

# Rules and Regulations

Federal Register

Vol. 71, No. 157

Tuesday, August 15, 2006

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 413 and 414

[Docket No.: FAA-FAA-2005-21332;  
Amendment Nos. 413-6 and 414-1]

RIN 2120-AI50

#### Safety Approvals

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends commercial space transportation regulations by adding procedures for obtaining a safety approval for a safety element. Also, this action adds procedures for including a safety approval in a license application. Once the FAA issues a safety approval, the holder could offer the approved safety element to prospective launch and reentry operators for use within a defined and proven envelope. Those operators would not need added FAA approval of that portion of their license application. The decision to apply for a safety approval is voluntary. The intent of this action is to facilitate the launch and reentry license application and approval processes.

**DATES:** This amendment becomes effective September 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** For questions about the safety approval process, you may contact either of the following persons:

- Charles P. Brinkman, Licensing and Safety Division (AST-200), FAA, Associate Administrator for Commercial Space Transportation, Room 331, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7715; or
- Gary Michel, Office of the Chief Counsel (AGC-200), FAA, Room 915, 800 Independence Avenue, SW.,

Washington, DC 20591; telephone (202) 267-3148.

For questions about technical standards, you may contact Jim Kabbara, Systems Engineering and Training Division (AST-300), FAA, Associate Administrator for Commercial Space Transportation, Room 331, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8379.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](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 amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted 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 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

##### Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question about this document, you may contact the local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at <http://www.faa.gov/>

*regulations\_policies/rulemaking/sbre\_act/*.

#### Authority for This Rulemaking

The Commercial Space Launch Act of 1984, as codified and amended at 49 U.S.C. Subtitle IX—Commercial Space Transportation, ch. 701, Commercial Space Launch Activities, 49 U.S.C. 70101-70121 (the Act), authorizes the Department of Transportation and the FAA, through delegations, to oversee, license, and regulate commercial launch and reentry activities and the operation of launch and reentry sites as carried out by United States citizens or within the United States.<sup>1</sup> The Act directs the FAA to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States.<sup>2</sup> The FAA is also responsible for encouraging, facilitating, and promoting commercial space launches by the private sector.<sup>3</sup>

Authority for this particular rulemaking is derived from section 70105(a)(2) of the Act, which states the Secretary may establish procedures for safety approval of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel for use in conducting licensed commercial space launch or reentry activities.<sup>4</sup> The 2004 amendments to the Act provided details regarding safety approvals for personnel to include explicit approval procedures for the purpose of protecting the health and safety of crews and space flight participants.<sup>5</sup>

#### Background

Under the authority derived from the Act, on June 1, 2005, the FAA published the notice of proposed rulemaking (NPRM), "Safety Approvals; Proposed Rule" (70 FR 32192). This final rule adopts the provisions in that NPRM with some changes, which we describe later in this preamble. It also responds to the comments to that proposed rule.

The nature of the commercial space transportation industry makes safety approvals attractive to prospective

<sup>1</sup> 49 U.S.C. 70104, 70105.

<sup>2</sup> 49 U.S.C. 70105.

<sup>3</sup> 49 U.S.C. 70103.

<sup>4</sup> See Commercial Space Act of 1998, Public Law 105-303.

<sup>5</sup> See Commercial Space Launch Amendments Act of 2004, Public Law 108-492.

launch or reentry license<sup>6</sup> applicants, launch and reentry vehicle operators, and other industry representatives. Different operators often use major components, parts, or services that could potentially qualify for a safety approval on different launch vehicles. Personnel involved in operational safety support such as telemetry, tracking, and range safety may support multiple launch or reentry operators and could also qualify for a safety approval.

Historically, the launch operator has borne the monetary risk of proposing a new system, process, or service. Many launch operators have not thought the benefits worth the cost to prove the safety of a new safety element<sup>7</sup> through the licensing process because of the small number of launches. With the safety approval process in place, the risk of approval is transferred to the prospective safety approval applicant (i.e., the provider of the approved safety element). This optional process opens the door to new providers that may want to offer these safety elements for use in launch and reentry activities. The safety approval allows for the potential use of an approved safety element on more than one launch or reentry vehicle. Therefore, safety approvals have the potential to make the industry more willing to adopt innovative systems and processes because the cost of obtaining the approval would be shared, rather than borne by a single launch operator.

This rule may benefit the commercial space industry and the FAA by streamlining the processes for reviewing and issuing launch and reentry licenses. It will allow eligible persons to apply for a safety approval for an eligible safety element that can be used as part of prospective launch or reentry activities. A holder of a safety approval will be able to offer the approved safety element to prospective launch or reentry operators. Operators may include the approved element in their part 413 licensing application with minimal added documentation. The FAA may benefit from safety approvals because a portion of the documentation and analysis necessary to make a licensing determination on an application that includes such approvals will already

have been done as part of the safety approval process.

#### General Discussion of Rule

This regulation amends part 413 to incorporate procedures for including a safety approval in an application for a launch or reentry activity. It also establishes a new part 414, which includes the requirements and procedures for voluntarily obtaining a safety approval for the following safety elements: a launch vehicle, reentry vehicle, safety system, process, service, or any identified component thereof, or qualified and trained personnel.

This rule will enable launch and reentry vehicle operators to use an approved safety element within the scope specified in the safety approval without having to go through a re-examination of the element's fitness and suitability for a particular launch or reentry proposal. The approval allows these operators to rely on an approved element in constructing a launch vehicle or in conducting a safe launch. Use of a safety element for which a safety approval has been issued is not required as part of the part 413 application process. The safety approval, separate from any license, does not confer any authority to conduct activities for which a license is required. The FAA will evaluate the planned use of a safety approval for a proposed launch or reentry activity to ensure that use of the safety approval does not exceed its approved scope.

