Department of the Treasury
Office of Thrift Supervision

Transmittal

October 6, 1997 Number: 179

Opting for maximum flexibility, the Office of Thrift Supervision (OTS) has issued the attached proposed electronic banking rule that would allow federal savings associations to take full advantage of this emerging technology.

In short, the proposed regulation would permit federally chartered savings associations to engage in any activity through electronic means that they are authorized to conduct through more traditional mechanisms. At the same time OTS is updating guidance to both the thrifts and its examiner force to ensure that institutions prudently and safely utilize the new technology and that examiners are fully equipped to see that they do.

The proposed rule would allow to full use of automated teller machines (ATMs), automated loan machines (ALMs), personal computers, the Internet, the World Wide Web, telephones, stored value cards or other electronic devices to deliver services to customers.

Specifically, the proposed rule would eliminate restrictions that currently prevent the use of remote service units, such as ATMs and ALMs, to open a savings or checking account or take out a loan. The proposal would clarify that such electronic facilities do not constitute a branch office. The sweeping changes to OTS' electronic banking rules, the first since the early 1980s, are needed to keep pace with rapidly changing banking technology. By taking the flexible approach to regulation, OTS does not expect to have to repeatedly amend its regulation to keep pace with rapidly changing technology.

The proposed rule builds on the responses received to OTS' April 2, 1997, advance notice of proposed rulemaking.

Specific guidance to the industry and OTS examiners, which easily can be changed as technology develops, is being issued in a revised examination handbook section. OTS examiners will use the new Information Technology Section 341 to assess whether savings associations are using electronic technology prudently, within the general OTS safety and soundness requirements. Additional guidance was issued June 23, 1997, to advise the industry on PC retail banking.

The proposed regulation provides that thrifts that develop electronic capacities for their own customers could sell excess capacity to third parties. Thrifts could also join with third parties to develop electronic delivery mechanisms, but the third party would have to agree to be examined by OTS and pay for any examination costs.

OTS expects its regulated thrifts to establish security measures that keep up with industry standards. New electronic technologies must develop within the framework of interagency Community Reinvestment Act regulations and interpretations.

The notice of proposed rulemaking was published in the October 3, 1997, edition of the Federal Register, Vol. 62, No. 192, pp. 51817-51821. Written comments must be received on or before December 2, 1997, and should be addressed to: Manager, Dissemination Branch, Records Management and Information Policy Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552. Comments may be mailed or hand-delivered, faxed to 202/906-7755 or e-mailed to: public.info@ots.treas.gov. All commenters should include their name and telephone number.

For further information contact:

Valerie J. Lithotomos	202/906-6439
Paul J. Robin	202/906-6648
Paul R. Reymann	202/906-5645

Nicolas P. Retsinas
Director
Office of Thrift Supervision

Attachment

Proposed Rules

Federal Register
Vol. 62, No. 192
Friday, October 3, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 545

[97–100]

RIN 1550–AB00

Electronic Operations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to streamline and update regulations relating to electronic operations. The proposal would amend OTS electronic-related regulations to address advances in technology, and to permit prudent innovation for the use of emerging technology by Federal savings associations. This NPR is issued pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and section 303 of the Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received on or before December 2, 1997.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 97–100. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755 or by e-mail public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639; Paul D. Glenn, Special Counsel, Chief Counsel's Office, (202) 906–6203; Paul J. Robin, Program Analyst, Compliance Policy, (202) 906–6648; or Paul R. Reymann, Policy Analyst, Supervision Policy, (202) 906–5645, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

On April 2, 1997, OTS published an advance notice of proposed rulemaking (ANPR) seeking comment on all aspects of banking affected by electronic operations.[1] OTS solicited comments on whether its existing regulations are sufficiently flexible to permit Federal savings associations to engage in appropriate electronic banking activities, consistent with safety and soundness and applicable statutes and regulations. OTS expressed concern that its current regulations do not adequately address product innovation made possible by advances in technology, and may impede prudent innovation by Federal savings associations.

