

	Maximum annual fee per licensed category
<i>Small business not engaged in manufacturing and small not-for-profit organizations (Gross Annual Receipts)</i>	
\$350,000 to \$5 million	\$2,300
Less than \$350,000	500
<i>Manufacturing entities that have an average of 500 employees or less</i>	
35 to 500 employees	2,300
Less than 35 employees	500
<i>Small Governmental Jurisdictions (Including publicly supported educational institutions) (population)</i>	
20,000 to 50,000	2,300
Less than 20,000	500
<i>Educational institutions that are not State or publicly supported, and have 500 Employees or less</i>	
35 to 500 employees	2,300
Less than 35 employees	500

To pay a reduced annual fee, a licensee must use NRC Form 526. Licensees can access this form on the NRC's Web site at <http://www.nrc.gov>. The form can then be accessed by selecting "License Fees" and under "Forms" selecting NRC Form 526. Those licensees that qualify as a "small entity" under the NRC size standards at 10 CFR Part 2.810 can complete the form in accordance with the instructions provided, and submit the completed form and the appropriate payment to the address provided on the invoice. For licensees who cannot access the NRC's Web site, NRC Form 526 may be obtained through the local point of contact listed in the NRC's "Materials Annual Fee Billing Handbook," NUREG/BR-0238, which is enclosed with each annual fee invoice. Alternatively, licensees may obtain the form by calling the fee staff at 301-415-7544, or by e-mailing us at fees@nrc.gov.

Instructions for Completing NRC Small Entity Form 526

- (1) File a separate NRC Form 526 for each annual fee invoice received.
- (2) Complete all items on NRC Form 526, as follows:
 - a. Enter the license number and invoice number exactly as they appear on the annual fee invoice.
 - b. Enter the Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) if known.
 - c. Enter the licensee's name and address as they appear on the invoice. Name and/or address changes for billing purposes must be annotated on the invoice. Correcting the name and/or address on NRC Form 526, or on the invoice does not constitute a request to amend the license. Any request to amend a license must be submitted to the respective licensing staff in the NRC's regional or headquarters offices.
 - d. Check the appropriate size standard for which the licensee qualifies as a small entity. Check only one box. Note the following:
 - (i) A licensee who is a subsidiary of a large entity does not qualify as a small entity.
 - (ii) The size standards apply to the licensee, including all parent companies and affiliates—not the individual authorized users listed in the license or the particular segment of the organization that uses licensed material.

(iii) Gross annual receipts means all revenue in whatever form received or accrued from whatever sources—not solely receipts from licensed activities. There are limited exceptions as set forth at 13 CFR 121.104. These are: the term receipts excludes net capital gains or losses; taxes collected for and remitted to a taxing authority (if included in gross or total income), proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS); and amounts collected for another entity by a travel agent, real estate agent, advertising agent, or conference management service provider.

(iv) The owner of the entity, or an official empowered to act on behalf of the entity, must sign and date the small entity certification.

The NRC sends invoices to its licensees for the full annual fee, even though some licensees qualify for reduced fees as small entities. Licensees who qualify as small entities and file NRC Form 526, which certifies eligibility for small entity fees, may pay the reduced fee, which is either \$2,300 or \$500 for a full year, depending on the size of the entity, for each fee category shown on the invoice. Licensees granted a license during the first 6 months of the fiscal year, and licensees who file for termination or for a "possession only" license and permanently cease licensed activities during the first 6 months of the fiscal year, pay only 50 percent of the annual fee for that year. Such invoices state that the "amount billed represents 50% proration." This means that the amount due from a small entity is not the prorated amount shown on the invoice, but rather one-half of the maximum annual fee shown on NRC Form 526 for the size standard under which the licensee qualifies, resulting in a fee of either \$1,150 or \$250 for each fee category billed (instead of the full small entity annual fee of \$2,300 or \$500).