Where appropriate, the FAA will coordinate its review of applications for safety approvals with other government agencies and especially with the operators of Federal launch ranges. Currently, the FAA works closely with the U.S. Air Force because most FAA-licensed launches have occurred at ranges operated by the U.S. Air Force. However, other Federal agencies may have an interest in a safety element under consideration for a safety approval. The FAA expects to consult with these agencies to minimize the possibility of a discrepancy between its evaluation and any later evaluation by another Federal agency.

#### Discussion of Comments

Three commenters provided multiple comments to the NPRM—Mr. Hugh Q. Cook, commenting as a private citizen, Lockheed Martin Corporation and International Launch Services (LMC/ILS), and Eric Miller of Central Missouri State University. Each commenter expressed strong support for the rule and each made recommendations for improvements. Most of the comments were from Mr. Cook.

#### Safety Approval Definition

Mr. Cook suggested rewriting the definition of "safety approval" to remove "circular reasoning." Also, he said the FAA's emphasis in the preamble discussion that an approval is not a certification is an unnecessary distinction. This is particularly true, he said, given the U.S. space launch industry does not operate under a certification regime; and the fundamentals of licensing versus certification places responsibility for safe conduct of operations on the licensee.

The FAA agrees with Mr. Cook that the safety approval definition as written in the proposed rule could be clearer, so we revised the final rule version, accordingly. However, we do not agree that explaining the distinction between an approval and a certification is unnecessary. Although Mr. Cook is correct that the U.S. space industry does not currently operate under a certification regime, new entrants, particularly those proposing reusable launch vehicles that would operate more like aircraft, are very likely to be familiar with the aircraft certification process. Therefore, we believe it is important to point out that a safety approval is not the equivalent of a certification under a design standard. By making this distinction, the FAA seeks to avoid any misunderstanding that an approval means certification. Mr. Cook is also correct that the FAA's licensing regime places responsibility for safe conduct of operations on the licensee. However, we do not believe the distinction between an approval and a certification in any way conflicts with this position. The distinction simply reaffirms that a safety approval is limited to use within a defined parameter.

#### Safety Approvals Are Voluntary

Mr. Eric Miller commented that the rule would be more effective in ensuring public safety if the FAA makes the use of safety approvals mandatory for all persons conducting space flights.

We do not agree that it is necessary to make the use of safety approvals mandatory to increase the safety of space launches. This regulation will make safety approvals available for use by prospective launch and reentry operators. To conduct a launch or reentry activity, these operators must apply for a license under 14 CFR chapter III. To obtain a license under this chapter, applicants must demonstrate that the prospective activities will not endanger public health and safety and safety of property.

<sup>6</sup> Commercial Space Launch Amendments Act of 2004 (70105a(i)(4)) states "the issuance of a permit shall be considered licensing." Therefore, when used in this regulation, the term "license" means any license or permit the FAA may issue under 14 CFR chapter III.

<sup>7</sup> For purposes of 14 CFR part 414, a safety element is any one of the following: launch vehicle, reentry vehicle, safety system, process, service, or any identified component thereof; or qualified and trained personnel, performing a process or function related to license launch activities or vehicles.

### Eligibility

Mr. Cook said the statement in the NPRM regulatory text that “anyone” may apply for a safety approval is misleading and sets a “frivolous tone.” He recommended that we identify persons likely to benefit from the regulation.

We appreciate Mr. Cook’s concern. The intent of the NPRM language under § 414.9 was to convey that the restrictions that exist for licensing do not apply to safety approval applicants. We placed the specific eligibility requirements, including the persons who may be eligible to apply for a safety approval, in proposed § 414.15 (How will the FAA determine whether something is eligible and suitable for a safety approval?). We agree that placing these requirements in separate sections may be misleading. Therefore, in the final rule, we placed them in one section.<sup>8</sup> In addition, we removed the statement that “anyone may apply for a safety approval.”

### The Application Process

Mr. Cook said he found the statement that the FAA will incorporate prior findings from a past licensing determination in issuing a new license “troubling” because it implies that there is a different process and a higher standard for a new applicant to obtain a safety approval compared to a current licensee. Also, he believes this statement implies the FAA will not do a thorough review of previously approved parts, materials, and services, but will simply rubber-stamp them as a part of the licensing process.

The FAA did not intend to convey the inferences Mr. Cook has drawn. First, the process or standard for assessing and issuing a safety approval is the same for a new applicant as for an existing licensee. The statement that the FAA incorporates prior findings from a past licensing determination recognizes current FAA practice. This statement in no way means the FAA will automatically issue an approval for a safety element because the element was previously approved as part of a licensing process. As required by § 414.11(c)(1) of this final rule, all applicants must include in their application a Statement of Conformance letter. This letter must describe the specific criteria applicants used to demonstrate the adequacy of the safety element for which they seek a safety approval. It must also show that the safety element complies with the specific criteria. The FAA will review

each application according to the procedures in part 414, subpart C of this final rule.

Mr. Cook said the FAA should not have commented on the “comparative merits of the safety approval procedure vis-a-vis the existing licensing procedure” as the merits of the two should speak for themselves.

We agree in part with Mr. Cook’s comment that our discussion about the applicant’s responsibility for determining the value of seeking a safety approval is not necessary. Perhaps we stated the obvious since applying for a safety approval is strictly voluntary so it is unlikely anyone would pursue one if it were not cost beneficial to do so. However, we believe that determining the value of a safety approval independent of the licensing process is an important enough point to make as part of the discussion of the application process.

Mr. Cook suggested the FAA allow a corporation to authorize someone other than an officer to certify a safety approval application.

