AD would require removing the control rod, P/N 365A33–6161–21, and replacing it with a reinforced steel control rod, P/N 365A33–6214–20.

The FAA estimates that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to remove and replace the control rod, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,677. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $8,391.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 2001–SW–61–AD.

Applicability: Model AS 365 N3 helicopters with MOD 0764B39 (Quiet Fenestron) and Model EC 155B helicopters with tail rotor pitch change control rod (control rod), part number (P/N) 365A33–6161–21, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the control rod, loss of control of the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the control rod, P/N 365A33–6161–21, and replace it with a reinforced steel control rod, P/N 365A33–6214–20, in accordance with the following table:

Remove the control rod:	For control rods with:
Before further flight	700 or more hours TIS.
Within 20 hours TIS	500 or more hours TIS but less than 700 hours TIS.
Within 30 hours TIS	More than 270 hours TIS and less than 500 hours TIS.

Note 2: Eurocopter Alert Telex No. 04A005, for Model EC 155B helicopters, and Alert Telex No. 01.00.55, for Model AS 365 N3 helicopters, both dated July 4, 2002, pertain to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2002–472–057(A) for Model AS 365 N3 helicopters, and AD No. 2002–473–006(A) for Model EC 155B helicopters. Both AD's are dated September 18, 2002.

Issued in Fort Worth, Texas, on March 24, 2003.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–7596 Filed 3–31–03; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–47571; File No. S7–07–03]

RIN 3235–AI78

Request for Comment on the NYSE Petition Relating to Participant Fee Exemptions

AGENCY: Securities and Exchange Commission.

ACTION: Concept release; request for comments.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') seeks comment on a petition (''NYSE Petition'') submitted by the New York Stock Exchange, Inc. (''NYSE''), as a member of the Consolidated Tape Association (''CTA''). The NYSE Petition requests that the Commission amend the CTA Plan and the CQ Plan (collectively, the ''Plans'') to delete the provisions that exempt any participant in the Plans (''Participant'') from market data fees if the Participant receives the data for its internal use in regulating its market (''Participant Fee Exemptions''). The NYSE Petition would require all Participants to pay for CTA and CQS market data whether such data is received or used for regulation or other purposes. The Commission seeks comment on whether it should act on the NYSE Petition and the effects that eliminating the Participant Fee Exemptions would have on Participants in the National Market System.

DATES: Comments must be received on or before May 1, 2003.

ADDRESSES: To help us process and review your comments more efficiently,

comments should be sent by one method only.

Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–07–03. Comments submitted by e-mail should include this file number in the subject line. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (*http://www.sec.gov*).[1]

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001: Alden S. Adkins at (202) 942–0180; Katherine A. England at (202) 942–0154; Sapna C. Patel at (202) 942–0166; or Ian K. Patel at (202) 942–0089.

SUPPLEMENTARY INFORMATION:

I. Background

Section XII(b)(iv) of the CTA[2] Plan and section IX(b)(iv) of the CQ Plan provide, in relevant part, that no Participant may be charged for receiving or using any portion of the CTA and CQ Networks' last sale price and quotation information, provided that such information is: (1) Furnished to the Participant ''only at premises occupied solely by such Participant or on the trading floor or trading floors (as the term is generally understood) of such Participant''; (2) used by the Participant ''solely for regulatory and surveillance purposes, or for any other approved purposes''; and (3) not ''made available [by the Participant] to any person not located within or on, such premises or trading floor.''[3]

On February 16, 2001, the NYSE filed the NYSE Petition with the Commission requesting that the Commission, pursuant to Section 11A of the Act[4] and Rule 11Aa3–2(b)(2) thereunder,[5] amend the CTA and CQ Plans to remove the Participant Fee Exemptions.[6] The NYSE Petition is described in more detail in Part II below. We note that this is not the first time the Commission has been asked to take action related to these paragraphs of the Plans.[7]

II. Summary of the NYSE Petition

The NYSE is requesting that the Commission, pursuant to Rule 11Aa3–2(b)(2) of the Act, amend the CTA and CQ Plans to delete the Participant Fee Exemptions. The Participant Fee Exemptions are found in the section of each Plan that regulates Plan expenses and revenues, including the imposition of market data charges on data recipients. They specify that each of the Participants is exempt from market data charges (other than access fees) if it is in compliance with the requisite market data contract. According to the Participant Fee Exemptions, no Participant may be charged for receiving or using any portion of the CTA and CQ Networks' last sale price information, provided that such information is: (1) Furnished to the Participant ''only at premises occupied solely by such Participant or on the trading floor or trading floors (as the term is generally understood) of such Participant'; (2) used by the Participant ''solely for regulatory and surveillance purposes, or for any other approved purposes'; and (3) not ''made available [by the Participant] to any person not located within or on, such premises or trading floor.''

The NYSE states that the Participant Fee Exemptions, adopted in 1979, applied to practices used by the NYSE and AMEX at that time. However, as the technological and structural environment of the markets have changed, the NYSE represents that many Participants believe that the Participant Fee Exemptions are no longer desirable. The NYSE believes that the Participant Fee Exemptions create perceived inequities and interpretative disputes over their plain meaning. To address this problem, the NYSE requests that the Commission amend the Plans to delete Section XII(b)(iv) of the CTA Plan, and Section IX(b)(iv) of the CQ Plan, which would effectively eliminate the Participant Fee Exemptions in their entirety.

The NYSE believes that the elimination of the Participant Fee Exemptions will satisfy the standards of fairness mandated by the Act and the avoidance of unreasonable discrimination.[8] The NYSE, however, asserts that an alternative to eliminating the Participant Fee Exemptions would be to expand them in an attempt to level the playing field among market makers. However, the NYSE believes that this would simply redraw the boundaries of fee exemptions for devices, which would only complicate the surveillance of market data, as new trading structures and technologies change the nature of such boundaries. Further, the NYSE asserts that such an alternative would simply result in future disputes over the boundaries of fee exemptions for devices. The NYSE also believes that expanding fee exemptions would only complicate market data administration and increase the policing burden.

The NYSE believes that favorable action on the NYSE Petition by the Commission would be beneficial in several ways. First, the NYSE believes that the elimination of the Participant Fee Exemptions would eliminate future grievances relating to the application of the Participant Fee Exemptions by eliminating the perception of inequity that the Participant Fee Exemptions have caused, or may cause in the future. Second, the NYSE believes that the elimination of the Participant Fee Exemptions would eliminate the deviation of revenue sharing among the Participants away from the revenue sharing formulae. Finally, the NYSE believes that the elimination of the

[1] Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submission. Submit only information that you wish to make publicly available.

[2] CTA is an association consisting of representatives from the American Stock Exchange LLC (''AMEX''); The Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Exchange, Inc.; the Philadelphia Stock Exchange, Inc.; the Cincinnati Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; and the Chicago Board Options Exchange, Inc. CTA's function is to oversee the dissemination, on a current and continuous basis, of last sale prices of transactions in securities listed on a national securities exchange.

[3] The CTA Plan, pursuant to which markets collect and disseminate last sale price information for securities listed on national securities exchanges, is a ''transaction reporting plan'' under Rule 11Aa3–1 of the Securities Exchange Act of 1934 (''Act''), 17 CFR 240.11Aa3–1, and a ''national market system plan'' under Rule 11Aa3–2 of the Act, 17 CFR 240.11Aa3–2. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for securities listed on national securities exchanges, is also a ''national market system plan'' under Rule 11Aa3–2 of the Act, 17 CFR 240.11Aa3–2.

[4] 15 U.S.C. 78k–1.

[5] 17 CFR 240.11Aa3–2(b)(2).

[6] *See* letter to Jonathan G. Katz, Secretary, Commission, from Robert G. Britz, Group Executive Vice President, NYSE, dated February 14, 2001.

[7] *See In the Matter of the Application of the Chicago Board Options Exchange,* Administrative Proceeding File No. 3–10561 (March 13, 2002) and *In the Matter of the Application of the Chicago Board Options Exchange,* Administrative Proceeding File No. 3–10561 (March 5, 2003). *See also In the Matter of the Application of the Cincinnati Stock Exchange, Inc.,* Administrative Proceeding File No. 3–9967.

[8] The NYSE believes that repealing the Participant Fee Exemptions would place the Plans on equal footing with the national market system plan governing market data relating to over-the-counter securities, which does not provide for similar fee exemptions for participants, and which requires the participating markets and their remotely located market makers to pay the plan's fees.

Participant Fee Exemptions would allow each Participant to decide individually whether or not to pass the fees for market data through to the members that use such data.

III. General Request for Comments

The Commission is seeking comment on the NYSE Petition in general. More specifically, the Commission is requesting comments on whether it should act on the NYSE Petition. The Commission is also seeking comment on the effects of the NYSE Petition on Participants and on the National Market System as a whole.

Dated: March 26, 2003.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–7730 Filed 3–31–03; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 49

[REG–141097–02]

RIN 1545–BB18

Excise Taxes; Communications Services, Distance Sensitivity

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the definition of toll telephone service for purposes of the communications excise tax. These regulations affect providers and purchasers of communications services.

DATES: Written and electronic comments and requests for a public hearing must be received by June 30, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–141097–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:PA:RU (REG–141097–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *http: www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning submissions, LaNita Van Dyke, (202) 622–7180; concerning the regulations, Cynthia McGreevy (202) 622–3130 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Facilities and Services Excise Tax Regulations (26 CFR part 49) relating to the definition of toll telephone service.

Section 4251 imposes tax on amounts paid for certain communications services, including local and toll telephone service. Section 4252(b)(1) provides that toll telephone service means a telephonic quality communication for which there is a toll charge that varies in amount with the distance and elapsed transmission time of each individual communication.

Section 4252(b)(1), as enacted in 1965, describes the long distance telephone service sold to residential and most business subscribers under the 1965 Federal Communications Commission rules. At that time, the charge for a long distance telephone call increased as the duration of the call increased and generally increased as the distance between the originating telephone station and the terminating telephone station increased. By the late 1990's, most carriers had moved toward a fee structure that includes a flat per-minute rate for domestic calls.

In 1979, the Treasury Department published Rev. Rul. 79–404 (1979–2 C.B. 382), which stands for the principle that a long distance telephone call for which the charge varies with elapsed transmission time but not with distance is toll telephone service described in section 4252(b)(1).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Cynthia McGreevy, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 49

Excise taxes, Reporting and recordkeeping requirements, Telephone, Transportation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 49 is proposed to be amended as follows:

PART 49—FACILITIES AND SERVICES EXCISE TAXES

1. The authority citation for part 49 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

2. Section 49.4252–0 is added to read as follows:

§ 49.4252–0 Section 4252(b)(1); distance sensitivity.

(a) *In general.* For a communications service to constitute toll telephone service described in section 4252(b)(1), the charge for the service need not vary with the distance of each individual communication.

(b) *Effective date.* This section applies to amounts paid on and after the date of publication of these regulations in the **Federal Register** as final regulations.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

[FR Doc. 03–7813 Filed 3–31–03; 8:45 am]

BILLING CODE 4830–01–P