address VOC reduction needs in the Ozone Transport Region (OTR).

II. Summary of SIP Revision

The District's AIM coatings rule (sections 749 through 754) applies to any person who supplies, sells, offers for sale, or manufactures, applies or solicits the application of any AIM coating on or after January 1, 2005 within the District. The rule does not apply to the following: (1) Any AIM coating that is sold or manufactured for use outside of the District, or for shipment to other manufacturers for reformulation or repackaging; (2) any aerosol coating product; or (3) any architectural coating that is sold in a container with a volume of one liter (1.057 quarts) or less. The rule sets specific VOC content limits, in grams per liter, for AIM coating categories with a compliance date of January 1, 2005. The rule contains administrative requirements for labeling and reporting as well as text methods for demonstrating compliance. The test methods used to test coatings must be the most current approved method at the time testing is performed.

III. Proposed Action

EPA is proposing to approve a revision to the District of Columbia SIP to establish a regulation for the control of emissions from AIM coatings (sections 749 through 754), and also section 799 containing the associated definitions for the AIM coatings rule. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This proposed rule pertaining to the District of Columbia's AIM coatings rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04–28200 Filed 12–23–04; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The NTSB is proposing to amend 49 *Code of Federal Regulations* (CFR) Part 830, ''Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records,'' to include certain events that are not currently covered by the regulations. This amendment is intended to enhance aviation safety by providing the NTSB direct notification of these events so that we can investigate and take corrective actions in a timely manner.

DATES: Submit comments on or before February 25, 2005.

ADDRESSES: Mail comments concerning this proposed rule to Deepak Joshi, Lead Aerospace Engineer (Structures), National Transportation Safety Board, Room 5235, 490 L'Enfant Plaza, SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: Deepak Joshi, (202) 314–6348.

SUPPLEMENTARY INFORMATION:

Proposed Revision to § 830.2, Definitions

Part 830 requires that an event that results in substantial damage to a civil or public aircraft not operated by the Armed Forces or an intelligence agency be reported to the NTSB. We are proposing to modify the current definition of *substantial damage* in

§ 830.2 by removing reference to ground damage to helicopter rotor blades from the list of exclusions. We believe this revision is necessary because the main rotor blades of a helicopter are the lifting surfaces of the aircraft and are considered to be equivalent to the wings of an airplane. The tail rotor blades of a helicopter provide yaw control and are analogous to the rudder control surface of an airplane. Any damage to main or tail rotor blades—regardless of how it occurs—will likely adversely affect the performance of the aircraft and, if so, should be considered substantial damage. Therefore, we are proposing to bring events involving ground damage to main or tail rotor blades within the definition of an accident and clearly make them reportable events.

Proposed Revision to § 830.5, Immediate Notification

The NTSB is proposing that the following events be added to the current list of events requiring immediate NTSB notification:

(a) Failure of any internal turbine engine component that results in the escape of debris other than out the exhaust path.

Currently, § 830.5(a)(3) excludes the failure of compressor and turbine blades and vanes from required NTSB notification. Although the NTSB requires notification of such an event if one of these components escapes and results in substantial damage to the aircraft or an in-flight fire, we believe that the failure of any internal turbine engine component that results in the escape of debris other than out the exhaust path warrants immediate NTSB notification because the high energy levels of exiting fragments pose a significant safety hazard to the aircraft and its occupants. The importance of protecting the aircraft from high-energy engine fragments is reflected in the Federal Aviation Regulations (notably § 23.903(b)(1), and § 33.19), which explicitly require design precautions to minimize hazards to the aircraft in the event of an engine rotor failure. In addition, § 33.75 requires that the engine's cases provide for the containment of damage from rotor blade failure.

The NTSB will investigate engine failures when the debris escapes through a path other than the exhaust regardless of whether such failures result in substantial damage to the airplane because of the safety implications. However, to initiate an investigation in these instances, we have to rely on the Federal Aviation Administration (FAA), the operator, or the engine manufacturer to notify us. Such notifications are not required and often are not provided. If notification is provided, it may not be timely. Accordingly, the NTSB proposes that § 830.5(a)(3) be revised to require that the failure of any internal turbine engine component that results in the escape of debris other than out the exhaust path be a reportable event (debris that exits the exhaust path and causes substantial damage or serious injury is reportable as an accident under § 830.5(a)(6)).

(b) Structural failure of a propeller resulting in the release of all or a portion of a propeller blade from an aircraft, excluding release caused solely by ground contact.

The current notification regulations do not ensure that the failure of a propeller blade resulting in the release of all or a portion of a blade from an aircraft will be reported to the NTSB. In some cases, the NTSB has been notified of an accident in which a structural failure of a propeller blade was an initiating event but only because the failure resulted in substantial damage or reportable injuries as defined in Part 830. If no substantial aircraft damage and no reportable injuries to the occupants have occurred because of such a failure and an uneventful landing is made, there is no requirement to notify the NTSB. Although substantial damage or serious injury may not result from a propeller blade failure, there may be airworthiness and safety issues that should be addressed.

For example, on January 12, 2002, an ATR–42 experienced a propeller blade failure during takeoff. The pilot was able to shut down the engine and make an uneventful landing. No significant aircraft damage was noted and no other factors made it a reportable event under § 830.5. However, the NTSB became aware of the failure and issued two safety recommendations (A–03–13 and –14) relating to inspection and repair of propeller blades as a direct result of its investigation.

