(e) review means to ensure that adequate refrigerated storage space is available to process the eagles; and

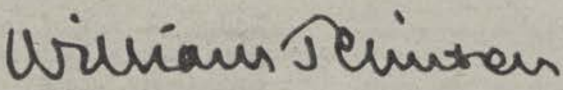
(f) continue efforts to improve the Repository's ability to facilitate the objectives of this memorandum.

The Department of the Interior shall be responsible for coordinating any interagency efforts to address continuing executive branch actions necessary to achieve the objectives of this memorandum.

We must continue to be committed to greater intergovernmental communication and cooperation. In addition to working more closely with tribal governments, we must enlist the assistance of, and cooperate with, State and local governments to achieve the objectives of this memorandum. I therefore request that the Department of the Interior work with State fish and game agencies and other relevant State and local authorities to facilitate the objectives of this memorandum.

With commitment and cooperation by all of the agencies in the executive branch and with tribal governments, I am confident that we will be able to accomplish meaningful progress in the distribution of eagles for Native American religious purposes.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 29, 1994.

[FR Doc. 94-10885
Filed 5-2-94; 4:17 pm]
Billing code 3110-01-M

Editorial note: For the President's remarks to American Indian and Native Alaska tribal leaders, see the *Weekly Compilation of Presidential Documents*.

Presidential Documents

Proclamation 6679 of April 30, 1994

Law Day, U.S.A., 1994

By the President of the United States of America

A Proclamation

In 1961, when President John F. Kennedy first proclaimed Law Day, U.S.A., he urged "Americans to rededicate themselves to the ideals of equality and justice under law in their relations with each other and with other nations. . . ."

President Kennedy's challenge is no less urgent today. We live in a time when nations around the globe are struggling to break free from the darkness of oppression into the light of law and justice. To many of the people of these countries, the American rule of law stands as a bright beacon guiding the way to a hopeful future. Law Day, U.S.A., offers every American the opportunity to reflect upon our Nation's proud example of respect for the rights of individuals. More than that, this day demands that we reaffirm our commitment to maintaining a just and civil society in a rapidly changing world.

With the triumph of democratic governments and judiciaries around the world, it seems particularly disturbing that our own legal system is tested daily by the epidemic of crime and violence here at home. In America today, too many children must pass through metal detectors to go to school. Too many are approached by drug dealers in public parks, or worry that they will be victims of drive-by shootings. The primary responsibility of government is to protect the freedom of its citizens and to keep them safe from harm. Our tradition of jurisprudence is the powerful embodiment of this ideal. But it is up to each of us to help ensure that this system remains true to its essential mission—freeing our people from fear while protecting the liberties and rights of all.

On this day, I urge every American to support those who fight to promote respect for the law, from police officers, judges, and other members of the legal system to parents, teachers, and clergy. Let us find the strength to insist that law prevails over disorder, equality over discrimination, and justice over crime and prejudice. Let reverence for the laws, in the words of President Abraham Lincoln, "be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in the courts of justice. . . ."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim May 1, 1994, as "Law Day, U.S.A." I request the people of the United States to observe this day with such ceremonies and observances as will suitably signal our heritage of freedom, our rights under law, and our abiding commitment to assist others in vindicating their rights. I urge members of the legal profession, civic associations, and the media, as well as educators, librarians, and public officials, to promote this observance through appropriate programs and activities. I further call upon all public officials to display the flag of the United States on all government buildings on Law Day, U.S.A., as a symbol of our dedication to the rule of government under law

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94-10894
Filed 5-2-94; 4:37 pm]
Billing code 3195-01-P

Presidential Documents

Proclamation 6680 of April 30, 1994

Loyalty Day, 1994

By the President of the United States of America

A Proclamation

Each year, at the height of spring's renewal, Americans take the time to reaffirm our allegiance to our country and to the ideals upon which it was founded. On this "Loyalty Day," we pledge to defend the blessings of American democracy.

Ours is still a relatively young Nation, but even in our brief history, we have seen many other forms of government come and go. We have witnessed the collapse of dictatorial regimes, while our brand of democracy has continued to evolve and flourish. Rather than establishing government control through the deprivation of basic human rights, our founders realized that individual freedom and the right to self-determination are the most powerful sources of national strength. This philosophy forms the bedrock upon which our Nation is built, and we continue to expand and enforce its wise mandate to this very day.

Generations of Americans have demonstrated their loyalty and devotion to this country, many risking their lives for the sake of defending the common good. To ensure that this loyalty and love of country remain a vibrant part of each new generation, the Congress, by a joint resolution approved July 18, 1958 (72 Stat. 369; 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1994, as Loyalty Day. I call upon all Americans to observe this day with appropriate ceremonies and activities, including public recitation of the Pledge of Allegiance to the Flag of the United States. I also call upon government officials to display the flag on all government buildings and grounds on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94–10895
Filed 5–2–94; 4:37 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6681 of April 30, 1994

Small Business Week, 1994

By the President of the United States of America

A Proclamation

Small businesses create many new jobs in the United States and are an important part of our Nation's international competitiveness. Today, America's 20 million small businesses remain at the heart of our economy. These companies are the engines of growth, and it is in small business that people continue to find opportunity, pride, and dignity.

Indeed, small business is the lifeblood of America's free enterprise system. This is the sector that creates two of every three new jobs in our country, putting the American Dream within reach of hundreds of thousands of men and women who provide the variety and ingenuity that are our greatest natural resources. Small businesses employ more than 57 percent of the private U.S. work force, account for 54 percent of all sales, and generate half of the domestic private sector output.