OTS identified three existing regulations affecting a Federal thrift's ability to engage in electronic activities. Two of these regulations describe the type of facilities through which Federal thrifts may deliver banking services. 12 CFR 545.141 (Remote Service Units) (RSUs) and 12 CFR 545.142 (Home Banking Services). The third regulation, at 12 CFR 545.138, provides the general authority to engage in data processing activities and sell certain excess data processing capacity. OTS sought comment on how to update these regulations, first adopted in the early 1980s, to reflect current activities and use of technologies. OTS also sought comment on certain technological issues that its existing regulations do not address. These included issues related to stored-value cards, the application of the Community Reinvestment Act (CRA) to electronic banking, banking on the Internet, and other new products and delivery systems.

OTS received 19 comments from nine Federal savings associations, four trade associations, two technology firms, two individuals or groups of individuals, one Federal government agency, and a representative of two major credit card companies. The comments are discussed in further detail in the description of the proposed rule.

Commenters suggested two broad principles to guide OTS in drafting regulations on emerging electronic services:

- The public and insured depository institutions will be best served if statutory and regulatory restrictions are kept to a minimum. Commenters feared that the premature imposition of restrictive operational standards would impede the development of improved financial services.
- Savings associations should be permitted to compete effectively with other regulated financial institutions and unregulated firms offering financial and related services.

[1] 62 FR 15626 (April 2, 1997) (Notice of Proposed Rulemaking on Deposits and Advance Notice of Proposed Rulemaking on Electronic Banking.) A final rule on deposits will be published separately.

II. General Description of Proposed Rule

Consistent with the principles identified, OTS is proposing to issue a broad enabling regulation clarifying that Federal savings associations may engage in any activity through electronic means that it may conduct through more traditional delivery mechanisms. This approach will enhance the ability of Federal savings associations to serve as financial intermediaries. In addition, this approach will permit Federal savings associations to fully utilize the by-products or capacities generated in providing financial services through electronic means. The approach will also permit Federal thrifts to creatively provide access to financial services (subject, of course, to adequate security measures). This proposal is consistent with the principles established in the Administration's recent electronic commerce policy statement.[2]

The proposed rule would eliminate existing regulations that address electronic operations at § 545.138 (Data-processing Services), § 545.141 (Remote Services Units), and § 545.132 (Home Banking Services), and would add a new subpart B to part 545 to address electronic operations. New subpart B uses plain language drafting techniques consistent with National Performance Review instructions and new guidance in the **Federal Register** *Document Drafting Handbook* (January 1997 edition). The primary goal of plain language drafting is to facilitate the understanding of regulations. Plain language drafting emphasizes the use of informative headings (often written as a question), non-technical language (including the use of "you") and sentences in the active voice. The words "I" in a question and "you" in an answer, in the proposal, refer to a Federal savings association. OTS intends to use plain language drafting in other future regulatory projects to the extent possible.

The provisions of the new subpart are discussed below in the section-by-section analysis.

[2] *See* "A Framework for Global Electronic Commerce" (July 1, 1997). These principles are: (1) The private sector should lead; (2) Governments should avoid undue restrictions on electronic commerce; (3) Where governmental involvement is needed, its aim should be to support and enforce a predictable, minimalist, consistent and simple legal environment for commerce; (4) Governments should recognize the unique qualities of the Internet; and (5) Electronic commerce over the Internet should be facilitated on a global basis.

III. Section-by-Section Analysis

What Does This Subpart Do? (Proposed § 545.140)

Under the proposed rule, all current regulations addressing electronic operations will be consolidated in part 545, subpart B. This subpart describes how a Federal savings association may provide products and services through electronic means and facilities. *See* proposed § 545.140.

How May I Use Electronic Means and Facilities? (Proposed § 545.141)

As noted above, two existing OTS regulations describe the type of facilities through which Federal thrifts may deliver banking services electronically. Section 545.141 addresses RSUs (including automated teller machines (ATMs)). Section 545.142 addresses home banking services. Currently, Federal thrifts' authority to provide banking services through these authorities is restricted. For example, an RSU may not be used to open a savings account or a demand account, or to establish a loan account. See 12 CFR 545.141(b). Moreover, it is unclear whether § 545.142 would permit the opening of new accounts or the processing of credit applications as home banking services.