Title 14 CFR 25.905 requires that design precautions be taken to minimize, among other hazards, airplane structural damage in the event of a propeller blade failure. However, the FAA has granted waivers to this rule because the airplane's structure is unable to withstand the forces of unbalance should a propeller blade separate. On August 21, 1995, an Embraer EMB–120 crashed following the separation of a propeller blade that broke the engine's mounts. Because the propeller is a critical part of the powerplant operation on these airplanes, the NTSB believes that there are safety benefits to be derived from requiring that a structural failure of a propeller resulting in the release of all or a portion of a propeller blade from an aircraft be included as a reportable event.

(c) Loss of information from a majority of an aircraft's certified electronic primary displays (excluding momentary inaccuracy or flickering from display systems that are certified installations).

Generally, in aircraft where electronic displays are used as primary displays, six or seven displays provide flight and engine information to flight crews. If one or two displays go blank, redundancy features allow for the remaining displays to be reconfigured and the aircraft to continue safe flight. However, if a majority of the displays malfunction, flight safety may be compromised. The NTSB has investigated two events (occurring on November 6, 2001, and January 24, 2003) in which all primary flight information and all engine information were lost, leaving only standby flight instruments and no standby engine instruments available. The current use of electronic displays to present flight and engine information has resulted in the loss of primary flight information through failure mechanisms that did not exist when 49 CFR part 830 was originally written.

(d) Any Airborne Collision and Avoidance System (ACAS) resolution advisories (RA) issued when an aircraft is being operated on an instrument flight rules (IFR) flight plan.

Because ACAS resolution advisories do not occur until aircraft are in relatively close proximity, RAs indicate a potential hazard in the air traffic control (ATC) system. Requiring that ACAS resolution advisories involving aircraft operating under IFR be subject to NTSB notification would assist us in detecting, tracking, and investigating these hazardous occurrences. Knowing about these incidents soon after they occur would ensure that radar and voice data are available when needed to support investigations of ACAS incidents.

List of Subjects in 49 CFR Part 830

Aircraft accidents or incidents and overdue aircraft notification and reporting, Aviation safety, Reporting and record-keeping requirements.

For the reasons set forth in the preamble, the National Transportation Safety Board proposes to amend 49 CFR Part 830 as set forth below:

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

1. The Authority citation for Part 830 is proposed to be revised to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

2. Section 830.2 is amended by revising the definition of ''substantial damage'' to read as follows:

§ 830.2 Definitions.

* * * * *

Substantial damage means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure or damage limited to an engine if only one engine fails or is damaged, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to propeller blades, and damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered *substantial damage* for the purpose of this part.

3. Section 830.5 is amended by revising the introductory paragraph, revising paragraphs (a), (3), (4), and (5), and adding paragraphs (a)(8), (9), and (10).

§ 830.5 Immediate notification.

The operator of any civil aircraft, or any public aircraft not operated by the Armed Forces or an intelligence agency of the United States, or any foreign aircraft shall immediately, and by the most expeditious means available, notify the nearest National Transportation Safety Board (Board) regional office [1] when:

(a) An aircraft accident or any of the following listed incidents occur:

* * * * *

(3) Failure of any internal turbine engine component that results in the escape of debris other than out the exhaust path;

(4) In-flight fire;

(5) Aircraft collide in flight;

* * * * *

(8) Structural failure of a propeller resulting in the release of all or a portion of a propeller blade from an aircraft, excluding release caused solely by ground contact;

(9) Loss of information from a majority of an aircraft's certified electronic primary displays (excluding momentary inaccuracy or flickering from display systems that are certified installations);

(10) Any Airborne Collision and Avoidance System (ACAS) resolution advisories (RA) issued when an aircraft is being operated on an instrument flight rules (IFR) flight plan.

* * * * *

Dated: December 16, 2004.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 04–28148 Filed 12–23–04; 8:45 am]

BILLING CODE 7533–01–M

[1] The Board regional offices are listed under U.S. Government in the telephone directories of the following cities: Anchorage, AK; Atlanta, GA; West Chicago, IL; Denver, CO; Arlington, TX; Gardena (Los Angeles), CA; Miami, FL; Parsippany, NJ (metropolitan New York City); Seattle, WA; and Washington, DC.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Kern Brook Lamprey as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Kern brook lamprey (*Lampetra hubbsi*) under the Endangered Species Act of 1973, as amended. We find the petition and other information available did not present substantial scientific or commercial information indicating that listing the Kern brook lamprey may be warranted. Therefore, we will not be initiating a further status review in response to this petition. We ask the public to submit to us any new information that becomes available concerning the status of or threats to the species. This information will help us monitor and encourage the conservation of the species.

The Pacific lamprey (*Lampetra tridentata*), river lamprey (*Lampetra ayresi*), and western brook lamprey (*Lampetra richardsoni*) were also identified in the petition. However, these species are addressed in a separate finding, prepared by the Portland Fish and Wildlife Office in Oregon, and are not addressed in this notice.

DATES: The finding announced in this document was made December 27, 2004. Submit any new information concerning this species for our consideration at any time.

ADDRESSES: Comments, material, information, or questions concerning this petition and 90-day finding should be sent to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825–1846. The petition and supporting information are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Wayne White, Field Supervisor, Sacramento Fish and Wildlife Office (see **ADDRESSES** above) (telephone 916/414–6600; facsimile 916/414–6712).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated, under our internal candidate assessment process.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). This finding summarizes information included in the petition and information available to us at the time of the petition review. Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the