As we move forward in a spirit of renewal and change, there is one constant that must prevail in the economy of the United States. Small business must continue to provide the solid foundation upon which this Nation builds its economic strength and maintains its character. Government, working hand in hand with entrepreneurs, must recognize these contributions and help small business create jobs and increase incomes.

We must support and honor small business for the contributions this sector makes to the economy. And just as important, we should remember that it is in small business that the United States finds energy, faith, and confidence in our system of democracy and free enterprise. Only by fully developing our technological and human resources can we expect to be leaders in the global marketplace.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of May 1 through May 7, 1994, as the 31st "Small Business Week," and I call on every American to join me in this tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94-10896
Filed 5-2-94; 4:38 pm]
Billing code 3195-01-P

Rules and Regulations

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 1994

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1941, 1943, and 1945

RIN 0575–AB30

Final Implementation of Appraisal of Farms and Leasehold Interests

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its farm tract appraisal regulations in order to implement and conform to the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989. The intended effect of this rule is to meet the provisions of title XI of FIRREA and the Uniform Standards of Professional Appraisal Practice (USPAP) as directed from the Office of Management and Budget (OMB Bulletin A–129).

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Ronald T. Thelen, Senior Loan Officer, Program Development Staff, USDA, FmHA, room 4918–S, South Building, Washington, DC 20250, telephone: (202) 720–0830.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this final rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this final rule: (1) Would have an effect on the economy of less than $100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program/activity is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

This program/activity affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans,
10.407—Farm Ownership Loans, and
10.416—Soil and Water Loans.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion of Final Rule

On August 25, 1993, FmHA published an interim rule which removed 7 CFR part 1809, subpart A, "Appraisal of Farms and Leasehold Interests," from the **Federal Register**. It also did the following: (1) Revised and renumbered part 1809 to FmHA Instruction 1922, subpart E—"Appraisal of Farms and Leasehold Interests."; (2) Issued revised § 1922.201 "General" (old § 1809.1 "General") and (3) Issued new § 1922.209 "Easements and appraising property subject to easements."

Other §§ 1809.2 through 1809.8 of subpart A were amended to meet USPAP and placed in §§ 1922.202 through 1922.208 of FmHA Instruction 1922–E. Sections 1922.202 through 1922.208 were not published in the **Federal Register** because they involve internal Agency management.

These changes were implemented upon publication in the **Federal Register** in order to provide immediate guidance to FmHA designated farm real estate appraisers and FmHA contract farm real estate appraisers concerning the use of the uniform standards as set out in Sections I, II and III of USPAP. This action was necessary because most States enacted legislation and implemented FIRREA on January 1, 1993, and required farm real estate appraisers to follow uniform appraisal standards or Sections I, II and III of USPAP. Further delays by FmHA would have had an adverse impact on FmHA borrowers and loan applicants due to delays which may have resulted from the continued use of outdated farm appraisal techniques and methods.

The comment period ended September 24, 1993. No comments were received. Accordingly, no substantive change is made from the interim rule. Minor editorial changes of an administrative nature have been made. Inadvertently, a few FmHA Instructions were overlooked when revising references from FmHA Instruction 422.1 to FmHA Instruction 1922–E.

List of Subjects in 7 CFR Parts 1941, 1943, and 1945

Agriculture, Credit, Crops, Disaster assistance, Livestock, Loan programs—agriculture, Recreation, Real property—appraisals, Rural areas, Water resources, Youth.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PARTS 1941, 1943, 1945—[AMENDED]

1. The authority citations for parts 1941, 1943, 1945 continue to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

CHAPTER XVIII—[AMENDED]

2. 7 CFR Chapter XVIII is amended by revising the reference "FmHA Instruction 422.1" to read "FmHA Instruction 1922–E" in the following places:

a. § 1941.19 (b)(2).
b. § 1943.19 (b)(1).
c. § 1943.69 (b)(1).
d. § 1945.169 (b)(1).

Dated: February 1, 1994.

Bob Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 94–10619 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–07–U

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R–0821]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to subpart A of its Regulation J, governing collection of checks and other items by Federal Reserve Banks. The amendments, in general, conform the warranties and various other provisions of Regulation J to recent amendments to Regulation CC or to the Uniform Commercial Code.

EFFECTIVE DATE: June 6, 1994.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452–3625), or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: Subpart A of the Board's Regulation J (12 CFR part 210) governs the collection of checks and other items by Federal Reserve Banks. Regulation J sets out the warranties made by institutions that send items for collection through the Federal Reserve System as well as warranties made by Reserve Banks.[1] Regulation J also covers liability for breach of warranty, presentment of and settlement for cash items and returned checks, and other related issues.

In October 1992, the Board published amendments to its Regulation CC (12 CFR part 229) that require paying banks to make same-day settlement for certain checks presented by private-sector banks, effective January 3, 1994 (57 FR 46956, October 14, 1992). As part of these amendments, the Board revised the Regulation CC warranties to require private-sector collecting, returning, and presenting banks to warrant the accuracy of cash letter totals and check encoding. In December 1993, the Board published proposed amendments to Regulation J to clarify that the Reserve Banks and institutions that send items to Reserve Banks also make the Regulation CC warranties, to conform certain Regulation J provisions to the 1990 version of the Uniform Commercial Code (U.C.C.), and to make other minor changes (58 FR 68566, December 28, 1993). The Board received 10 comments on the proposed amendments, which are discussed in the section-by-section analysis below.

