

# Proposed Rules

Federal Register

Vol. 66, No. 121

Friday, June 22, 2001

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.

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Parts 3 and 170

RIN Number 3038-AB84

#### Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Reopening and extension of comment period.

**SUMMARY:** On May 17, 2001, the Commodity Futures Trading Commission ("CFTC") published in the **Federal Register** a request for public comment on a proposal to amend Rule 3.10, so as to provide notice registration as a futures commission merchant ("FCM") or introducing broker ("IB") for certain securities brokers or dealers ("BDs"), and to amend Rule 170.15, so as to exempt these BDs from the requirement to become a member of the National Futures Association ("NFA").<sup>1</sup> Among other things, these BDs would be required to be registered with the Securities and Exchange Commission ("SEC") and to limit their involvement with commodity interests to security futures products. The CFTC Proposal was made in accordance with the Commodity Futures Modernization Act of 2000 ("CFMA"). In response to a request it has received, the CFTC is extending the comment period on the CFTC Proposal to July 11, 2001.

**DATES:** Written comments must be received on or before July 11, 2001.

**ADDRESSES:** Comments on the proposal should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418-5521, or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Notice

Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers."

#### FOR FURTHER INFORMATION CONTACT:

Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, D.C. 20581, (202) 418-5450, electronic mail: [bgold@cftc.gov](mailto:bgold@cftc.gov), or [lpatent@cftc.gov](mailto:lpatent@cftc.gov).

**SUPPLEMENTARY INFORMATION:** The CFTC Proposal would provide for notice registration as an FCM or IB for certain BDs subject to the condition that they limit their commodity interest-related activity to security futures products. The comment period on the CFTC Proposal expires June 18, 2001. The CFMA also authorizes notice registration as a BD with the SEC of certain FCMs and IBs for the limited purpose of effecting transactions in security futures products. The SEC has not, however, as of this date published for comment in the **Federal Register** a notice registration proposal for such FCMs and IBs ("SEC Proposal").

Because it would like the opportunity to review the SEC Proposal before commenting on the CFTC Proposal, the Futures Industry Association ("FIA") has requested an extension of time of the comment period on the CFTC Proposal. In response, the CFTC has determined to extend the comment period on the CFTC Proposal until July 11, 2001 in order to insure that an adequate opportunity is provided for submission of meaningful comments.

This date is intended to provide the FIA with its requested "two-week extension . . . from the date the SEC's release is published." However, in the event the date of July 11, 2001 is not sufficient to provide for the requested two-week extension, the CFTC intends to provide for another extension of the comment period on the CFTC Proposal so as to in fact provide interested persons with two weeks after the date of publication in the **Federal Register** of the SEC Proposal in which to comment on the Proposal.

Issued in Washington, D.C. on June 18, 2001 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 01-15724 Filed 6-21-01; 8:45 am]

**BILLING CODE 6351-01-M**

## NATIONAL INDIAN GAMING COMMISSION

### 25 CFR Part 502

RIN 3141-AA10

#### Definitions: Electronic or Electromechanical Facsimile

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The National Indian Gaming Commission proposes to amend its regulations by removing the definition of "electronic and electromechanical facsimile" now set forth at 25 CFR 502.8.

**DATES:** Comments may be submitted on or before July 23, 2001.

**ADDRESSES:** Send comments by mail, facsimile, or hand delivery to: Definitions: Electronic and Electromechanical Facsimile, Amendment Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW., Washington, DC 20005. Fax number: 202-632-7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Michele F. Mitchell at 202-632-7003 or, by fax, at 202-632-7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act ("IGRA" or "Act") 25 U.S.C. 2701-2721, enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Under the Act, the Commission is charged, among other things, with regulating Class II gaming by Indian tribes. The Act defines Class II gaming as including the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith), but does not include electronic or electromechanical facsimiles of any game of chance or slot

<sup>1</sup> 66 FR 27476.

machines of any kind. On April 9, 1992, the Commission issued a final rule defining key terms in the Act. Among the terms defined by the Commission was "electronic or electromechanical facsimile." The Commission defined this term by reference to the Johnson Act, 15 U.S.C. 1171(a)(2) and (3). See 25 CFR 502.8. Although an agency's interpretation of ambiguous terms in a federal law that it is responsible for administering is ordinarily entitled to great deference, the courts, in several recent decisions, have not relied on the Commission's definition of electronic or electromechanical facsimile. Instead the courts have relied exclusively on the terms contained in the Indian Gaming Regulatory Act, applying a plain language interpretation of this phrase. To ensure consistency with developments in the case law and to ensure a uniform approach to this term by the Commission and the courts, the Commission now proposes and seeks public comment on removal of 25 CFR 502.8 and use instead the plain language interpretation that has been preferred by the courts.

#### *Regulatory Flexibility Act*

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of \$100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

The Commission has determined that this proposed rule does not impose an unfunded mandate on State, local or tribal governments or on the private sector of more than \$100 million per year. Thus, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.* The Commission has also determined that the proposed rule does not have a unique effect on tribal

governments because the proposed removal of the reference to the Johnson Act merely codifies the practice of defining "electronic and electromechanical facsimile" in accordance with the plain meaning of those words.

#### *Takings*

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

#### *Civil Justice Reform*

In accordance with Executive Order 12988, the Office of General Counsel has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Instead, the rule is likely to decrease litigation with Indian tribes and reduce unnecessary friction between the Department of Justice and the Commission.

#### *Paperwork Reduction Act*

This regulation does not require an information collection under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

#### *National Environmental Policy Act*

The Commission has analyzed this rule in accordance with the criteria of the National Environmental Policy Act. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment is not required.

#### **List of Subjects in 25 CFR Part 502**

Gaming, Indian lands.

For the reasons set forth in the preamble, the National Indian Gaming Commission proposes to amend 25 CFR Part 502 as follows:

#### **PART 502—DEFINITIONS OF THIS CHAPTER**

1. The authority citation for part 502 continues to read as follows:

**Authority** 25 U.S.C. 2701 *et seq.*

2. Amend § 502.8 as follows:

#### **§ 502.8 [Removed and Reserved]**

Remove and reserve § 502.8.

Dated: June 18, 2001.

**Elizabeth L. Homer,**  
*Vice Chair.*

**Teresa E. Poust,**  
*Commissioner.*

[FR Doc. 01-15700 Filed 6-21-01; 8:45 am]

**BILLING CODE 7565-01-U**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[W185-01-7316; FRL-7000-6]

#### **Approval and Promulgation of Air Quality Plans; Wisconsin; Post-1996 Rate Of Progress Plan for the Milwaukee-Racine Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the post-1996 Rate-Of-Progress (ROP) plan submitted by the State of Wisconsin for the Milwaukee-Racine ozone nonattainment area, as a requested revision of the State Implementation Plan (SIP) for ozone. The Clean Air Act (Act) requires a post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area. The purpose of the post-1996 ROP plan is to incrementally provide for progress toward attainment of the 1-hour ozone standard in the Milwaukee-Racine ozone nonattainment area by reducing ground-level ozone precursor emissions. The submitted plan, which covers the period of 1996 through 1999 and emission reductions occurring by November 15, 1999, shows that Wisconsin reduced emissions of volatile organic compounds (VOC), ozone-forming pollutants by the amounts required by the Act.

**DATES:** EPA must receive comments in writing by July 23, 2001.

**ADDRESSES:** Written comments should be sent to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the state's submittal addressed in this proposed rule, and other relevant materials are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Jacqueline Nwia at (312) 886-6081 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Nwia, Environmental Scientist, U.S. Environmental Protection Agency, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6081, nwia.jacqueline@epa.gov.