Commenters urged OTS to clarify and expand the activities permitted under these authorities to include a broad range of products and services, including opening deposit accounts and establishing loan accounts. Commenters argued that removing activity restrictions would serve the public interest by allowing thrifts to more effectively compete in financial services, and by enhancing the availability of financial services to the public. Commenters argued that removing the existing activity restrictions would be consistent with 12 U.S.C. 1464(b)(1)(F) (which authorizes Federal savings associations to establish RSUs) and congressional intent expressed in Section 2205 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (which eliminates the requirement that banks file branch applications for ATMs).

Consistent with OTS' goal of minimizing regulatory restrictions on electronic operations, proposed § 545.141 specifically permits Federal savings associations to use electronic means or facilities to perform any authorized function or provide any authorized product or service. Under the new subpart, electronic means or facilities include, but are not limited to automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices.[3] This authority now includes the opening of savings or demand accounts and the establishment of loan accounts—functions previously excluded from the definition of remote service unit—because the performance of these functions through electronic means may enhance the operating flexibility of Federal thrifts.

As part of this proposal, OTS is also revising its branch office regulation to clarify that electronic facilities do not constitute a branch office.[4]

When May I Sell the Electronic Capacities and By-Products That I Have Acquired or Developed (Proposed § 545.142)

Under current § 545.138, a savings association may engage in limited data processing and data transmission services, sell by-products incident to those services, and sell excess capacity. This authority, however, is subject to significant constraints. For example, under the current regulation, the authorized processing of data generally encompasses a recordkeeping function, and does not include making risk-based decisions through electronic means. Moreover, the current OTS regulation limits the ability of a Federal savings association to sell or market data processing and transmission services, software, and excess capacity.

Several commenters suggested that OTS should adopt a more flexible data processing regulation. They urged OTS to permit the fullest development and use of data processing technology. Commenters argued that savings associations should not be restricted, relative to other financial institutions, in providing new electronic services to customers. Accordingly, many commenters suggested that OTS should

[3] OTS will shortly provide guidance concerning consultation procedures to be followed when a Federal savings association permits customers to execute transactions by accessing the thrift's data base using the customer's equipment or other equipment that is not provided by the thrift.

[4] In the ANPR, OTS specifically asked for comment on whether automated loan machines (ALMs) should be considered an RSU, a branch office, or some other type of facility. ALMs may permit customers to apply for and immediately receive loans via an automated terminal. Commenters urged OTS to treat ALMs like RSUs, rather than branches. These commenters argued that this treatment would provide savings associations with the same flexible product delivery options as competing financial institutions. *See* OCC Interpretive Letter #772 (March 6, 1997) (RSUs, ATMs, and ALMs are not branches for the purposes of 12 U.S.C. 36). Under the proposed revisions to the OTS regulation, ALMs would be electronic facilities subject to Subpart B, and would not be branches.

provide data processing authority for thrifts that is as expansive as that for national banks. Several recommended that OTS use the interpretations and regulations recently issued by the Office of the Comptroller of the Currency (OCC) as a model for its regulation.[5] Commenters argued that consistent regulations will facilitate joint ventures between banks and thrifts and will further the goal of ensuring uniformity of regulation under section 303 of the Community Development and Regulatory Improvement Act. Only one commenter, a data processing and software company, argued that OTS should not encourage thrifts to expand their data processing operations or software sales activities.

Proposed § 545.142 is more permissive than the current data processing services rule in that it provides that a Federal savings association may market and sell electronic capacities and by-products to third parties. The only condition imposed is that the thrift must have acquired or developed these capacities and by-products in good faith as part of providing financial services. This is substantially identical to the condition imposed on national banks by the OCC.

How May I Participate With Others in the Use of Electronic Means and Facilities? (Proposed § 545.143)

Proposed § 545.143 would permit a savings association to participate with others to perform, provide or deliver activities, functions, products or services described in proposed §§ 545.141 and 545.142. A Federal savings association may participate with an entity that is not subject to examination by a Federal agency regulating financial institutions only if that entity has agreed, in writing, to permit OTS to examine its electronic means or facilities, to pay for any related OTS examination fees, and to make all relevant records in its possession, written or electronic, available to OTS for examination.