The Board has established procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.[2] Under these procedures, the Board assesses whether the proposed regulatory changes would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. The Regulation J amendments are largely technical, clarifying, or conform Regulation J to the rules applicable to private-sector banks under Regulation CC and the U.C.C. The Board believes that the amendments would not have a direct and material adverse effect on the ability of others to compete effectively with the Federal Reserve Banks.

Section-by-Section Analysis

Section 210.1

This section sets forth the authority, purpose, and scope of subpart A of Regulation J. At the suggestion of one commenter, the Board is updating the authority citations in this section to conform with the authority citations in the CFR. Specifically, the Board has added a citation to section 11(j) of the Federal Reserve Act, which authorizes the Board to exercise general supervision over the Reserve Banks.

Section 210.2(g)

The Board proposed to amend the definition of "item" in keeping with the definition of "item" in U.C.C. § 4–104(a)(9). Under the amended language, "item" would expressly include promises or orders, such as certain bonds or other investment securities, that are handled through the bank collection system. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.2(p)

The Board proposed to add a definition of "Uniform Commercial Code" that conforms to the definition in Regulation CC (12 CFR 229.2(ii)). The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.3(a)

The Board proposed to amend this section to set forth more accurately the scope of the Federal Reserve Banks' operating circulars, which include provisions for service terms and adjustments. The amendment specifies that the operating circulars may include provisions for adjustments of amounts, waiver of expenses, and payment of interest by as-of adjustment.

One commenter believed that the proposed change, at least as it relates to Reserve Bank adjustment practices, impedes the ability of correspondent banks to compete with the Reserve Banks. This commenter stated that the adjustment accounting practices of its local Reserve Bank require intercept processors and depository institutions to engage in a burdensome reconcilement process. The commenter stated that the Board should not incorporate the operating circulars into Regulation J.

The proposed amendments, however, would not incorporate the operating circulars into Regulation J, but rather would provide greater detail as to the scope of the operating circulars. Issues related to adjustment posting alternatives generally can be settled between the Reserve Bank and the parties involved and would not be affected by the proposed amendment to Regulation J. Thus, the Board has adopted the amendment as proposed.

Section 210.3(f)

The Board proposed to add a new paragraph to § 210.3 to clarify that Regulation J supersedes the U.C.C., other state laws, and Regulation CC to the extent of any inconsistency. This provision parallels § 229.41 of Regulation CC, which provides that Regulation CC supersedes the U.C.C. and other state law to the extent of the inconsistency. The Board received no comments on this section and has adopted the amendment as proposed.

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[1] As used in this docket, sender means any institution that sends a check to a Reserve Bank for collection, and bank includes all depository institutions, such as commercial banks, savings institutions, and credit unions.

[2] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

Section 210.5(a)

The Board proposed to amend § 210.5(a) to conform the warranties made by banks that send items to Reserve Banks to the transfer and presentment warranties in U.C.C. 4–207 and 4–208. A sender would warrant that it was (or acted on behalf of a person who was) entitled to enforce the item. The U.C.C. substituted the concept of "person entitled to enforce" for "person with good title" in recognition that the right to enforce an instrument is not limited to holders. In addition, the proposed amendment would require the sender to warrant that the item was not altered, dropping the adverb "materially." The U.C.C. formerly incorporated the concept of a "material" alteration as one that changed the contract of the parties in any respect. The revised U.C.C. refers to such a change simply as an alteration. Finally, the proposed amendment would clarify that the sender also makes the warranties set forth in Regulation CC and that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item.

One commenter was concerned that dropping the word "materially" would mean that repair of MICR encoding on a check that rejects from automated processing would constitute an alteration. Section 3–407 of the U.C.C. defines "alteration" as an unauthorized change that purports to modify the obligation of a party or an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party. The 1990 version of the U.C.C. appears to use the terms "alteration" synonymously with the former term "material alteration" (see Official Comment (1) to U.C.C. 3–407). MICR repair, which is intended to facilitate check collection and not to affect the obligations of the parties to a check, is unlikely to be considered an alteration.

Sections 210.5(d) and 210.12(i)

The Board proposed to add new paragraph (d) to § 210.5 and new paragraph (i) to § 210.12 to give a Reserve Bank a security interest in a sender's or prior collecting or returning bank's assets held by the Reserve Bank. The security interest would attach when a warranty is breached or other obligation is incurred. The proposed provisions were based on similar provisions in subpart B of Regulation J, which gives a Reserve Bank a security interest in the assets of a sender of a payment order to secure overdrafts and other obligations (§ 210.28(b) (3) and (4)).

Two commenters were concerned that the proposal would give Reserve Banks greater rights than private-sector banks to resolve warranty breach issues. One of the commenters stated that the proposal appeared to give Reserve Banks a complete self-remedy for breaches absent a court order or agreement of the parties. The commenter noted that security interests under § 210.28 are designed to secure overdrafts, which are easily determinable, as opposed to warranty breaches, which are often a matter of dispute. The commenter requested that the proposal be clarified to provide that security interests do not attach and a Reserve Bank may not set off or realize upon collateral without a judicial determination or agreement of the parties.

Section 9–501(5) of the U.C.C. provides that when a claim of a secured party is reduced to judgment, the secured party's lien on collateral relates back to the date the security interest was perfected. Accordingly, the Board believes that a Reserve Bank's security interest in the assets of a warranting bank should attach on the date the warranty is breached (generally the date the Reserve Bank handles the check in question) so that the Reserve Bank may take actions to protect its collateral, if necessary, as discussed below.