The FAA agrees with Mr. Cook’s comment. For license applications, the FAA has found that the individuals who sign and certify license applications are not typically officers of the corporation. Therefore, we added a similar provision in this final rule under § 414.11(d)(1) to allow an individual authorized to act for the corporation to sign and certify the accuracy of a safety approval application. In addition, in another rulemaking action, we proposed a similar change to § 413.7(c)(1)<sup>9</sup> to also allow an individual authorized to act for the corporation to sign and certify license applications.

### Timeframe for Application Review

Mr. Cook suggested a goal of 30 days for the FAA to review and make a determination on a substantially complete application.

The FAA disagrees with Mr. Cook’s comment that there should be a 30-day review period for safety approval applications. Until industry and the FAA gain experience with filing and processing these applications, it would not be prudent for us to consider setting a specific time frame for our review. Also, we do not believe that having a set review period for all applications without first considering the level of complexity for each is the most practical approach. Instead, the FAA and the applicant will discuss what is a reasonable time frame to complete

review of a specific application during the pre-application consultation. The Act gives the FAA up to 180 days to make a licensing determination after receipt of an application. We believe making a safety approval determination could take this much time.

### Technical Criteria for Issuing a Safety Approval

The rule includes a hierarchy of technical criteria for reviewing a safety approval. One such criterion in proposed § 414.27(b) is “government-developed or adopted standards.” Mr. Cook suggested revising this section to read, “Government-developed or adopted standards, including approved tailoring applicable to a specific application for safety approval.” He also suggested we define “approved tailoring” to include the necessity of publishing the details of the tailoring in an accessible form.

We appreciate Mr. Cook’s suggestions; however, we do not believe a change to the rule is necessary. As written, the rule lists specific technical criteria<sup>10</sup> the FAA will use to make a safety approval determination. The criteria include government-developed or adopted standards and applicant developed standards, which are variations of tailored standards. Also, the rule requires applicants to allow the FAA to make their proposed safety approval criteria available to the public as part of the approval process.

Lockheed Martin Corporation and International Launch Services (LMC/ILS), commenting together, had a recommendation related to the statement in proposed § 414.27 that reads, “You must agree to allow the FAA to make proposed safety approval criteria available to the public as part of the approval process.” LMC/ILS asserted that this statement would require the applicant to waive the customary protections associated with proprietary or otherwise sensitive information. They recommended revising the rule language to allow individual determinations on whether the FAA will make proposed safety approval criteria public and allow applicants to withdraw their application to avoid public release of their approval criteria.

The FAA does not agree with LMC/ILS’s assertion. In the section-by-section discussion under proposed § 414.19 (How can I assure confidentiality of the information I submit on a safety approval application?), the FAA states, “Do not propose standards that you

<sup>9</sup> “Experimental Permits for Reusable Suborbital Rockets” Notice of proposed rulemaking (70 FR 16251, March 31, 2006).

<sup>10</sup> See 414.27(d) in the proposed rule and 414.19(a) in the final rule.

<sup>8</sup> § 414.7 (Eligibility).

consider secret, proprietary, and confidential." In the regulatory text itself, the FAA states, "If the proposed criteria for evaluating a safety approval is secret, as classified by the U.S. Government, or the applicant wants it to remain proprietary or confidential, it cannot be used as a basis for the issuance of a safety approval."<sup>11</sup>

The FAA intends, as part of our ongoing dialogue with the applicant, to discuss the criteria that would appear in the public record. Because the goal would be for the criteria to be performance-based, to the greatest extent possible, the FAA does not believe that safety approval applicants would need to waive protections in order to obtain a safety approval. The FAA believes it is essential to make public the basis for issuance of a safety approval. We also believe the right of the applicant to withdraw an application is implicit. However, stating this right in the regulations will avoid any confusion. Hence, in the final rule under § 414.15(d), we added the right of the applicant to withdraw the application before we make a final determination.

#### *Terms and Conditions of a Safety Approval*

Mr. Cook commented that the FAA introduced an important new term in the preamble discussion, "scope of the demonstration." He noted that in the regulatory text, we modified this term to "scope of the safety demonstration." Further, he said in other rulemakings the FAA established an equivalent definition of "demonstration" to the aerospace industry's definition of "verification." He requested that the FAA define what we mean by the term "scope of the (safety) demonstration."

The FAA believes the regulation as written makes clear what is meant by "scope of demonstration." In the NPRM preamble discussion under the heading "How do I prepare an application?", we explain that the scope of the safety approval would be based on the scope of the safety demonstration. The demonstration might consist of analysis, testing, actual use, observation, physical inspection, simulation, historical data, or other means of verifying performance. Different means of demonstration might be used for a safety approval of a design of a system than for a safety approval for personnel to perform a particular safety task.

In the NPRM preamble discussion, we give a specific example of what we mean by "the scope of the

demonstration." The example reads as follows: for a radar tracking system integral to range safety, you might demonstrate the ability of the radar to track launch vehicles as a function of radar cross section, vehicle velocity, acceleration, and trajectory along with notable ambient effects, such as weather conditions. The demonstration and, therefore, the scope of the applicability of the safety approval would not be specific to a particular vehicle.

In another comment Mr. Cook said the statutory authority would not agree with the FAA's statement that a safety approval has no meaning independent of its use in facilitating the FAA licensing process. He said he believes the safety approval rulemaking "has profound meaning in the context of 'facilitate and promote'."

We do not agree with Mr. Cook that the statutory authority intends for a safety approval to have meaning independent of the licensing process. Section 70105(a)(2) of the Act states "\* \* \* the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, \* \* \* that may be used in conducting licensed commercial space launch or reentry activities." In other words, the intent of the statute is to make safety approvals available to facilitate the licensing process, not as an independent service. We do agree, however, that the Act encourages (i.e., facilitates and promotes) private sector launches, reentries, and associated services, which includes safety approvals.

