received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Webster City Municipal Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Webster City, IA [Revised]

Webster City Municipal Airport, IA
(lat. 42°26′12″ N., long. 93°52′08″ W)
Webster City NDB
(lat. 42°26′29″ N., long. 93°52′10″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Webster City Municipal Airport and within 2.6 miles each side of the 155° bearing from the Webster City NDB extending from the 6.4-mile radius to 7.4 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on November 14, 1995.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 95–29354 Filed 12–1–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No. 951031259–5259–01]

Licensing of Private Remote-Sensing Space Systems

AGENCY: National Environmental Satellite, Data, and Information Service (NESDIS), NOAA, Commerce.

ACTION: Notice of inquiry and request for public comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering revisions to its regulations for the licensing of private remote sensing space systems under Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.* To promote the process, NOAA is using an informal Task Group, of NOAA and Commerce employees, to compile and consider public comment on the more significant issues involved in the licensing process. NOAA will use these comments to decide the extent to which it needs to revise its regulations and what issues should be addressed. Should NOAA decide that new regulations are necessary a proposed rule would be published to solicit public comment. NOAA will then circulate its final draft of proposed regulations in the informal rulemaking process. NOAA intends that soliciting comments on the issues proposed in this notice prior to the issuance of any proposed rule will ensure that NOAA's regulations include provisions advantageous to industry, as well as to Government. This Notice solicits such comments, particularly from the regulated industry.

DATES: Comments must be received on or before February 2, 1996.

ADDRESSES: Comments should be sent to, Michael Mignogno, NOAA, National Environmental Satellite, Data, and Information Service, Federal Building 4, Room 3301–E, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: Michael Mignogno at (301) 457–5210 or Catherine Shea, NOAA, Office of General Counsel at (301) 713–0053. Additional Discussion Packages are available from Michael Mignogno at the above address.

SUPPLEMENTARY INFORMATION: In 1987, NOAA published its licensing regulations that set forth procedures for submission and Government review of an application pursuant to the Land Remote Sensing Commercialization Act of 1984. Only one license was issued

under this act. When Congress passed the Land Remote Sensing Policy Act of 1992 (the Act), it made several revisions to the licensing process to stimulate commercial interest in operating systems. On March 10, 1994, the President issued his policy to promote U.S. competitiveness in remote sensing space capabilities while protecting U.S. national security and foreign policy interests. Since 1993, NOAA has issued nine licenses.

NOAA is considering updating its 1987 regulations to reflect statutory changes, intervening events, and recent licensing experiences and to ensure that the Government's oversight is simple, transparent, and predictable. Particularly, NOAA seeks to support the President's policy that long term U.S. national security and foreign policy interests are best served by ensuring the U.S. industry continues to lead this emerging market.

In order to foster the policy of transparency in the licensing process, NOAA is seeking public input on whether extensive new regulations are necessary and, if so, what issues should be addressed in such rule. To assist this process, NOAA developed, for the Task Group, a series of Discussion Packages that highlight some of the more significant areas for discussion. NOAA is seeking early public input on these and on other significant aspects of the licensing process. NOAA is especially interested in suggestions for innovative methods to carry out its statutory licensing responsibilities in ways that enhance U.S. competitiveness. The significant issues identified to date and highlighted in the discussion packages can be summarized as follows:

1. Review Procedures for License Applications

A. How can the process be improved and modified to provide greater transparency and predictability and shorter response time?

NOAA seeks to eliminate uncertainty from the licensing process that could potentially threaten commercial practices while preserving essential national security and foreign policy interests. For each new system, these interests are first addressed during the review of the license application. The review must be thorough and careful, but at the same time transparent, predictable, and timely so as not to deter pursuit of and investment in potential systems. The Government must complete its review within the statutory time limit of 120 days or, if possible, within a shorter time limit.

To address these legitimate interests and comply with the intent of the Act and the President's policy, NOAA is considering whether the Government should institute more formal administrative time limits and more detailed record keeping requirements in making determinations on a license application. It is contemplated that under such a system any reviewing agency unable to comply with a time limit would be required to submit a satisfactory explanation and specify the additional time required. The administrative record would be opened as soon as an application is received and would include all comments on that application. *Ex parte* communications would not be permitted and oral input should not influence the process in any way. The applicant would have the right to inspect this record during business hours.

To promote timely and transparent decisions NOAA is considering additional procedures pursuant to its enforcement authority under section 203 of the Act. This section establishes the right to a hearing on the record in the event NOAA takes certain adverse actions such as the denial of a license or imposition of conditions in a license. NOAA is considering defining adverse actions to include the Government's failure to act within the applicable time limit and/or advise the applicant of the reasons for the delay.

In the event of an appeal, the administrative record would stand alone as evidence for all determinations made during the application review. NOAA would have to demonstrate that a preponderance of the evidence in this record establishes, for example, that the system proposed would compromise identified national security or foreign policy interests. As such, the record would have to include information from the appropriate secretary sufficient to identify the interest at risk and describe why the proposed system would not preserve that interest. (This information may be classified where necessary). Should NOAA establish such an appeal process, the record would have to contain this information and the evidence would have to be sufficient to meet the requisite test or the agency determination would not prevail.

B. What are the minimum informational requirements for a complete application?

A related issue in terms of ensuring expeditious review is determining when an application is considered complete. It is important that applicants and the Government agree on what basic information must be provided in order to enable the Government to perform a thorough review and, at the same time, avoid over-burdening the applicant. Such an understanding also will avoid frequent requests for additional information which delay the process. Particularly important is the information that describes the operational aspects of a proposed system which are significant in terms of its national security and foreign policy implications. NOAA is interested in assessing what information is necessary before a review can begin and what level of burden is imposed by gathering the information necessary for a complete application. Any comments received on this issue also will be relevant in terms of compliance with the Paperwork Reduction Act.

The existing informational requirements are found at 15 CFR 960.6. A more complete list, that includes additional items identified as significant by the reviewing agencies during recent license application reviews, is contained in Discussion Package 1. This Discussion Package also sets forth in more detail the type of process that NOAA is considering for reviewing license applications.

2. Restricting Imaging To Preserve National Security/Foreign Policy Interests—What Standard Must Be Applied and What Procedures Must Be Followed?

Once a license is issued and a remote sensing satellite is operational, the most critical issue for the licensee is when the Government might restrict imaging of a particular area and for how long because of national security or foreign policy considerations.

The basic license condition, derived from the President's policy, provides:

> The Secretary of Commerce may, after consulting with the Secretary of Defense or State, as appropriate, require the licensee to limit imaging an area and/or limit distributing data from an area during any period when national security or foreign policy interests may be compromised.

To ensure that restrictions will be invoked only where appropriate, this consultation and any decision to implement this condition will be controlled at the Secretarial level and any Secretarial disagreement will be elevated to the Presidential level.

While the above standard and process appears to have achieved considerable consensus, questions have been raised whether such a standard is too vague. For example, representatives of the media addressed this issue in the 1989 Petition for Rulemaking. The media representatives have maintained that imaging could be restricted only if ''there is clear evidence that such action is necessary to prevent serious and immediate injury to distinct and

compelling national security and foreign policy interests of the United States.'' (Petition for Rulemaking filed by Radio Television News Directors Association, April 5, 1988)

In 1989, NOAA responded to this Petition for Rulemaking announcing that it would reopen its regulations and would incorporate the principle that ''conditions imposed in a license will be the least burdensome possible.'' 54 FR 1945. This rulemaking was interrupted by passage of the Act in 1992 and NOAA is now considering a number of provisions to implement the President's policy. These could include ensuring that limitations on imaging would be imposed only over the smallest area and for the shortest period of time possible and would not be imposed at all if comparable data is otherwise available.

Ultimately, any standard and process for making decisions concerning the need for restrictions on imaging must ensure that the Government has the ability to protect its national security and international obligation interests adequately while preserving First Amendment rights and other U.S. interests, including that of protecting industry's position in global competition. NOAA believes that it is now an appropriate time for a full discussion of this issue before systems become operational. Comments from previous rulemaking actions and other relevant material are contained in Discussion Package 2.

3. Review of Foreign Agreements

Section 202(b)(6) of the Act requires that licensees ''notify the Secretary [of Commerce] of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations, or entities.'' To implement this section, NOAA's licenses now require licensees to provide notice of a significant or substantial foreign agreement at least 60 days before conclusion. This requirement reflects interagency consensus that sixty days is needed for meaningful notification but that, consistent with the President's policy, this burden is justified only if agreements are significant or substantial. As required by the President's policy, NOAA anticipates defining such agreements in these regulations and solicits comments on this issue (as well as the appropriateness of the 60 day review period).

This provision of the Act is subject to differing legal opinions. One view of the Act is that it requires that licensees notify the Secretary of *every* agreement. The Department of Commerce disagrees with this interpretation. Legislation has been introduced on this subject; however, to date no subsequent legislative action has occurred.

Should NOAA's legal interpretation not be upheld and no legislation be passed, comments might want to address whether NOAA should consider defining different classes of agreements with corresponding notification requirements. For example, the regulations could retain a 60 day notice requirement for significant or substantial agreements while requiring that notice of other agreements be provided only prior to their effective date.

A. What agreements must be submitted for review?

The threshold question with respect to the notification requirement of section 202(b)(6) of the Act is what agreements are covered. The purpose of such notification is to ensure continued preservation of U.S. national security and foreign policy interests. Existing licenses require notification of those types of agreements that could have particular national security or foreign policy implications such as: those that give a foreign party control over the operation of the system, e.g., the ability to operate the spacecraft, task the sensors, or exercise managerial control; and those that provide for a significant role in distributing the data from the system, e.g., by operating a foreign ground station.

Routine data sales have traditionally been excluded from the definition of significant agreement because an advance notice requirement would put U.S. companies at a competitive disadvantage. Furthermore, scrutinizing all direct sales to foreign customers would not effectively preserve U.S. interests inasmuch as a determined buyer could purchase any scene or scenes desired through a variety of legal channels.

More specifically, existing licenses require notice of the following types of foreign agreements:

(1) cooperation in the launch and/or operation of the spacecraft;

(2) Tasking of the satellite sensors, modifying satellite tasking commands, revising the priority of tasking requests, or otherwise providing an opportunity to exercise managerial control over the system's operation;

(3) Real-time direct access to unenhanced data; or

(4) Distributorship arrangements involving the receipt of high volumes of unenhanced data;

(5) An equity interest in the Licensee. (A license amendment is required if the aggregate equity interest in the Licensee by foreign nations and/or persons exceeds or will exceed 25 percent.)

These licenses exclude agreements that provide only for the sale of data or value added products, or for the establishment of marketing outlets in foreign countries established in the ordinary course of business if described in the plan for sale and distribution contained in the license application.

NOAA seeks comment on whether the above criteria are adequate to define ''significant or substantial'' agreements. In particular, NOAA is searching for appropriate criteria to determine when review is necessary for agreements providing solely for foreign investment in a licensee. Every sale of stock to a foreign investor cannot be subject to review. On the other hand, a threshold for review is necessary to ensure that the technology remains secure and that the operator remains sufficiently under U.S. ownership or control that it must respond appropriately when necessary to preserve national security. Furthermore, in accordance with the President's policy, aggregate foreign investment in excess of a particular amount would not only be subject to notification but to approval, i.e., by amendment to the license. NOAA is particularly interested in industry views about what criteria should trigger a review of a foreign investment agreement.

B. What process should be in place to inform applicants when the Government has identified a concern with a potential foreign agreement? When the Government raises a concern and issues negative advice, what rights of appeal should be available to an applicant or licensee?

To promote more timely and transparent decisions on the review of significant foreign agreements NOAA is considering a process that would be similar to the review of an initial license application in that the Government would institute more formal administrative time limits and more detailed record keeping requirements. However, this process would recognize that, unlike the case of an initial application, the Secretary does not have the legal authority to approve or disapprove these agreements. Therefore, if the Secretary does not advise a licensee of any conflicts within sixty days of notification, the licensee is free to enter into the agreement.

A possible process to be considered and on which NOAA seeks comments is as follows: If the Secretary does advise a licensee of a conflict, i.e., that the proposed agreement will compromise national security or foreign policy interests, the licensee may at that point

request a hearing on the record to determine whether a preponderance of the evidence in the record supports that conclusion. In circumstances where waiting for the normal hearing process could jeopardize relations among parties to the agreement, NOAA would provide an expedited hearing process.

Discussion Package 3 sets forth in more detail the type of process under consideration.

6. Miscellaneous

Comments on the above issues are specifically solicited but all comments on improving and simplifying the regulations are welcome and will be reviewed and considered in the course of the normal agency process of issuing proposed regulations, should such regulations be deemed necessary. NOAA is also interested in comments on whether or not NOAA should sponsor a public meeting on the issues presented in this notice or others related to the regulations.