The Monetary Control Act of 1980 (12 U.S.C. 248a) directed the Board and the Reserve Banks to establish and set prices for services with due consideration to ensuring an adequate level of services nationwide. In keeping with this directive, the Board expects that Reserve Banks will provide check collection services to financially troubled banks that cannot obtain services elsewhere. If a troubled bank fails, the Reserve Bank may be liable on warranty claims that it cannot pass back to the failed bank. Accordingly, the Board believes that it is appropriate to provide some protection to the Reserve Banks from pending insolvencies. Thus, the Board has adopted the proposed security interest provisions, with modifications.

The modifications to §§ 229.5(d) and 229.12(i) clarify when a default occurs. Specifically, a Reserve Bank's rights to take any action under those sections will apply only: (1) If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or (2) at the time the sender suspends payments and is closed. The Board believes that requiring the Reserve Bank to advise a bank of its concerns about the bank's solvency will prevent the routine use of set-off or other actions on collateral by Reserve Banks. The Board believes that private-sector banks often reserve the right under security agreements to take steps, such as placing a hold on collateral, to protect themselves in cases where the banks consider themselves insecure.

Under the final rule, when a Reserve Bank receives notice of a warranty claim based on alleged forged indorsement or alteration, it would pass the notice back to the bank from which it received the check. The Reserve Bank would not, however, unilaterally pass judgment on such a claim. Rather, the Reserve Banks' uniform operating circulars provide that they will process adjustments for these types of warranty claims only with the agreement of the prior collecting bank. If such agreement is not forthcoming, the Reserve Bank would wait to be sued on the warranty claim and would tender defense of the suit to the prior collecting bank under §§ 210.5 (b) and (c) and 210.12 (e) and (f) of Regulation J. Entries would be made or collateral disposed of only after judgment as provided in those sections. The amendments to §§ 229.5(d) and 229.12(i), however, would not require a sender bank to fail or a Reserve Bank to deem itself insecure before the Reserve Bank could make credit or debit adjustments to reserve or clearing accounts in accordance with adjustment procedures established in Reserve Bank operating circulars.

Section 210.6(b)

The Board proposed to amend § 210.6(b) to conform the Reserve Bank warranties to the transfer and presentment warranties in U.C.C. 4–207 and 4–208. (See discussion of § 210.5(a).) The amendment clarifies that the Reserve Banks make the warranties set out in § 229.34 of Regulation CC. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.6(c)

Section 210.6(c) provides a 2-year statute of limitations for claims against Reserve Banks for lack of good faith or failure to exercise ordinary care under Regulation J. The Board proposed to amend this section to clarify that the Regulation CC limitation period of one year would apply to any claims against a Reserve Bank under Regulation CC, such as breach of a warranty under § 229.34 or lack of good faith or failure to exercise ordinary care under § 229.38. This amendment clarifies that claims against Reserve Banks for Regulation CC violations are subject to the same time limitations as those against private-sector banks.

The Board received three comments on this section. Two commenters believed that limitation period for breach of Regulation CC warranties should be two years rather than one year. One of these commenters often receives adjustment requests from the IRS one to two years after the fact and does not wish to be precluded from pursuing such adjustments with a Reserve Bank. This commenter suggested that the Regulation CC limitation period be extended to 2 years. Another commenter noted that, if the one year limitation period is adopted, it should run from the date of the last entry for the check in question rather than from the date the check first cleared.

The Board believes that the same limitation period should apply to Reserve Banks and private-sector banks for Regulation CC violations. As Regulation CC provides a one-year statute of limitations, the Board does not believe Regulation J should lengthen this period for Reserve Banks and has adopted the proposed amendment. The one-year period was established in subpart C of Regulation CC to match the one-year limitation period for subpart B (funds availability) violations, which was set by statute. As provided in Regulation CC § 229.38(g), an action must be brought within one year after the date of the occurrence of the violation involved.

Section 210.9(a)(5)

Section 210.9(a)(5) provides that paying banks must settle for checks presented by Reserve Banks by "autocharge" (i.e. a debit to an account at a Reserve Bank), cash, or other means agreed to by the Reserve Bank. The Board proposed to amend this section to clarify that a Reserve Bank may, in its discretion, elect to obtain settlement by autocharging the account of the paying bank for the amount of a cash letter. Virtually all Reserve Bank presentments are settled via autocharge. This amendment would restate the autocharge provisions that currently are set out in the Reserve Banks' uniform cash item operating circular.

The Board also proposed to amend this section to provide that paying banks that receive presentment from Reserve Banks may not set off other claims against the amount of settlement owed to the Reserve Bank. Paying banks may set off against private-sector presenting banks under § 229.34(c)(4) of Regulation CC. The Regulation CC set-off provision was designed to protect paying banks under the same-day settlement rule, which requires paying banks to accept presentment from and settle with all presenting banks, some of which may be in poor financial condition. If a paying bank overpays a cash letter in reliance on a cash letter total or check encoding warranted by the presenting bank, it could face the risk that the presenting bank would be unable to settle for adjustments. Protection against insolvency risk would not be necessary against a Reserve Bank. In addition, as banks generally settle with Reserve Banks via autocharge, set-off against a Reserve Bank would be impractical. Therefore, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(a)