#### *Modification, Suspension, Revocation of a Safety Approval*

In reference to proposed § 414.39, Mr. Cook raised the following two questions: (1) Who is responsible for alerting a launch operator that is affected by the revocation of a safety approval? (2) What is the effect on a launch license that is issued based on a licensing determination that relies on a revoked safety approval?

In response to the first question, the FAA does not believe it is necessary to include in the regulations that the licensee will be notified if we modify, suspend, or revoke a safety approval. This final rule contains the procedures for inclusion of a safety approval in a license application. Therefore, the FAA will know which of our licensees is using which safety approval(s). As a result, we will be able to make any necessary notifications to the affected licensee.

With regard to the second question, a revocation may or may not affect an existing license. In his comments on the regulatory text, Mr. Cook suggested

licensees be afforded the opportunity to amend their license applications to demonstrate that the safety approval action taken under this section does not have a material effect on public safety or the safety of property. As we explained in the preamble to the proposed rule, the FAA would afford licensees such an opportunity unless an immediate threat to public health and safety or the safety of property requires more immediate action, including a license suspension. We do not believe the addition of regulatory text stating this adds any value. Because of the sporadic nature of launches, in many instances the FAA could work with the affected licensee to resolve any issues. However, as discussed in the section-by-section analysis in the proposed rule, if an immediate threat to public health and safety or safety of property presented itself as a result of an issue regarding a safety approval, the FAA might need to suspend a license to prevent a potentially dangerous launch or reentry.

#### **Changes to the NPRM**

We made substantial formatting changes to the regulatory text. Our intent is to further clarify the regulations and make them more concise, not change their intent. First, we changed the question and answer format of the section headings to regular headings that are more reflective of the section content. For example, § 414.1 in the NPRM is titled "What is the basis and scope of this rule?". We changed this section heading to "Scope" in the final rule. Second, in some instances we moved text into different sections under more appropriate headings and combined text from multiple sections under a single heading. For example, we moved text from proposed § 414.15 (How will the FAA determine whether something is eligible and suitable for a safety approval?) to two separate sections of the final rule. That is, we placed the specific requirements in proposed § 414.15 related to determining eligibility under "Eligibility" (§ 414.7) in the final rule. However, we moved the requirements in proposed § 414.15(e) about the criteria for the FAA's evaluation of a safety approval application to § 414.19 (Technical criteria for reviewing a safety approval application) in the final rule.

In the NPRM when we refer to safety elements that are eligible for a safety approval, we list each of the elements (launch vehicle, reentry vehicle, safety system, process, service, or any identified component thereof, or qualified and trained personnel). Since we recognize that these elements are the

<sup>11</sup> See § 414.19(e) of the NPRM and § 414.13 (Confidentiality) of this final rule.

only ones eligible for a safety approval, in the final rule we define the term "safety element" to mean any one of these elements.<sup>12</sup>

Under proposed § 414.31 (How would a license applicant incorporate a safety approval into a launch or reentry license application?), we inadvertently placed some requirements related to part 413 applicants in part 414. While we state in proposed § 414.31 that these requirements apply to part 413 applicants, we should have amended part 413 to include these requirements. This final rule corrects this oversight by amending the license application procedures in § 413.7 to add paragraph (d). This new paragraph includes the same requirements for part 413 applicants that are in proposed § 414.31.

In addition to these changes and as indicated under the "Discussion of Comments" heading, we made a few changes recommended by commenters. First, we added a provision that allows authorized individuals to sign and certify safety approval applications. Second, we added a provision, which states the applicant may withdraw the safety approval application before we make a final determination.

#### **Paperwork Reduction Act**

Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Numbers 2120-0608 and 2120-0643. These prior approvals are applicable because this final rule merely permits consideration of a portion of the activity covered by the cited documents. In other words, a part of the information required for FAA-licensed activity is collected for the safety approval and does not need to be collected again as part of the license application.

#### **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.

#### **Executive Order 12866 and DOT Regulatory Policies and Procedures**

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal because safety approvals under the rulemaking action are not mandatory so there would be no costs imposed on industry. The FAA anticipates that launch license applicants would only pursue a safety approval if they believe they can save money by using a safety approval. If not, they would continue to obtain approval through the licensing determination. The final rule might result in slight costs to the government, but more likely it will result in government cost savings.

Because the costs and benefits of this action do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemakings under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

#### **Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment**

Proposed 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, to be the basis of U.S. standards. Fourth, the Unfunded Mandate 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 a base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

The 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 proposal does not warrant a full evaluation, this order permits a statement to that effect. The basis for the minimal impact must 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 final rule. The reasoning for that determination follows.

The 1998 amendments to the Commercial Space Launch Act of 1984 added authority for establishing procedures for "safety approvals" of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities. (See Commercial Space Act of 1998, Pub. L. 105-303.) This rulemaking will establish those procedures. The rule will enable license applicants to use safety-approved elements for proposed launch or reentry activities without having to resubmit certain information. The existence of a safety approval could streamline the licensing process. The final rule defines the requirements for obtaining these voluntary safety approvals.

A key element of the final rule is that the safety approvals are strictly elective. A safety approval will enable the U.S. commercial space transportation industry to select "approved" systems, processes, services, and personnel, possibly reducing the information required for a license application. Because safety approvals under the final rulemaking are not mandatory, the FAA anticipates that applicants will only pursue a safety approval if they believe the benefits outweigh the costs.

The final rule does not impose any costs on the license applicant, because the applicant is free to continue to obtain approval through the licensing determination. There might even be cost savings to license applicants because the cost of using safety-approved elements could be less than the cost the licensee might incur in seeking approval directly through the licensing determination. This is because a safety approval could be used for multiple launch licenses without added FAA

<sup>12</sup> See § 414.3 (Definitions) in the final rule.

approval of that portion of the license application other than an evaluation of its intended use relative to the proposed activity.

