically affected population.)

TABLE 1—THE NUMBER OF AFS ASIS WHO LEFT FAA EMPLOYMENT BETWEEN 10/1/07 AND 10/2/08

Reason for separation	Number of inspectors
Voluntary Retirement	138
Disability Retirement	8
Resignation	27
Removal	10
Termination During Probation Period	10
Termination of Appointment	4

TABLE 1—THE NUMBER OF AFS ASIS WHO LEFT FAA EMPLOYMENT BETWEEN 10/1/07 AND 10/2/08—Continued

Reason for separation	Number of inspectors
Death	11
Total	208

Currently, the FAA does not officially track the status of former AFS ASIs. We believe that few of these former AFS ASIs would become involved in post-FAA employment that would be subject to the restrictions of the proposed rule. Although the proposal may affect only a small number of former AFS ASIs, inappropriate action by a single ASI could potentially lead to significant safety issues. We further believe that this overall economic impact would be minimal, with the potential benefits exceeding the costs. We request comments on this analysis.

The FAA has, therefore, determined that this proposed rule would impose minimal cost, and under DOT 2100.5 we did not prepare a full regulatory evaluation.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA 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 rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA 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 proposed rule would only prevent an AFS ASI and persons responsible for their oversight from being employed by the operator for which he or she had direct oversight responsibilities. The cost to an operator of being unable to employ a specific individual would be minimal because other individuals with similar professional qualifications as those possessed by the former AFS ASI would be available.

Therefore the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA requests comments on this certification.

International Trade Impact Analysis

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure that it does not exclude imports that meet this objective. As a result, this rule is not considered as creating an unnecessary obstacle to foreign commerce.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 an expenditure of $100 million or more (in 1995 dollars) 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.'' The FAA currently uses an inflation-adjusted value of $136.1 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act 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, and, therefore, would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). While this NPRM is a ''significant regulatory action'' under Executive Order 12866, we have determined that it is not a ''significant energy action'' under the executive order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional 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. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

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. 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 after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at: *http://www.faa.gov/regulations_policies/;* or

3. Accessing the Government Printing Office's Web page at: *http://www.gpoaccess.gov/fr/index.html.*

You can also get a copy by sending 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 or notice number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the Internet through the Federal eRulemaking Portal referenced in paragraph (1).

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Airports, Aviation safety.

14 CFR Part 119

Air carriers, Aircraft, Aviation safety.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 133

Aircraft, Aviation safety.

14 CFR Part 137

Aircraft, Aviation safety.

14 CFR Part 141

Educational facilities, Schools.

14 CFR Part 142

Educational facilities, Schools.

14 CFR Part 145

Aircraft, Aviation safety.

14 CFR Part 147

Aircraft, Educational facilities, Schools.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

2. Add § 91.1050 to read as follows:

§ 91.1050 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no fractional owner or fractional ownership program manager may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the fractional owner or fractional ownership program manager in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the fractional owner or fractional ownership program manager.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a fractional owner or fractional ownership program manager in a matter before the agency if the individual makes any written or oral communication on behalf of the fractional owner or fractional ownership program manager to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a fractional owner or fractional ownership program manager from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the fractional owner or fractional ownership program manager in any matter before the Federal Aviation Administration if the individual was employed by the fractional owner or fractional ownership program manager before [effective date of the rule].

PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

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

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

4. Add § 119.73 to read as follows:

§ 119.73 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder conducting operations under part 121 or 135 of this chapter may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be

acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

6. Add § 125.26 to read as follows:

§ 125.26 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

7. The authority citation for part 133 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702.

8. Add § 133.22 to read as follows:

§ 133.22 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

9. The authority citation for part 137 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 44701–44702.

10. Add § 137.40 to read as follows:

§ 137.40 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 141—PILOT SCHOOLS

11. 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.

12. Add § 141.34 to read as follows:

§ 141.34 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a pilot

school certificate or a provisional pilot school certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a pilot school certificate or a provisional pilot school certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 142—TRAINING CENTERS

13. 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.

14. Add § 142.14 to read as follows:

§ 142.14 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a training center certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a training center certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 145—REPAIR STATIONS

15. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

16. Add § 145.160 to read as follows:

§ 145.160 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a repair station certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a repair station certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before [effective date of the rule].

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

17. The authority citation for part 147 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707–44709.

18. Add § 147.8 to read as follows:

§ 147.8 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of an aviation maintenance technician certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of an aviation maintenance technician school certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the

certificate holder before [effective date of the rule].

Issued in Washington, DC, on November 9, 2009.

John M. Allen,

Director, Flight Standards Service.

[FR Doc. E9–27852 Filed 11–19–09; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0771; FRL–8980–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Indiana Department of Environmental Management on September 25, 2009, to revise the Indiana State Implementation Plan (SIP). The submission revises the Indiana Administrative Code (IAC) by amending and updating the definition of ''References to Code of Federal Regulations,'' to refer to the 2008 edition.

DATES: Comments must be received on or before December 21, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0771 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 692–2551.
- *Mail:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register.**

Dated: November 3, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E9–27816 Filed 11–19–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0674; FRL–8983–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Transportation Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for Transportation Conformity regulations. In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 21, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0674 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2009–0674, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2008–0674. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI (or otherwise protected) through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you