Section 210.12(a) provides that a paying bank that has settled for a check presented by a Reserve Bank may return the check in accordance with Regulation CC, the U.C.C., and the Reserve Bank's operating circular. The Board proposed to amend this section to clarify that the paying bank may also return a check prior to settlement in accordance with § 210.9(a) of Regulation J and the Reserve Bank's operating circular. This amendment would clarify that a paying bank would have the same return rights under Regulation J as under Regulation CC and the U.C.C. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.12(c)

Section 210.12(c) sets out the warranties and agreements made by a bank that sends a returned check to a Reserve Bank. The Board proposed to amend this section to clarify that, in addition to the warranties set forth in § 229.34 of Regulation CC, the sender also makes any applicable warranty under state law. For example, the amendment would clarify that a depositary bank that settled for a returned check could recover the amount paid plus expenses and lost interest from a prior bank that breached a transfer warranty, in accordance with U.C.C. 4–208(d). In addition, similar to the amendments to § 210.5(a), the proposed revisions to this paragraph would clarify that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item. These amendments restate provisions that are already applicable to private-sector banks under Regulation CC and the U.C.C. The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(d)

The Board proposed to add a new paragraph (d) to § 210.12 to clarify that when a Reserve Bank transfers and receives settlement for a returned check, it makes the warranties set out in § 229.34 of Regulation CC. In addition, the new paragraph would parallel revised § 210.6(b) (governing Reserve Bank warranties for cash items) by providing a limitation of the Reserve Bank's liabilities, other than those allowed for in Regulation J, to the Reserve Bank's own lack of good faith or failure to exercise ordinary care. (The amendments redesignate current §§ 210.12(d) through (g) as §§ 210.12(e) through (h).) The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(e) (Formerly 210.12(d)) and Section 210.5(b)

The U.C.C. (3–119) and Regulation CC (§ 229.34(e)) provide that a bank that receives a tender of defense may in turn tender defense to a prior bank in the collection or return chain. Unless the prior bank comes in and defends, it is bound by the determination of fact common to the current litigation and any subsequent litigation.

Section 210.5(b) of Regulation J provides that, when a Reserve Bank tenders defense to a sender as a result of a tender to it, the Reserve Bank need not be a defendant in the suit in order to recover from the sender any losses that it incurs because of the judgment, so long as the judgment addresses the fact issue of breach of warranty. The Board adopted this provision in 1986 in order to reduce litigation and provide a more efficient way of handling forged indorsement cases (51 FR 21740, June 16, 1986). Due to an oversight, when the Board amended § 210.12 to provide a similar rule for returned checks, the language did not match that of § 210.5(b) and could have been interpreted to apply only when a Reserve Bank is a defendant (53 FR 21983, June 13, 1988). The Board proposed to amend § 210.12(e) to conform it to § 210.5(b). (The amendments redesignate current § 210.12(d) as § 210.12(e) and add a new paragraph (d) as discussed above.) The Board also proposed to correct a typographical error in § 210.5(b). The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(h) (Formerly 210.12(g))

This section provides that a depositary bank must settle for returned checks received from a Reserve Bank in the same manner as it settles for cash items presented by the Reserve Bank. The Board proposed to amend this section to clarify that settlement for returned checks also must be made by the same time as settlement for cash items, as provided in § 210.9(a). The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.13(a)

Section 210.13(a) authorizes a Reserve Bank that does not receive payment for an item to charge back the account of the sender, paying bank, or returning bank from which the item was received. The Board proposed to amend this section to clarify that a Reserve Bank also may charge the account of a prior collecting bank through which the item was received. This amendment is consistent with § 229.35(b) of Regulation CC, which allows a bank that handles a check or returned check to recover from any prior indorser in the event that the bank does not receive payment for the check from a subsequent bank in the collection or return chain. In the event of such a recovery by a Reserve Bank, § 229.13(a) provides that no bank or person in the forward collection or return chain would have an interest in any funds in the Reserve Bank's possession of the bank that failed to pay. The amendment would clarify that, when a Reserve Bank charges back an item, this limitation of interest applies only when a bank or person seeks payment of the amount of the item out of funds or property held by the Reserve Bank. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.13(b)

Section 210.13(b) provides that a Reserve Bank will not debit an institution's reserve account for drafts or other orders on the account after receiving notice that the institution has been closed. The Board proposed to amend this section to clarify that Reserve Banks will not charge an account as authorized by § 210.9(a)(5) after receiving notice the institution is closed. The amendment also would clarify that this section applies only to charges to reserve accounts to settle for items (including returned checks) and does not affect the Reserve Bank's security interest under proposed §§ 210.5(d) and 210.12(i). The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.14

Section 210.14 describes those circumstances under which the time limits for acting on an item may be extended, such as interruption of communication facilities, suspension of payments by a bank, and other emergency conditions. The Board proposed to amend this section to clarify that computer and equipment failure would constitute emergency conditions. This amendment is consistent with the emergency provisions in § 229.38(e) of Regulation CC and U.C.C. 4–109(b). The Board received no comments on this section and has adopted the amendment as proposed.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected. The amendments apply to all depository institutions that receive items from or send items to Federal Reserve Banks, regardless of size. The amendments generally clarify rights and duties of banks and do not impose any substantial economic burden on small entities.

List of Subjects in 12 CFR Part 210

Banks, Banking, Check collection.

For the reasons set out in the preamble, 12 CFR part 210 is amended as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

1. The authority citation for part 210 is revised to read as follows:

Authority: 12 U.S.C. 248 (i), (j), and (o), 342, 360, 464, and 4001–4010.