The final rule might result in additional cost to the Federal government. This might occur if a company obtains a safety approval from the FAA, but does not use it. In this case, the FAA will have spent the time for naught in issuing the safety approval. The FAA expects this to be unlikely, as companies will not seek to obtain safety approvals unless the likelihood of selling their approved product to a licensee is very high.

On the other hand, the final rule might result in cost savings to the government. If the safety approval is used for several licenses, then the FAA could apply findings related to safety approvals to different license applicants that propose to use the approved element.

In view of the possible minor additional cost to the Federal government and the anticipated benefits of the rule, the FAA has determined that this rule is cost-justified. Since seeking a safety approval and using it as a part of a launch or reentry activity is voluntary, the expected outcome will be a minimal impact with positive net benefits, and a regulatory evaluation was not prepared.

The FAA has, therefore, determined this final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

#### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to consider flexible regulatory proposals, to explain the rationale for their actions, and to solicit comments. 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 proposed or final 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 proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 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 final rule does not impose costs on industry because it establishes a wholly voluntary process as an alternative to a part of the current licensing process.

Therefore, as the FAA Administrator, I certify that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

#### International Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and has determined that since it will not impose standards on industry and because it establishes a wholly voluntary program, it will not create an unnecessary obstacle to the foreign commerce of the United States.

#### Unfunded Mandates Assessment

Title II of the Unfunded Mandate Reform Act of 1995 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 (adjusted annually for inflation with a base year of 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$128.1 million in lieu of \$100 million. This final rule does not contain such a mandate.

#### Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the

States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore will 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 final rulemaking action qualifies for the categorical exclusion identified in paragraph 308b and involves no extraordinary circumstances.

#### Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

#### List of Subjects

##### 14 CFR Part 413

Confidential business information, Space transportation and exploration.

##### 14 CFR Part 414

Airspace, Aviation safety, Space transportation and exploration.

#### The Amendments

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter III of Title 14, Code of Federal Regulations, as follows:

#### PART 413—LICENSE APPLICATION PROCEDURES

■ 1. The authority citation for part 413 continues to read as follows:

**Authority:** 49 U.S.C. 70101–70121. 1

■ 2. Amend § 413.7 to add paragraph (d) to read as follows:

##### § 413.7 Application.

\* \* \* \* \*

(d) *Safety approval.* If the applicant proposes to include a safety element for which the FAA issued a safety approval under part 414 in the proposed license activity, the applicant must—

(1) Identify the safety approval in the application and explain the proposed use of the approved safety element.

(2) Show that the proposed use of the approved safety element is consistent with the designated scope specified in the safety approval.

(3) Certify that the safety element will be used according to any terms and conditions of the issued safety approval.

■ 3. Add part 414 to read as follows:

## PART 414—SAFETY APPROVALS

### Subpart A—General

Sec.

414.1 Scope.

414.3 Definitions.

414.5 Applicability.

414.7 Eligibility.

### Subpart B—Application Procedures

414.9 Pre-application consultation.

414.11 Application.

414.13 Confidentiality.

414.15 Processing the initial application.

414.17 Maintaining the continued accuracy of the initial application.

### Subpart C—Safety Approval Review and Issuance

414.19 Technical criteria for reviewing a safety approval application.

414.21 Terms and conditions for issuing a safety approval; duration of a safety approval.

414.23 Maintaining the continued accuracy of the safety approval application.

414.25 Safety approval records.

414.27 Safety approval renewal.

414.29 Safety approval transfer.

414.31 Monitoring compliance with the terms and conditions of a safety approval.

414.33 Modification, suspension, or revocation of a safety approval.

414.35 Public notification of the criteria by which a safety approval was issued.

### Subpart D—Appeal Procedures

414.37 Hearings in safety approval actions.

414.39 Submissions; oral presentations in safety approval actions.

414.41 Administrative law judge's recommended decision in safety approval actions.

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

### Subpart A—General

#### § 414.1 Scope.

This part establishes procedures for obtaining a safety approval and renewing and transferring an existing safety approval. Safety approvals issued under this part may be used to support the application review for one or more launch or reentry license requests under other parts of this chapter.

#### § 414.3 Definitions.

*Safety approval.* For purposes of this part, a safety approval is an FAA

document containing the FAA determination that one or more of the safety elements listed in paragraphs (1) and (2) of this definition, when used or employed within a defined envelope, parameter, or situation, will not jeopardize public health and safety or safety of property. A safety approval may be issued independent of a license, and it does not confer any authority to conduct activities for which a license is required under 14 CFR Chapter III. A safety approval does not relieve its holder of the duty to comply with all applicable requirements of law or regulation that may apply to the holder's activities.

(1) Launch vehicle, reentry vehicle, safety system, process, service, or any identified component thereof; or

(2) Qualified and trained personnel, performing a process or function related to licensed launch activities or vehicles.

*Safety Element.* For purposes of this part, a safety element is any one of the items or persons (personnel) listed in paragraphs (1) and (2) of the definition of "safety approval" in this section.

#### § 414.5 Applicability.

This part applies to an applicant that wants to obtain a safety approval for any of the safety elements defined under this part and to persons granted a safety approval under this part. Any person eligible under this part may apply to become the holder of a safety approval.

#### § 414.7 Eligibility.

(a) There is no citizenship requirement to obtain a safety approval.

(b) You may be eligible for a safety approval if you are—

(1) A manufacturer or designer of a launch or reentry vehicle or component thereof;

(2) The designer or developer of a safety system or process; or

(3) Personnel who perform safety critical functions in conducting a licensed launch or reentry.

(c) A safety approval applicant must have sufficient knowledge and expertise to show that the design and operation of the safety element for which safety approval is sought qualify for a safety approval.

(d) Only the safety elements defined under this part are eligible for a safety approval.

### Subpart B—Application Procedures

#### § 414.9 Pre-application consultation.

The applicant must consult with the FAA before submitting an application. Unless the applicant or the FAA requests another form of consultation, consultation is oral discussion with the

FAA about the application process and the potential issues relevant to the FAA's safety approval decision.

#### § 414.11 Application.

(a) The application must be in writing, in English, and filed in duplicate with the Federal Aviation Administration, Associate Administrator for Commercial Space Transportation, 800 Independence Avenue, SW., Washington, DC 20591.

(b) The application must identify the following basic information:

(1) Name and address of the applicant.

(2) Name, address, and telephone number of any person to whom inquiries and correspondence should be directed.

(3) Safety element (i.e., launch vehicle, reentry vehicle, safety system, process, service, or any identified component thereof; or personnel) for which the applicant seeks a safety approval.

(c) The application must contain the following technical information:

(1) A Statement of Conformance letter, describing the specific criteria the applicant used to show the adequacy of the safety element for which a safety approval is sought, and showing how the safety element complies with the specific criteria.

(2) The specific operating limits for which the safety approval is sought.

(3) The following as applicable:

(i) Information and analyses required under this chapter that may be applicable to demonstrating safe performance of the safety element for which the safety approval is sought.

(ii) Engineering design and analyses that show the adequacy of the proposed safety element for its intended use, such that the use in a licensed launch or reentry will not jeopardize public health or safety or the safety of property.

(iii) Relevant manufacturing processes.

(iv) Test and evaluation procedures.

(v) Test results.

(vi) Maintenance procedures.

(vii) Personnel qualifications and training procedures.

(d) The application must be in English, legibly signed, dated, and certified as true, complete, and accurate by one of the following:

(1) For a corporation, an officer or other individual authorized to act for the corporation in licensing or safety approval matters.

(2) For a partnership or a sole proprietorship, a general partner or proprietor, respectively.

(3) For a joint venture, association, or other entity, an officer or other

individual duly authorized to act for the joint venture, association, or other entity in licensing matters.

(e) Failure to comply with any of the requirements set forth in this section is sufficient basis for denial of a safety approval application.

#### **§ 414.13 Confidentiality.**

(a) To ensure confidentiality of data or information in the application, the applicant must—

(1) Send a written request with the application that trade secrets or proprietary commercial or financial data be treated as confidential, and include in the request the specific time frame confidential treatment is required.

(2) Mark data or information that require confidentiality with an identifying legend, such as “Proprietary Information,” “Proprietary Commercial Information,” “Trade Secret,” or “Confidential Treatment Requested.” Where this marking proves impracticable, attach a cover sheet that contains the identifying legend to the data or information for which confidential treatment is sought.

(b) If the applicant requests confidential treatment for previously submitted data or information, the FAA will honor that request to the extent practicable in case of any prior distribution of the data or information.

(c) Data or information for which confidential treatment is requested or data or information that qualifies for exemption under section 552(b)(4) of Title 5, U.S.C., will not be disclosed to the public unless the Associate Administrator determines that withholding the data or information is contrary to the public or national interest.

(d) If the proposed criteria for evaluating a safety approval is secret, as classified by the U.S. Government, or the applicant wants it to remain proprietary or confidential, it cannot be used as a basis for issuance of a safety approval.

#### **§ 414.15 Processing the initial application.**

(a) The FAA will initially screen an application to determine if the application is sufficiently complete to enable the FAA to initiate the reviews or evaluations required under this part.

(b) After completing the initial screening, the FAA will inform the applicant in writing of one of the following:

(1) The FAA accepts the application and will begin the reviews or evaluations required for a safety approval determination under this part.

(2) The FAA rejects the application because it is incomplete or indefinite

making initiation of the reviews or evaluations required for a safety approval determination under this part inappropriate.

(c) The written notice will state the reason(s) for rejection and corrective actions necessary for the application to be accepted. The FAA may return a rejected application to the applicant or may hold it until the applicant provides more information.

(d) The applicant may withdraw, amend, or supplement an application anytime before the FAA makes a final determination on the safety approval application by making a written request to the Associate Administrator. If the applicant amends or supplements the initial application, the revised application must meet all the applicable requirements under this part.

#### **§ 414.17 Maintaining the continued accuracy of the initial application.**

The applicant is responsible for the continuing accuracy and completeness of information provided to the FAA as part of the safety approval application. If at any time after submitting the application, circumstances occur that cause the information to no longer be accurate and complete in any material respect, the applicant must submit a written statement to the Associate Administrator explaining the circumstances and providing the new or corrected information. The revised application must meet all requirements under § 414.11.

### **Subpart C—Safety Approval Review and Issuance**

#### **§ 414.19 Technical criteria for reviewing a safety approval application.**

(a) The FAA will determine whether a safety element is eligible for and may be issued a safety approval. We will base our determination on performance-based criteria, against which we may assess the effect on public health and safety and on safety of property, in the following hierarchy:

(1) FAA or other appropriate Federal regulations.

(2) Government-developed or adopted standards.

(3) Industry consensus performance-based criteria or standard.

(4) Applicant-developed criteria. Applicant-developed criteria are performance standards customized by the manufacturer that intends to produce the system, system component, or part. The applicant-developed criteria must define—

- (i) Design and minimum performance;
- (ii) Quality assurance system requirements;

(iii) Production acceptance test specifications; and

(iv) Continued operational safety monitoring system characteristics.

(b) The applicant must allow the FAA to make its proposed safety approval criteria available to the public as part of the approval process.

#### **§ 414.21 Terms and conditions for issuing a safety approval; duration of a safety approval.**

(a) The FAA will issue a safety approval to an applicant that meets all the requirements under this part.

(b) The scope of the safety approval will be limited by the scope of the safety demonstration contained in the application on which the FAA based the decision to grant the safety approval.

(c) The FAA will determine specific terms and conditions of a safety approval individually, limiting the safety approval to the scope for which the safety-approved launch or reentry element was approved. The terms and conditions will include reporting requirements tailored to the individual safety approval.

(d) A safety approval is valid for five years and may be renewed.

(e) If the FAA denies the application, the applicant may correct any deficiency the FAA identified and request a reconsideration of the revised application. The applicant also has the right to appeal a denial as set forth in subpart D of this part.

#### **§ 414.23 Maintaining the continued accuracy of the safety approval application.**

(a) The holder of a safety approval must ensure the continued accuracy and completeness of representations contained in the safety approval application, on which the approval was issued, for the entire term of the safety approval.

(b) If any representation contained in the application that is material to public health and safety or safety of property ceases to be accurate and complete, the safety approval holder must prepare and submit a revised application according to § 414.11 under this part. The safety approval holder must point out any part of the safety approval or the associated application that would be changed or affected by a proposed modification. The FAA will review and make a determination on the revised application under the terms of this part.

(c) If the FAA approves the revised application, the FAA will provide written notice to the holder, stating the terms and conditions to which the approval is subject.

**§ 414.25 Safety approval records.**

The holder of a safety approval must maintain all records necessary to verify that the holder's activities are consistent with the representations contained in the application for which the approval was issued for the duration of the safety approval plus one year.

**§ 414.27 Safety approval renewal.**

(a) *Eligibility.* A holder of a safety approval may apply to renew it by sending the FAA a written application at least 90 days before the expiration date of the approval.

(b) *Application.* (1) A safety approval renewal application must meet all the requirements under § 414.11.

(2) The application may incorporate by reference information provided as part of the application for the expiring safety approval or any modification to that approval.

(3) Any proposed changes in the conduct of a safety element for which the FAA has issued a safety approval must be described and must include any added information necessary to support the fitness of the proposed changes to meet the criteria upon which the FAA evaluated the safety approval application.

(c) *Review of application.* The FAA conducts the reviews required under this part to determine whether the safety approval may be renewed. We may incorporate by reference any findings that are part of the record for the expiring safety approval.

(d) *Grant of safety approval renewal.* If the FAA makes a favorable safety approval determination, the FAA issues an order that amends the expiration date of the safety approval or issues a new safety approval. The FAA may impose added or revised terms and conditions necessary to protect public health and safety and the safety of property.

(e) *Written notice.* The FAA will provide written notice to the applicant of our determination on the safety approval renewal request.

(f) *Denial of a safety approval renewal.* If the FAA denies the renewal application, the applicant may correct any deficiency the FAA identified and request a reconsideration of the revised application. The applicant also has the right to appeal a denial as set forth in subpart D of this part.

**§ 414.29 Safety approval transfer.**

(a) Only the FAA may approve a transfer of a safety approval.

(b) Either the holder of a safety approval or the prospective transferee may request a safety approval transfer.

(c) Both the holder and prospective transferee must agree to the transfer.

(d) The person requesting the transfer must submit a safety approval application according to § 414.11, must meet the applicable requirements of this part, and may incorporate by reference relevant portions of the initial application.

(e) The FAA will approve a transfer of a safety approval only after all the approvals and determinations required under this chapter for a safety approval have been met. In conducting reviews and issuing approvals and determinations, the FAA may incorporate by reference any findings made part of the record to support the initial safety approval determination. The FAA may modify the terms and conditions of a safety approval to reflect any changes necessary because of a safety approval transfer.

(f) The FAA will provide written notice to the person requesting the safety approval transfer of our determination.

(g) If the FAA denies a transfer request, the applicant may correct any deficiency the FAA identified and request a reconsideration of the revised application. The applicant also has the right to appeal a denial as set forth in subpart D of this part.

**§ 414.31 Monitoring compliance with the terms and conditions of a safety approval.**

Each holder of a safety approval must allow access by, and cooperate with, Federal officers or employees or other individuals authorized by the Associate Administrator to inspect manufacturing, production, testing, or assembly performed by a holder of a safety approval or its contractor. The FAA may also inspect a safety approval process or service, including training programs and personnel qualifications.

**§ 414.33 Modification, suspension, or revocation of a safety approval.**

(a) *The safety approval holder.* The safety approval holder may submit an application to the FAA to modify the terms and conditions of the holder's safety approval. The application must meet all the applicable requirements under this part. The FAA will review and make a determination on the application using the same procedures under this part applicable to an initial safety approval application. If the FAA denies the request to modify a safety approval, the holder may correct any deficiency the FAA identified and request reconsideration. The holder also has the right to appeal a denial as set forth in subpart D of this part.

(b) *The FAA.* If the FAA finds it is in the interest of public health and safety, safety of property, or if the safety

approval holder fails to comply with any applicable requirements of this part, any terms and conditions of the safety approval, or any other applicable requirement, the FAA may—

(1) Modify the terms and conditions of the safety approval; or

(2) Suspend or revoke the safety approval.

(c) *Effective Date.* Unless otherwise stated by the FAA, any modification, suspension, or revocation of a safety approval under paragraph (b)—

(1) Takes effect immediately; and

(2) Continues in effect during any reconsideration or appeal of such action under this part.

(d) *Notification and Right to Appeal.* If the FAA determines it is necessary to modify, suspend, or revoke a safety approval, we will notify the safety approval holder in writing. If the holder disagrees with the FAA's determination, the holder may correct any deficiency the FAA identified and request a reconsideration of the determination. The applicant also has the right to appeal the determination as set forth in subpart D of this part.

**§ 414.35 Public notification of the criteria by which a safety approval was issued.**

For each grant of a safety approval, the FAA will publish in the **Federal Register** a notice of the criteria that were used to evaluate the safety approval application, and a description of the criteria.