Licensees must file a new small entity form (NRC Form 526) with the NRC each fiscal year to qualify for reduced fees in that year. Because a licensee's "size," or the size standards, may change from year to year, the invoice reflects the full fee and licensees must complete and return form 526 for the fee to be reduced to the small entity fee amount. *Licensees will not receive a new invoice for the reduced amount.* The

completed NRC Form 526, the payment of the appropriate small entity fee, and the "Payment Copy" of the invoice should be mailed to the U. S. Nuclear Regulatory Commission, License Fee Team at the address indicated on the invoice.

If you have questions regarding the NRC's annual fees, please contact the license fee staff at 301-415-7554, e-mail the fee staff at fees@nrc.gov, or write to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Office of the Chief Financial Officer.

False certification of small entity status could result in civil sanctions being imposed by the NRC under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et. seq.* NRC's implementing regulations are found at 10 CFR Part 13.

[FR Doc. 04-2019 Filed 1-30-04; 8:45 am]

BILLING CODE 7590-01-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 703 and 704

Investment in Exchangeable Collateralized Mortgage Obligations

AGENCY: National Credit Union Administration.

ACTION: Proposed rule with request for comments.

SUMMARY: The National Credit Union Administration (NCUA) proposes to amend its regulations regarding investment in collateralized mortgage obligations (CMOs). Currently, NCUA regulations prohibit federal credit unions (FCUs) and certain corporate credit unions from investing in stripped mortgage backed securities (SMBS) and exchangeable CMOs that represent interests in one or more SMBS. NCUA has safety and soundness concerns with direct investment in SMBS, but recognizes that some exchangeable CMOs representing interests in one or more SMBS may be safe investments for credit unions. This proposed rule will

authorize all FCUs and corporate credit unions to invest in exchangeable CMOs representing interests in one or more SMBS subject to certain safety and soundness limitations. This proposed rule also contains miscellaneous technical corrections and clarifying amendments to NCUA's Investment and Deposit Activities rule and Corporate Credit Unions rule.

DATES: Comments must be received on or before April 2, 2004.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319, or e-mail comments to regcomments@NCUA.gov instead of mailing or hand-delivering them. Whatever method you choose, *please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Steve Sherrod, Senior Investment Officer, Office of Strategic Program Support and Planning (OSPSP) at the above address or telephone (703) 518-6620; Kim Iverson, Senior Investment Officer, Office of Strategic Program Support and Planning, at the above address or telephone (703) 518-6620; George Curtis, Corporate Program Specialist, Office of Corporate Credit Unions at the above address or telephone (703) 518-6640; or Paul Peterson, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6555.

SUPPLEMENTARY INFORMATION:

A. Exchangeable Collateralized Mortgage Obligations

The Federal Credit Union Act permits FCUs and corporate credit unions to purchase mortgage related securities (MRS) subject to such regulations as the NCUA Board may prescribe. 12 U.S.C. 1757(15)(B). NCUA regulations generally permit the purchase of CMOs, a multi-class MRS, but not if the CMO is a stripped mortgage backed security (SMBS). 12 CFR 703.14(d) and 703.16(e); 704.5(c)(5) and (h)(4). SMBS, including interest-only CMOs (IOs) and principal-only CMOs (POs) are, when purchased individually, highly volatile and risky investments. For example, in a declining interest rate environment, such as that experienced over the last few years, the value of an IO can drop precipitously in a short time period. Accordingly, individual SMBS are generally not suitable investments for most credit unions.

Currently, many CMO issues contain one or more classes of exchangeable

CMOs. An exchangeable CMO represents a beneficial ownership interest in a combination of two or more underlying CMOs, and the owner may pay a fee and take delivery of the underlying CMOs. In many cases, these underlying CMOs include IOs and POs.

Because NCUA regulations prohibit investment in SMBS, the regulations also prohibit investment in an exchangeable CMO that represents an interest in one or more IOs or POs. Certain exchangeable CMOs representing IOs or POs, however, do not carry the risk or raise the same safety and soundness concerns associated with direct investment in an SMBS. For example, an exchangeable CMO might represent ownership in two securities: (1) An interest-bearing CMO (*i.e.*, a non-SMBS CMO) with a coupon of 5.0 percent and (2) a SMBS in the form of an IO representing 0.5 percent interest on the interest-bearing CMO. See RCR class PA from Federal National Mortgage Association (Fannie Mae) Prospectus Supplement 2001-73. As indicated in the Prospectus Supplement for this particular combination, the notional principal of the underlying IO is not large relative to the principal of the underlying interest-bearing CMO and will decline at the same rate as the principal on the interest-bearing CMO. As a result, the risks associated with this combination more closely resemble the risks associated with the underlying interest-bearing CMO than the risks associated with the IO or any other SMBS.