2. The first sentence of § 210.1 is revised to read as follows:

§ 210.1 Authority, purpose, and scope.

The Board of Governors of the Federal Reserve System (Board) has issued this subpart pursuant to the Federal Reserve Act, sections 11 (i) and (j) (12 U.S.C. 248 (i) and (j)), section 13 (12 U.S.C. 342), section 16 (12 U.S.C. 248(o) and 360), and section 19(f) (12 U.S.C. 464); the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*); and other laws. * * *

3. In § 210.2, paragraph (g) introductory text is revised and a new paragraph (p) is added immediately before the concluding text to read as follows:

§ 210.2 Definitions.

* * * * *

(g) *Item* means an instrument or a promise or order to pay money, whether negotiable or not, that is:

* * * * *

(p) *Uniform Commercial Code* means the Uniform Commercial Code as adopted in a state.

* * * * *

4. In § 210.3, the last sentence of paragraph (a) is revised and a new paragraph (f) is added to read as follows:

§ 210.3 General provisions.

(a) * * * The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of interest by as-of adjustment.

* * * * *

(f) *Relation to other law.* The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code, of any other state law, or of part 229 of this title, but only to the extent of the inconsistency.

5. In § 210.5, paragraph (a) introductory text and paragraph (a)(2) are revised, in paragraph (b)(3) the phrase "judgment or decree of the tender of defense" is revised to read "judgment or decree or the tender of defense", and a new paragraph (d) is added to read as follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) *Sender's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the item bears an indorsement of the sender. By sending an item to a Reserve Bank, the sender:

* * * * *

(2) Warrants to each Reserve Bank handling the item that:

(i) The sender is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item; and

(ii) The item has not been altered; but this paragraph (a)(2) does not limit any warranty by a sender or other prior party arising under state law or under subpart C of part 229 of this title; and

* * * * *

(d) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a sender or prior collecting bank under this subpart or subpart C of part 229 of this title, the sender and prior collecting bank, by sending an item directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the sender's or prior collecting bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or prior collecting bank, or if the sender or prior collecting bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

6. In § 210.6, paragraphs (b)(1) and (b)(2) are revised, a new first sentence is added to paragraph (b) concluding text, and a new last sentence is added to paragraph (c) to read as follows:

§ 210.6 Status, warranties, and liability of Reserve Bank.

* * * * *

(b) * * *

(1) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either:

(i) Entitled to enforce the item; or

(ii) Authorized to obtain payment on behalf of a person entitled to enforce the item); and

(2) That the item has not been altered.

The Reserve Bank also makes the warranties set forth in § 229.34(c) of this title, subject to the terms of part 229 of this title. * * *

(c) * * * This paragraph does not lengthen the time limit for claims under § 229.38(g) of this title (which include claims for breach of warranty under § 229.34 of this title).

7. In § 210.9, paragraph (a)(5) is revised to read as follows:

§ 210.9 Settlement and payment.

(a) * * *

(5) Settlement with a Reserve Bank under paragraphs (a)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's reserve or clearing account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under § 229.34(c) of this title or other law.

* * * * *

8. In § 210.12, a new sentence is added after the first sentence of paragraph (a), paragraph (c) introductory text and paragraph (c)(2) are revised, paragraphs (d) through (g) are redesignated as paragraphs (e) through (h), respectively, new paragraphs (d) and (i) are added, and newly-designated paragraph (e) concluding text and newly-designated paragraph (h) are revised to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) * * * A paying bank that receives a cash item directly or indirectly from a Reserve Bank also may return the item prior to settlement, in accordance with § 210.9(a) and its Reserve Bank's operating circular. * * *

* * * * *

(c) *Paying bank's and returning bank's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the returned check bears an indorsement of the paying bank or returning bank. By sending a returned check to a Reserve Bank, the paying bank or returning bank—

* * * * *

(2) Makes the warranties set forth in § 229.34 of this title (but this paragraph does not limit any warranty by a paying or returning bank arising under state law); and

* * * * *

(d) *Warranties by Reserve Bank.* By sending a returned check and receiving settlement or other consideration for it, a Reserve Bank makes the returning bank warranties as set forth in § 229.34 of this title, subject to the terms of part 229 of this title. The Reserve Bank shall not have or assume any other liability to the transferee returning bank, to any subsequent returning bank, to the depository bank, to the owner of the check, or to any other person, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this title.

(e) * * *

The Reserve Bank may, upon the entry of a final judgment or decree, recover from the paying bank or returning bank the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay because of the judgment or decree or the tender of defense, together with interest thereon.

* * * * *

(h) *Settlement.* A subsequent returning bank or depositary bank shall settle for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart.

(i) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a paying bank, returning bank, or prior returning bank under this subpart or subpart C of part 229 of this title, the paying bank, returning bank, and prior returning bank, by sending a returned check directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the paying bank's, returning bank's, and prior returning bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the paying bank, returning bank, or prior returning bank, or if the paying bank, returning bank, or prior returning bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

9. Section 210.13 is revised to read as follows:

§ 210.13 Unpaid items.

(a) *Right of recovery.* If a Reserve Bank does not receive payment in actually and finally collected funds for an item, the Reserve Bank shall recover by charge-back or otherwise the amount of the item from the sender, prior collecting bank, paying bank, or returning bank from or through which it was received, whether or not the item itself can be sent back. In the event of recovery from such a party, no party, including the owner or holder of the item, shall, for the purpose of obtaining payment of the amount of the item, have any interest in any reserve balance or other funds or property in the Reserve Bank's possession of the bank that failed to make payment in actually and finally collected funds.