The provisions governing examination are not new requirements. Current § 545.138(f) provides that if a Federal savings association participates with others to establish or maintain a data processing office and the participating entity is not subject to examination by a Federal agency regulating financial institutions, the entity must agree, in writing, with OTS that it will permit and pay for the examination. Current § 545.141(f) also contains a similar requirement where a Federal savings association shares an RSU with another entity.

If the participation by a Federal savings association is through a service corporation, OTS' service corporation rules apply. See 12 CFR 559.4 (1997).

What Security Precautions Must I Take? (Proposed § 545.144)

In the ANPR, OTS asked whether it should mandate a specific level of encryption with regard to certain electronic activities including the Internet, or whether it should merely permit general safety and soundness principles to govern electronic operations.

Several commenters argued that security issues are manageable and should be regulated only as a part of the safety and soundness evaluation of each institution. Other commenters recommended specific security procedures such as restricting the use of reusable passwords as a means of authentication where the password would cross a network, or specifying a particular type (or types) of encryption for Internet transactions. One commenter suggested that all institutions should have written policies and procedures to address firewall and data security issues, and should regularly test to assure that violations are not occurring.

While OTS is extremely concerned that Federal savings associations establish appropriate security measures when they engage in electronic operations, the proposed rule does not codify static security requirements. Electronic security standards are undergoing constant revision and change.[6] OTS believes that it is impracticable to prescribe the security measures for the indefinite future that every thrift must implement when methods of electronic commerce and their attendant security measures are continually evolving.

Instead, proposed § 545.144 provides that a Federal savings association should adopt standards and policies that are designed to ensure secure operations. In addition, a Federal thrift must implement security measures adequate to prevent unauthorized access to its records and its customers' records, and to prevent financial fraud through the use of electronic means or facilities.[7] OTS expects Federal savings associations to establish security measures that are consistent with current industry standards, and to continually monitor and regularly update these security procedures to keep pace with changes to industry standards. For example, the association should maintain records documenting attempts to gain unauthorized access to its data base.

In addition, a Federal savings association must comply with the current security devices requirements of Part 568 if it provides an automated teller machine, an automated loan machine, or other similar electronic devices. These security requirements are based on current §§ 545.138(d) and 545.141(e).

IV. Emerging Technologies

The ANPR asked for commenter input on how other regulations, such as those implementing the CRA, might be affected as technology modifies how and where depository institutions provide services. OTS asked several specific questions relating to the application of the CRA to electronic banking activities.

Several commenters predicted that the current CRA requirements will become increasingly problematic as institutions offer more loans over the Internet. These commenters urged OTS to consult with the other banking agencies and develop interagency CRA guidelines to address the emerging technologies.[8] Other commenters urged the banking agencies to defer the issuance of any new CRA guidance until regulators and financial institutions gain more experience with electronic banking services and the existing CRA regulations.

To avoid unnecessary compliance costs on the industry, OTS intends to permit the new electronic technologies to develop within the existing framework of law and regulation. This framework includes consumer protection laws, such as the CRA regulations, the Electronic Funds

[5] *See* 12 CFR 7.1019 (1997). Under this OCC interpretation, "(a) national bank may, in order to optimize the use of the bank's resources, market and sell to third parties electronic capacities acquired or developed by the bank in good faith for banking purposes."

[6] For example, bit lengths used by the industry to authenticate the identity of users has increased over the past few years from 40 to 56 bits. Certain providers now use bit lengths in excess of 100 bits.

[7] In certain cases, OTS has required (and may require in the future on a case-by-case basis) specific security precautions. For example, OTS has required applicants to provide assurances of adequate security over the Internet, including adequate encryption and independent testing. See OTS Order No. 95–88, Security First Network Bank (May 8, 1995). In approving that application, OTS required, among other things, the institution to perform independent tests of the functionality and security of its operations before and after initial implementation.

[8] These commenters suggested various alternative means for satisfying CRA requirements. For example, commenters suggested that the banking agencies should give CRA credit for loans made via electronic means to low- or moderate-income borrowers who reside outside the institution's service area.

Transfer Act (Regulation E), safety and soundness regulations, and other applicable statutes and regulations. If additional consumer protection or other regulatory responses are necessary to respond to emerging technologies, OTS will take necessary steps in the future. To the extent that the regulatory response will require interagency action, OTS will coordinate its response with those of the other Federal banking agencies.

In the ANPR, OTS specifically requested comment on the appropriate regulatory response to various emerging technologies including stored-value cards. The term "stored-value card" covers a wide range of products. In general, these cards store information and monetary value electronically on a magnetic strip or computer chip, and can be used to purchase goods and services. There are significant differences in how various systems store monetary balances and transaction information, and how they authorize transactions. OTS regulations are currently silent on stored-value technology.[9]

The ANPR also raised several questions regarding Internet banking services. For example, OTS asked whether it should impose any restrictions or requirements on banking over the Internet or whether it should rely on general safety and soundness principles to govern a safe system of operation. The current OTS regulations are also silent on Internet operations.[10]

Except for encryption and security issues that are discussed above, commenters generally feared that premature regulation in this area would stifle development, impose unnecessary compliance costs that could deter investment by thrifts, and require extensive updating to keep abreast of market changes. Commenters generally concluded that it was neither necessary nor appropriate to establish new restrictions or requirements on these operations until fundamental issues involving these technologies are resolved.

The increasing emergence of new technologies underscores the importance of granting thrifts broad latitude to provide new services through electronic means and facilities as these means and facilities evolve. Rather than extensive regulation in these areas, OTS has chosen to permit thrifts to perform any authorized function or to provide any authorized product or service through electronic means or facilities including stored-value cards, the Internet or other emerging electronic technologies. As OTS gains additional experience with electronic technology, it may issue more specific guidance regulating particular elements of electronic operations. Until that time, a Federal savings association's exercise of this authority remains subject to existing safety and soundness requirements, consumer protection requirements, commercial law, and other applicable requirements.

V. Request for Comments

OTS invites comment on all aspects of the NPR. Commenters noted that several trade associations have organized committees and task forces to address electronic operations. OTS welcomes comment from these committees.

VI. Executive Order 12866

The Director of OTS has determined that this proposed rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

VII. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposal lowers regulatory burdens on all savings associations, including small savings associations.

VIII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this proposed rule reduces regulatory burden. OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFK Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision hereby proposes to amend part 545, chapter V, title 12, Code of Federal Regulations as set forth below:

PART 545—OPERATIONS

The authority citation for part 545 continue to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

2. Existing §§ 545.1 through 545.135 are designated as subpart A and the subpart heading is added to read as follows:

Subpart A—Operations

* * * * *

3. Section 545.92 is amended by revising paragraph (a) to read as follows:

§ 545.92 Branch offices.

(a) *General.* A branch office of a Federal savings association is any office other than its home office, agency office, administrative office, data processing office, or electronic facility under subpart B of this part.

* * * * *

§§ 545.138 through 545.142 [Removed]

4. Sections 545.138 through 545.142 are removed.

5. A new subpart B is added to part 545 to read as follows:

Subpart B—Electronic Operations

§ 545.140 What does this subpart do?
§ 545.141 How may I use electronic means and facilities?
§ 545.142 When may I sell electronic capacities and by-products that I have acquired or developed?
§ 545.143 How may I participate with others in the use of electronic means and facilities?
§ 545.144 What security precautions must I take?

§ 545.140 What does this subpart do?

This subpart describes how a Federal savings association ("you") may provide products and services through electronic means and facilities.

[9] However, OTS has concluded that a Federal savings association may market and sell one type of stored-value under the incidental powers doctrine. See OTS Opinion Chief Counsel (August 21, 1996) (prepaid telephone cards).

[10] OTS, however, approved the nation's first Internet bank in 1995. More recently, OTS issued an opinion that concluded that a Federal savings association, through a service corporation or an operating subsidiary, may offer its customers banking services via an Internet connection to the savings association's home banking system, and afford access to the Internet for non-banking purposes to customers and others living in the savings association's service area. See Letter Opinion Deputy Chief Counsel (April 14, 1997).