This proposed rule, if adopted, will authorize FCUs and corporate credit unions to invest in an exchangeable CMO representing interests in one or more IOs or POs if the exchangeable CMO meets certain conditions.

One condition concerns the rate of amortization of the underlying IOs and POs. Specifically, for an exchangeable CMO representing one or more IOs, the notional principal of each IO must decline at the same rate as the principal on one or more non-IO CMOs included in the combination. For an exchangeable CMO representing one or more POs, the principal of each PO must decline at the same rate as the notional principal of one or more IOs included in the combination or at the same rate as the principal on one or more interest-bearing CMOs included in the combination. This requirement helps mitigate the risk associated with the IO and PO SMBS.

Each exchangeable CMO has an offering circular, which includes the final prospectus and all supplements to that prospectus, that contains performance characteristics for the

exchangeable CMO and its various underlying CMOs. One set of tables, labeled as "decrement" or "declining balance" tables, displays the remaining principal (or, for IOs, the notional principal) balance on each CMO at periodic intervals following issuance, assuming certain principal repayment speeds for the mortgage pool as a whole. The Board believes that the principal, or notional principal, of two underlying CMOs will decline at the same rate only if the two CMOs share the same decrement or declining balance table. The rule text also requires this condition be satisfied throughout the life of the investment, so that a credit union may not exercise a call option, or other embedded option, that causes the exchangeable CMO to fail this condition after purchase.

The amortization condition discussed above helps mitigate risk, but by itself will not ensure that an exchangeable CMO representing interests in underlying SMBS does not perform like a stand-alone SMBS. For example, an issuer might fashion an exchangeable CMO that represents ownership in two securities: (1) An interest-bearing CMO and (2) an IO, but with the notional principal of the IO much larger than the principal of the interest-bearing CMO. Even assuming the notional principal on the IO declines at the same rate as the principal on the interest-bearing CMO, the exchangeable CMO representing these two interests will still have the substantive risk characteristics of the underlying IO.

Accordingly, the Board finds it necessary to add another condition: that, at the time of purchase, the ratio of the market price to the remaining principal balance is between .8 and 1.2, meaning that the discount or premium of the market price to par must be less than 20 points. In the Board's view, if an exchangeable CMO is priced at a premium of 20% or more to the remaining principal balance due on the CMO at the time of purchase, or its "par," the CMO has substantially the same risk characteristics as an IO. Similarly, if an exchangeable CMO is priced at a discount of 20% or more to par, it has substantially the same risk characteristics as a PO. "Remaining principal balance" refers to the actual principal remaining to be paid, not notional principal.

The proposed rule also states that credit unions may not exercise the right to exchange an exchangeable CMO if it represents an interest in one or more impermissible SMBS. Corporate credit unions with part I or part II Expanded Authorities may exercise the exchange

function if the resulting SMBS are all permissible under those authorities.

This proposed rule also adds a definition of collateralized mortgage obligation to part 703 of NCUA's rules and regulations. This definition parallels the definition found in NCUA's corporate rule. 12 CFR 704.2.

B. Technical Corrections and Minor Changes

The Board also proposes to make several technical corrections and other minor changes to parts 703 and 704.

1. Investment and Deposit Activities (Part 703)

The Board proposes to modify the definitions of put and call in § 703.2. Puts and calls are parallel devices, with a put giving the holder the option to sell, and a call giving the holder an option to buy, a security under certain conditions. The proposed definitions reflect this relationship more closely. The Board also proposes to modify the definition of put to clarify that the exercise of a put need only be during a fixed time period rather than, as currently stated, "at any time until the stated expiration date."