(b) *Suspension or closing of bank.* A Reserve Bank shall not pay or act on a draft, authorization to charge (including a charge authorized by § 210.9(a)(5)), or other order on a reserve balance or other funds in its possession for the purpose of settling for items under § 210.9 or § 210.12 after it receives notice of suspension or closing of the bank making the settlement for that bank's own or another's account.

10. Section 210.14 is revised to read as follows:

§ 210.14 Extension of time limits.

If a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits because of interruption of communication or computer facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions, failure of equipment, or other circumstances beyond its control, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

By order of the Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-10645 Filed 5-3-94; 8:45 am]

BILLING CODE 6210-01-P

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12 CFR Parts 225 and 265

[Regulation Y; Docket No. R-0773]

Bank Holding Companies and Change in Bank Control; Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On August 12, 1992, the Board approved several proposals to change certain procedures for obtaining Board approval of various applications and notices filed under the Federal Reserve Act, the Bank Holding Company Act, the Bank Merger Act, the Change in Bank Control Act and various other statutes. All but one of these changes to the Board's application and notice review procedures were implemented by the Board at that time. Most of these changes involved revising certain internal procedures of the Federal Reserve System (System), to improve the efficiency of processing applications that are reviewed by the Board in conjunction with the Reserve Banks and to reduce the regulatory burden associated with these application and notice procedures. Two of the changes—eliminating the stock redemption notice requirement for "well-capitalized" bank holding companies, and modifying the Board's delegation rules pertaining to competition and market concentration—necessitate amendments to certain provisions of, respectively, the Board's Regulation Y and Rules Regarding Delegation of Authority.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Terence F. Browne, Senior Attorney (202/452-3707), Legal Division; or Sidney M. Sussan, Assistant Director (202/452-2638), John S. Russell, Manager—Applications Processing (202/452-2466), or Beverly Evans, Supervisory Financial Analyst (202/452-2573), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

As part of the Board's ongoing efforts to reduce the regulatory burden associated with its application and notice procedures, in 1992 the Board approved a number of steps to reduce the burden associated with these procedures.[1] Although all but one of these streamlining initiatives became effective upon publication in the **Federal Register**,[2] two of the initiatives require that the Board's Regulations be amended to reflect the changes.

Currently, § 225.4(b)(1) of Regulation Y (12 CFR 225.4(b)(1)) requires a bank holding company to give the Board prior notice of certain purchases or redemptions of its equity securities:

(b) *Purchase or redemption by a bank holding company of its own securities*—(1) *Filing notice.* A bank holding company shall give the Board prior notice before purchasing or redeeming its equity securities, if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

The Board determined to eliminate this notice requirement for bank holding companies that are and, following the redemption or purchase, would remain "well-capitalized" on a consolidated basis and in generally satisfactory condition. The Board believes that a bank holding company would qualify for this exception to the notice requirement if:

- The total and tier 1 risk-based capital ratios and the leverage capital ratio for the bank holding company, both before and following the redemption, exceed the thresholds established for "well-capitalized" state-member banks under 12 CFR 208.33(b)(1) as if the bank holding company (on a consolidated basis) were deemed to be a state-member bank;
- The bank holding company received a composite "1" or "2" rating at its most recent BOPEC inspection, and
- The bank holding company is not the subject of any unresolved supervisory issues.

The Board also determined to revise its delegation rules pertaining to competition and market concentration. If a party submits an application or

[1] See 57 FR 39641 (September 1, 1992). These changes included establishing certain procedures to limit extension of the pre-acceptance period for applications; offering prospective applicants the opportunity to submit a pre-filing notice of intent to file an application; eliminating the stock redemption notice requirement for bank holding companies that are and, following the redemption would remain, "well-capitalized" on a consolidated basis and in generally satisfactory condition; expanding the authority of Reserve Banks to process all delegable applications without Board staff review; modifying the Board's delegation rules pertaining to competition and market concentration; reducing redundant post-acceptance processing of Board action cases; increasing the monitoring of cases requiring extended processing; and establishing a general consent procedure under section 24A of the Federal Reserve Act for investments by state member banks in bank premises.

In publishing notice of these changes, the Board also invited comment on any additional measures to eliminate or reduce burden associated with the Board's notice and application procedures. The comments received will be considered by the Board in its ongoing efforts to streamline and reduce the regulatory burden associated with the Board's notice and application procedures.

[2] The Board is currently finalizing a separate regulation implementing a general consent procedure for investments in bank premises pursuant to section 24A of the Federal Reserve Act.

notice to the System pursuant to the Bank Holding Company Act, Change in Bank Control Act, Bank Merger Act, or the Bank Service Corporation Act, the Board's Rules Regarding Delegation of Authority (12 CFR 265.1–265.11), permit the appropriate Reserve Bank to act on such application or notice unless certain circumstances are present. Specifically, § 265.11(c)(11)(v) of the Board's Rules provide that a Reserve Bank is not authorized to approve the following transactions:

(v) With respect to BHC formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations:

(A) That upon consummation of the proposal, would control over 30 percent of total deposits in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a post-merger HHI of at least 1800); or

(B) Where divestitures designed to address any substantive anticompetitive effects are not effected on or before consummation of the proposed transaction[.]