NOAA intends that all information obtained from the public in connection with this Notice be a matter of public record. Consequently, comments must be in writing to be considered. Oral comments are discouraged. NOAA will not accept submissions made on a confidential basis. The record containing all comments will be maintained with the above listed contacts, NOAA, Federal Building 4, Room 3301, Suitland, MD. From 9 a.m. to 3 p.m., it may be inspected, by appointment, and any comments copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Further information about inspection and copying of records at this facility may be obtained from the above contacts.

Commentors can request copies of the Discussion Packages referenced in this document from the contacts listed above.

Robert S. Winokur,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 95–29330 Filed 12–1–95; 8:45 am]

BILLING CODE 3510–12–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 95–7]

Registration of Claims to Copyright, Group Registration of Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed regulations with request for comments.

SUMMARY: The Copyright Office of the Library of Congress is proposing regulations that permit group registration of unpublished or published photographs without the deposit of copies of the works. These proposed regulations would enable photographers and photography businesses to seek the benefits of registration by making it less burdensome for them to register a claim to copyright in a large number of photographs taken by a single photographer or photography business. The Office seeks comment on the proposed regulations.

DATES: Comments on the proposed regulation should be in writing and received on or before January 18, 1996. Reply comments should be received February 2, 1996.

ADDRESSES: If sent BY MAIL, fifteen copies of written comments should be addressed to Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366. If BY HAND, fifteen copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–407, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Telephone: (202) 707–8380 or Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 408 of 17 U.S.C. provides that a copyright owner may obtain registration of a copyright claim by delivering to the Copyright Office a deposit, an application and a fee. With respect to the deposit, the nature of the copy to be deposited is set out in general terms, e.g., one complete copy of an unpublished work. However, broad authority is granted to the Register to provide for alternative forms of deposit. Section 408(c)(1) provides that the Register may require or permit the deposit of identifying material in lieu of an actual copy of the work. Congress' intent is reflected in the various legislative reports that accompanied the enactment of the copyright law. Congress instructed the Office to keep the deposit provisions flexible ''so that there will be no obligation to make deposit where it serves no purpose, so that only one copy or phonorecord may be deposited where two are not needed, and so that reasonable adjustments can be made to meet practical needs in special cases.'' H.R. Rep. No. 1476, 94th Cong., 2d Sess. 151 (1976); S. Rep. No. 473, 94th Cong., 1st Sess. 134 (1975). The law also authorizes the Register to require or permit ''a single registration of a group of related works.''

Registration can be made at any time. Section 412 of 17 U.S.C. prohibits the awarding of statutory damages and attorney's fees where the work has not keen registered before an infringement occurs. [1] Although actual damages as well as injunctions are always available remedies, the Copyright Office recognizes the significant benefits of early registration.

Registration Concerns Raised by Photographers

During the congressional hearings on the Copyright Reform Act of 1993, photographers complained that they were unable to take advantage of the benefits of registration because the Copyright Office practices were exceedingly burdensome. Photographers stated that it required a tremendous amount of time and effort to submit a copy of each image included in a collection and was financially burdensome. Prior to 1993, the Office revised its practices in an attempt to make registration easier for photographers. However, a copy of each image continued to be required. These changes did not sufficiently ease the burdens, and few photographers have registered their works. Consequently, photographers urge that they have been given a clear legal right by the copyright law, but no effective remedy; and this reality encourages infringers to continue unlawful conduct. *See*, Copyright Reform Act of 1993: Hearings on H.R. 897 Before the Subcomm. on Intellectual Property and Judicial Administration of the House Comm. on the Judiciary, 103d Cong., 1st Sess. 370 (1993). *See also* Copyright Reform Act of 1993: Hearing on S. 373 Before the Subcomm. on Patents, Copyrights and Trademarks of the Senate Comm. on the Judiciary, 103d Cong., 1st Sess. 169 (1993). (Testimony of Andrew Foster, Executive Director of the Professional Photographers of America, Inc.)

In June 1993, the Librarian of Congress appointed an Advisory Committee on Registration and Deposit (ACCORD). That Committee recommended that the Copyright Office ''greatly expand the use of group registration and optional deposit to reduce the present burdens'' and ''consult more actively and frequently with present and potential registrants to

[1] A three month grace period, measured from the date of first publication, is provided for published works.