§ 545.141 How may I use electronic means and facilities?

You may use electronic means or facilities to perform any authorized function, or provide any authorized product or service. Electronic means or facilities include, but are not limited to automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices.

§ 545.142 When may I sell electronic capacities and by-products that I have acquired or developed?

You may market and sell electronic capacities and by-products to third-parties if you acquired or developed these capacities and by-products in good faith as part of providing financial services.

§ 545.143 How may I participate with others in the use of electronic means and facilities?

You may participate with others to perform, provide, or deliver through electronic means and facilities any activity, function, product, or service described under §§ 545.141 and 545.142. If the participating entity is not subject to examination by a Federal agency regulating financial institutions, you may participate with that entity only if it has agreed in writing with the OTS that it will:

(a) Permit the examination of its electronic means or facilities, as the OTS deems necessary;

(b) Pay for any related OTS examination fees; and

(c) Make all relevant records in its possession, written or electronic, available to the OTS for examination.

§ 545.144 What security precautions must I take?

If you use electronic means and facilities under this subpart, you should adopt standards and policies that are designed to ensure secure operations. You must implement security measures adequate to prevent:

(a) Unauthorized access to your records and your customers' records; and

(b) Financial fraud through the use of electronic means or facilities. If you provide an automated teller machine, an automated loan machine, or other similar electronic devices, you must comply with the security devices requirements of part 568 of this chapter.

Dated: September 26, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–26104 Filed 10–2–97; 8:45 am]

BILLING CODE 6720–01–P

the person or agency to whom the disclosure is made.

(3) Accounting records will be maintained for at least 5 years after the last disclosure, of for the life of the record, whichever is longer.

(4) Subjects of DSWA records will be given access to associated accounting records upon request, except for those disclosures made to law enforcement activites when the law enforcement activity has requested that the disclosure not be made, and/or as exempted under section 318.11 of this part.

§ 318.10 Fees

Individuals may request copies for retention of any documents to which they are granted access in DSWA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with DoD 5400.11–R.

Dated: September 29, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26202 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090–AA63

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action extends the comment period an additional 60 days on the Department of the Interior's Office of Hearings and Appeals' proposal to amend its rules to provide that, except as otherwise provided by law or other regulation, a decision will be stayed, if it is appealed, until there is a dispositive decision on the appeal.

DATES: Comments are due to the agency on or before December 2, 1997.

ADDRESSES: Send written comments to Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Comments received will be available for inspection during regular business hours (9 a.m. to 5 p.m.) in the Office of the Director, Office of Hearings and Appeals, 11th Floor, 4015 Wilson Blvd., Arlington, VA. Persons wishing to inspect comments are requested to call in advance at 703–235–3810 to make an appointment.

FOR FURTHER INFORMATION CONTACT: James L. Byrnes, Chief Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: 703–235–3750.

SUPPLEMENTARY INFORMATION: On August 19, 1997, the Department of the Interior proposed to amend the regulation contained at 43 CFR 4.21 (August 28, 1997, 62 FR 45606.) Comments to this proposed rule were to be received on or before September 29, 1997.

In a letter dated September 4, 1997, from the National Mining Association (NMA) to the Director of the Office of Hearings and Appeals (OHA), U.S. Department of the Interior, the NMA requested a 60-day extension of the comment period for this proposed amendment because the existing comment period did not allow adequate opportunity for comment, and it needed more time to present the views of its member companies. Also, in a letter dated September 12, 1997, from the Rocky Mountain Oil and Gas Association (RMOGA) to the Director, OHA, that organization requested a 60-day extension of the comment period. The RMOGA stated that the current 30-day comment period would not allow the industry adequate time to carefully analyze the proposed rule to determine the potential effects, if any, on oil and gas activities on public lands.

The OHA has determined that an extension of time to obtain the comments on the proposed rule from NMA and RMOGA is warranted and therefore, the requested extension is granted. This notice announces that 60-day extension of the comment period.

Dated: September 24, 1997.

Brooks B. Yeager,

Acting Assistant Secretary—Policy, Management and Budget.

[FR Doc. 97–26200 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–RK–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7230]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to