Section 703.2 defines "custodial agreement" and limits such agreements to those where one party agrees to exercise ordinary care in the safekeeping of securities. The term "custodial agreement" only appears in § 703.9(a), and that section references a "written custodial agreement that requires the safekeeper to exercise, at least, ordinary care." Accordingly, the use of "ordinary care" in the definition of custodial agreement is redundant and the Board proposes to eliminate it.

The Board wishes to amend the current definition of derivative in part 703. The Board intends that the term derivative mean any derivative instrument that, under generally accepted accounting principles (GAAP), must be recognized as an asset or liability in the statement of financial condition and be valued at fair market value. Currently, FASB Statement No. 133 (FAS 133), as amended and interpreted, discusses the accounting treatment of derivative instruments, which include certain financial contracts and other contracts that meet conditions specified in FAS 133. Stand-alone interest rate swaps, options, swaptions, and futures, for example, are derivative instruments under FAS 133 that must be recognized as assets or liabilities and valued at fair market value and so are considered to be derivatives for purposes of parts 703 and 704. In contrast, embedded options that are not required under GAAP to be

accounted for separately from the host contract are not derivatives for purposes of parts 703 and 704.

Sections 703.8(b)(3) and 703.9(d) employ the term "nationally-recognized statistical rating agencies." The Board proposes to replace this term with the more commonly used "nationally-recognized statistical rating organizations."

Section 703.14(g) allows for the purchase, subject to certain conditions, of European financial options contracts to fund the payment of dividends on member share certificates. One condition in paragraph (g)(4) requires that "[t]he options' expiration dates coincide with the maturity date of the share certificate." The Board proposes a change to allow these options to expire "no later than the maturity date of the share certificate." This change will provide more flexibility in the use of options.

In § 703.14(g)(13), the Board proposes to replace the word "it" with "its."

2. Corporate Credit Unions (Part 704)

In § 704.2, the Board proposes to amend the definitions of "small business related security" and "weighted average life" to make them identical to the definitions of those terms in § 703.2. Also, the Board proposes to revise § 704.8(a)(4) by changing the phrase "interest rate risk simulation tests" to "interest rate sensitivity analysis requirements." Section 704.8(a)(4) cross-references § 704.8(d) which uses the phrase "interest rate sensitivity analysis requirements." The Board also proposes to add a definition of "derivatives" to part 704. The proposed part 704 definition is identical to the amended definition proposed for part 703 and discussed above.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under \$10 million in assets). This proposed rule expands the investment authority granted to FCUs and corporate credit unions. The proposed amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule would not increase paperwork

requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The proposed rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedure Act. 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects

12 CFR Part 703

Credit unions, Investments.

12 CFR Part 704

Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 22, 2004.

Becky Baker,

Secretary of the Board.

For the reasons stated in the preamble, NCUA proposes to amend 12 CFR part 703 and 12 CFR part 704 as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

1. The authority citation for part 703 continues to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

2. Amend § 703.2 to revise the definitions of *Call*, *Custodial Agreement*, *Derivatives*, and *Put*, and add definitions of *Collateralized Mortgage Obligation* and *Exchangeable Collateralized Mortgage Obligation*, as follows:

§ 703.2 Definitions.

* * * * *

Call means an option that gives the holder the right to buy a specified quantity of a security at a specified price during a fixed time period.

* * * * *

Collateralized Mortgage Obligation (CMO) means a multi-class mortgage related security.

* * * * *

Custodial Agreement means a contract in which one party agrees to hold securities in safekeeping for others.

* * * * *

Derivatives means any derivative instrument, as defined under generally accepted accounting principles (GAAP), that GAAP requires be recognized as an asset or liability in the statement of financial condition and be valued at fair market value. Stand-alone interest rate swaps, options, swaptions, and futures, for example, are derivatives. Embedded options that are not required under GAAP to be accounted for separately from the host contract are not derivatives.

* * * * *

Exchangeable Collateralized Mortgage Obligation means a collateralized mortgage obligation (CMO) that represents beneficial ownership interests in a combination of two or more underlying CMOs. The holder of an exchangeable CMO may pay a fee and take delivery of the underlying CMOs.

* * * * *

Put means an option that gives the holder the right to sell a specified quantity of a security at a specified price during a fixed time period.

* * * * *

3. Amend § 703.8 by revising the second sentence of paragraph (b)(3) to read as follows:

§ 703.8 Broker-dealers.

* * * * *

(b) * * *

(3) * * * The federal credit union should consider current financial data,

annual reports, reports of nationally-recognized statistical rating organizations, relevant disclosure documents, and other sources of financial information.

* * * * *

4. Amend § 703.9 by revising the second sentence of paragraph (d) to read as follows:

§ 703.9 Safekeeping of investments.

* * * * *

(d) * * * The federal credit union should consider current financial data, annual reports, reports of nationally-recognized statistical rating organizations, relevant disclosure documents, and other sources of financial information.

5. Amend § 703.14 to revise paragraph (g)(4) and paragraph (g)(13) introductory text to read as follows:

§ 703.14 Permissible investments.

* * * * *

(g) * * *

(4) The options' expiration dates are no later than the maturity date of the share certificate.

* * * * *

(13) The federal credit union provides its board of directors with a monthly report detailing at a minimum:

* * * * *

6. Amend § 703.16 to revise paragraph (e) and add paragraph (f) to read as follows:

§ 703.16 Prohibited investments.

* * * * *

(e) *Stripped mortgage backed securities (SMBS)*. A federal credit union may not invest in SMBS or securities that represent interests in SMBS except as described in paragraph (e)(1) of this section.

(1) A federal credit union may invest in and hold exchangeable collateralized mortgage obligations (exchangeable CMOs) representing beneficial ownership interests in one or more interest-only CMOs (IO CMOs) or principal-only CMOs (PO CMOs), but only if:

(i) At the time of purchase, the ratio of the market price to the remaining principal balance is between .8 and 1.2, meaning that the discount or premium of the market price to par must be less than 20 points, and

(ii) Throughout the life of the investment, the notional principal on each underlying IO CMO declines at the same rate as the principal on one or more of the underlying non-IO CMOs, and the principal on each underlying PO CMO declines at the same rate as the principal, or notional principal, on one

or more of the underlying non-PO CMOs.

(2) A federal credit union that invests in an exchangeable CMO may exercise the exchange option only if all of the underlying CMOs are permissible investments for that credit union.

(f) *Other prohibited investments*. A federal credit union may not purchase residual interests in collateralized mortgage obligations/real estate mortgage investment conduits, or small business related securities.

PART 704—CORPORATE CREDIT UNIONS

7. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

8. Amend § 704.2 to add definitions of *Derivatives* and *Exchangeable collateralized mortgage obligation*, and to revise the definitions of *Small business related security* and *Weighted average life*, as follows:

§ 704.2 Definitions.

* * * * *

Derivatives means any derivative instrument, as defined under generally accepted accounting principles (GAAP), that GAAP requires be recognized as an asset or liability in the statement of financial condition and be valued at fair market value. Stand-alone interest rate swaps, options, swaptions, and futures, for example, are derivatives. Embedded options that are not required under GAAP to be accounted for separately from the host contract are not derivatives.

* * * * *

Exchangeable collateralized mortgage obligation means a collateralized mortgage obligation (CMO) that represents beneficial ownership interests in a combination of two or more underlying CMOs. The holder of an exchangeable CMO may pay a fee and take delivery of the underlying CMOs.

* * * * *

Small business related security means a security as defined in Section 3(a)(53) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(53)), e.g., a security that is rated in 1 of the 4 highest rating categories by at least one nationally recognized statistical rating organization, and represents an interest in 1 or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar

institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company. This definition does not include Small Business Administration securities permissible under section 107(7) of the Act.

* * * * *

Weighted average life means the weighted-average time to the return of a dollar of principal, calculated by multiplying each portion of principal received by the time at which it is expected to be received (based on a reasonable and supportable estimate of that time) and then summing and dividing by the total amount of principal.

* * * * *

9. Amend § 704.5 by revising paragraphs (h)(1) and (h)(4) and adding paragraph (h)(5) to read as follows:

§ 704.5 Investments.

* * * * *

(h) * * *

(1) Purchasing or selling derivatives.

* * * * *

(4) Purchasing mortgage servicing rights, small business related securities, or residual interests in collateralized mortgage obligations/real estate mortgage investment conduits or asset-backed securities; and

(5) Purchasing stripped mortgage backed securities (SMBS), or securities that represent interests in SMBS, except as described as follows:

(i) A corporate credit union may invest in exchangeable collateralized mortgage obligations (exchangeable CMOs) representing beneficial ownership interests in one or more interest-only CMOs (IO CMOs) or principal-only CMOs (PO CMOs), but only if:

(A) At the time of purchase, the ratio of the market price to the remaining principal balance is between .8 and 1.2, meaning that the discount or premium of the market price to par must be less than 20 points, and

(B) Throughout the life of the investment, the notional principal on each underlying IO CMO declines at the same rate as the principal on one or more of the underlying non-IO CMOs, and the principal on each underlying PO CMO declines at the same rate as the principal, or notional principal, on one or more of the underlying non-PO CMOs.

(ii) A corporate credit union that invests in an exchangeable CMO may exercise the exchange option only if all of the underlying CMOs are permissible investments for that credit union.

10. Amend § 704.8 by revising paragraph (a)(4) to read as follows:

§ 704.8 Asset and liability management.

(a) * * *

(4) Policy limits and specific test parameters for the interest rate sensitivity analysis requirements set forth in paragraph (d) of this section; and

* * * * *

[FR Doc. 04-1765 Filed 1-30-04; 8:45 am]

BILLING CODE 7535-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 153

[0790-AH73]

Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members

AGENCY: General Counsel of the Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Military Extraterritorial Jurisdiction Act of 2000 (MEJA) establishes Federal criminal jurisdiction over whoever engages in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year (*i.e.*, a felony offense) while employed by or accompanying the Armed Forces outside the United States, certain members of the Armed Forces subject to the Uniform Code of Military Justice, and former service members.

Section 3266 of MEJA directs that the Secretary of Defense, after consultation with the Secretary of State and the Attorney General, shall prescribe regulations, uniform throughout the Department of Defense, governing the apprehension, detention, delivery, and removal of persons from overseas locations to the United States for prosecution in Federal district courts under MEJA, and the facilitation of proceedings under section 3265 of MEJA. Under the direction of the General Counsel of the Department of Defense, this part is proposed as the required regulations. This proposed part implements policies and procedures, and assigns responsibilities, under MEJA, for exercising extraterritorial criminal jurisdiction over certain military personnel, former service members of the United States Armed Forces, and over civilians employed by or accompanying the Armed Forces outside the United States (as specifically defined in section 3267 of MEJA).

DATES: Consideration will be given to all comments received on or before April 2, 2004.

ADDRESSES: Submit comments to Robert E. Reed, ODGC (P&HP), Office of the General Counsel of the Department of Defense, 1600 Defense Pentagon, Room 3E999, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Reed, ODGC (P&HP), (703) 695-1055, reedr@osdgc.osd.mil.

SUPPLEMENTARY INFORMATION: In accordance with Department of Defense, Washington Headquarters Services, Administrative Instruction Number 102, "A DoD issuance or document shall be published in the **Federal Register** for public comment if it * * * has a direct or substantial impact on the public or any significant portion of the public." The Office of Management and Budget (OMB) has provided all government agencies guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated to the public. OMB has directed the agencies to publish a notice in the **Federal Register**, by May 1, 2002, that their draft policies complying with the OMB requirement are available for public view and comment on their public Web sites. The draft Department of Defense Instruction is available on the Deputy General Counsel (Personnel and Health Policy), Office of the General Counsel public Web site located at <http://www.defenselink.mil/dodgc/php>.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 153 is not a significant regulatory action. This rule does not: (1) Have an annual effect to the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs, the environment; public health or safety; or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation or recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Public Law 96-354, "Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)"

It has been certified that this part is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a