**Subpart D—Appeal Procedures****§ 414.37 Hearings in safety approval actions.**

(a) The FAA will give the safety approval applicant or holder, as appropriate, written notice stating the reason for issuing a denial or for modifying, suspending, or revoking a safety approval under this part.

(b) A safety approval applicant or holder is entitled to a determination on the record after an opportunity for a hearing.

(c) An administrative law judge will be designated to preside over any hearing held under this part.

**§ 414.39 Submissions; oral presentations in safety approval actions.**

(a) Determinations in safety approval actions under this part will be made on the basis of written submissions unless the administrative law judge, on petition or on his or her own initiative, determines that an oral presentation is required.

(b) Submissions must include a detailed exposition of the evidence or arguments supporting the petition.

(c) Petitions must be filed as soon as practicable, but in no event more than 30 days after issuance of decision or finding under § 414.37.

**§ 414.41 Administrative law judge's recommended decision in safety approval actions.**

(a) The Associate Administrator, who will make the final decision on the matter at issue, will review the recommended decision of the administrative law judge. The Associate Administrator will make such final decision within 30 days of issuance of the recommended decision.

(b) The authority and responsibility to review and decide rests solely with the Associate Administrator and may not be delegated.

Issued in Washington, DC, on August 8, 2006.

**Marion C. Blakey,**  
*Administrator.*

[FR Doc. E6-13313 Filed 8-14-06; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Parts 315, 341, 346, 351, 352, 353, 359, and 360**

**Regulations Governing U.S. Savings Bonds, Series A, B, C, D, E, F, G, H, J, and K, and U.S. Savings Notes; United States Retirement Plan Bonds; United States Individual Retirement Bonds; United States Savings Bonds, Series EE and HH; Definitive United States Savings Bonds, Series I; Offering of United States Savings Bonds, Series EE; United States Savings Bonds, Series HH; Offering of United States Savings Bonds, Series I**

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule eliminates requirements to inscribe complete taxpayer identification numbers (TINs) on the face of: (1) Newly issued definitive Series EE and Series I savings bonds; (2) reissued or replaced definitive Series E, Series EE, Series H, Series HH, and Series I savings bonds; and (3) reissued or replaced Individual Retirement and Retirement Plan bonds. This change is being implemented to protect the privacy of savings bond owners. Purchasers of newly issued savings bonds will continue to be required to provide the TIN of the owner, first named coowner, or purchaser of a gift bond to be

maintained as part of the registration of the bonds on the records of the Treasury Department. The TINs of the registered owner or first named coowner of a reissued or replaced bond will also be maintained as a part of the registration on the records of the Treasury Department.

**DATES:** *Effective:* August 15, 2006.

**ADDRESSES:** You can download this final rule at the following Internet addresses: <http://www.publicdebt.treas.gov> or <http://www.gpoaccess.gov/ecfr>.

**FOR FURTHER INFORMATION CONTACT:**

Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480-6319 or [elisha.whipkey@bpd.treas.gov](mailto:elisha.whipkey@bpd.treas.gov).  
Susan Sharp, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692 or [susan.sharp@bpd.treas.gov](mailto:susan.sharp@bpd.treas.gov).

**SUPPLEMENTARY INFORMATION:** Newly purchased definitive Series EE and Series I savings bonds are issued with the TIN of the owner, first-named coowner, or purchaser of a gift bond inscribed on the face of the bond. Reissued or replaced definitive Series E, Series EE, Series H, Series HH, and Series I savings bonds, Individual Retirement bonds, and Retirement Plan bonds also have the TIN inscribed on the face of the bond. Due to concerns about the privacy of bond owners, the Department of the Treasury is eliminating language requiring the inscription of the complete TIN of the owner, first-named coowner, or purchaser of a gift bond on the face of the bond. The TIN of the owner, first-named coowner, or purchaser of a gift bond will continue to be maintained on the records of the Treasury Department. This change will benefit savings bond owners by providing additional privacy protections against identity theft.

**Procedural Requirements**

This final rule does not meet the criteria for a "significant regulatory action" as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

Because this final rule relates to matters of public contract and procedures for United States securities, notice and public procedure and delayed effective date requirements are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

**List of Subjects**

*31 CFR Part 315*

Banks and banking, Government securities, Federal Reserve system.

*31 CFR Part 341*

Bonds, Retirement.

*31 CFR Part 346*

Bonds, Retirement.

*31 CFR Part 351*

Bonds, Federal Reserve system, Government securities.

*31 CFR Part 352*

Bonds, Government securities.

*31 CFR Part 353*

Banks and banking, Government securities, Federal Reserve system.

*31 CFR Part 359*

Bonds, Federal Reserve system, Government securities, Securities.

*31 CFR Part 360*

Bonds, Federal Reserve system, Government securities, Securities.

■ Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, is amended as follows:

**PART 315—REGULATIONS GOVERNING U.S. SAVINGS BONDS, SERIES A, B, C, D, E, F, G, H, J, AND K, AND U.S. SAVINGS NOTES**

■ 1. The authority citation for Part 315 continues to read as follows:

**Authority:** 31 U.S.C. 3105 and 5 U.S.C. 301.

■ 2. Section 315.2 is amended by redesignating paragraphs (g) through (l) as paragraphs (h) through (m), redesignating paragraphs (m) through (q) as paragraphs (o) through (s), and adding new paragraphs (g) and (n) to read as follows:

**§ 315.2 Definitions.**

\* \* \* \* \*

(g) *Inscription* means the information that is printed on the face of the bond.

\* \* \* \* \*

(n) *Registration* means that the names of all persons named on the bond and the taxpayer identification number (TIN) of the owner, first-named coowner, or purchaser of a gift bond are maintained on our records.

\* \* \* \* \*