The Board determined to revise its Rules Regarding Delegation of Authority to increase the resulting market share criterion that would require Board consideration of a bank merger or acquisition from 30 percent to 35 percent. In particular, the Reserve Banks may now act on applications involving two or more banking organizations that, upon consummation of the proposed transaction, would control 35 percent or less of total deposits in banking offices in the relevant geographic market. This change would also reflect the Board's practice, in computing market share, of weighing deposits of thrifts in the subject market at 50 percent.

As part of this change to the Board's Rules Regarding Delegation of Authority, the Board also determined to eliminate the need for Board approval of applications involving divestitures designed to address anticompetitive effects, which divestitures are not completed on or before consummation of the proposed transaction.[3] As a result, the Federal Reserve Banks may now act on applications involving proposed divestitures to address competitive concerns, provided the divestitures are undertaken in accordance with the Board's position on the timing of divestitures.[4]

[3] See 57 FR 39641 (September 1, 1992).

[4] See *id.*; see also BankAmerica Corporation, 78 Federal Reserve Bulletin 338, 340 n.15 (1992).

Final Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board does not believe that these changes will have a significant adverse economic impact on a substantial number of small entities. The amendments would reduce regulatory burdens imposed by Regulation Y and the Board's Rules Regarding Delegation of Authority and have no particular adverse effect on other entities.

Effective Date

The provisions of the Administrative Procedures Act (APA)(5 U.S.C. 553) relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of these amendments because the changes to be effected are either procedural in nature and do not constitute a substantive rule subject to the requirements of that section, or grant an exemption and reduce regulatory burden. The APA grants specific exemptions from its requirements relating to notice, public participation and the deferred effective date requirements in these instances (12 U.S.C. 553 (b)(3)(A) and (d)(1)).

Final Paperwork Reduction Act Analysis

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in these changes.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Holding Companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 265

Authority delegation (Government agencies), Banks, banking.

For the reasons set forth in the preamble, the Board amends title 12 of the Code of Federal Regulations, parts 225 and 265, as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. Section 225.4 is amended by revising paragraph (b)(1), and adding a new paragraph (b)(6) to read as follows:

§ 225.4 Corporate practices.

* * * * *

(b) * * *—(1) *Filing notice.* Except as provided in paragraph (b)(6) of this section, a bank holding company shall give the Board prior written notice before purchasing or redeeming its equity securities if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

* * * * *

(6) *Exception for well-capitalized bank holding companies.* A bank holding company seeking to redeem or purchase its equity securities is not required to obtain prior Board approval for the redemption or purchase under this section provided:

(i) The total and tier 1 risk-based capital ratios and the leverage capital ratio for the bank holding company, both before and following the redemption, exceed the thresholds established for "well-capitalized" state-member banks under 12 CFR 208.33(b)(1) as if the bank holding company (on a consolidated basis) were deemed to be a state member bank;

(ii) The bank holding company received a composite "1" or "2" rating at its most recent BOPEC inspection; and

(iii) The bank holding company is not the subject of any unresolved supervisory issues.

* * * * *

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

2. Section 265.11 is amended by revising paragraph (c)(11)(v) to read as follows:

§ 265.11 Functions delegated to Federal Reserve Banks.

* * * * *

(c) * * *

(11) * * *

(v) With respect to bank holding company formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations that, upon consummation of the proposal, would control over 35 percent of total deposits (including 50 percent of thrift deposits) in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a post-merger HHI of at least 1800); or

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–10689 Filed 5–3–94; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AWP–1]

Establishment of Class D Airspace; El Toro, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at El Toro, CA, designated as an extension to a Class C surface area. The floor was inadvertently lowered from a base of 2,500 feet mean sea level (MSL) down to the surface. This modification raises the floor between the 10 and 15 mile radius of the Class D airspace from the surface to 2,500 feet MSL. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 297–0697.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at El Toro, CA (59 FR 8565). The Class D airspace was inadvertenly changed during Airspace Reclassification. This change restricted aircraft transiting along the shoreline. This action will raise the floor of a portion of the Class D airspace from the surface to 2,500 feet MSL to allow aircraft to transit along the shoreline.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA and there were no objections to the proposal.

Class D airspace designations for airspace designated as extensions to class C airspace are published in Paragraph 5000b of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulation modifies Class D airspace at El Toro, CA, to establish Class D airspace from 2,500 fee MSL to 4,400 feet MSL for aircraft transiting between the 10 and 15 mile radius of MCAS El Toro, CA. The FAA has determined that this regulation only involves an established body by technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regularly Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 general.

* * * * *

AWP CA D EL Toro MCAS, CA [Removed]

* * * * *

Paragraph 5000b Class D Airspace areas designated as an extension to a Class C surface area.

* * * * *

AWP CA D2 EL Toro MCAS, CA [New]

EL Toro MCAS, CA

(lat. 33°40′34″ N., long. 119°43′52″ W.)

That airspace extending upward from the surface to but not including 2,500 feet MSL from the 5-mile radius of EL Toro MCAS to a 10-mile radius of the EL Toro MCAS between the 164 °(T) and the 189 °(T) bearings of the El Toro MCAS and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL from the 10-mile radius to 15-mile radius of the airport between the 164 °(T) and the 189 °(T) bearings of the El Toro MCAS. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on April 15, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–10704 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ANM–47]

Amendment to Class D Airspace; Moses Lake, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace at the Grant County Airport, Moses Lake, WA, by excluding the airspace overlying the Moses Lake Municipal Airport, WA. It will permit air traffic operations to and from Moses Lake Municipal Airport without the requirement for radio communications with the Grant County Airport Traffic Control Tower.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT: