Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on March 23, 1998.

Issued in Burlington, Massachusetts, on January 7, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–1326 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7494, 34–39542, File No. S7–17–97]

RIN 3235–AH18

Covered Securities Pursuant to Section 18 of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting Rule 146(b) under Section 18 the Securities Act of 1933, as amended (''Securities Act''). The purpose of the Rule is to designate securities listed on the Chicago Board Options Exchange, Tier I of the Pacific Exchange, and Tier I of the Philadelphia Stock Exchange as covered securities for the purposes of Section 18 of the Securities Act. Covered Securities under Section 18 are exempt from state law registration requirements.

EFFECTIVE DATE: This final rule is effective January 21, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon M. Lawson, Senior Special Counsel, James T. McHale, Special Counsel, or David S. Sieradzki, Esq., at 202/942–0181, 202/942–0190, or 202/942–0135; Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 2–2), 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1996, The National Securities Markets Improvement Act of 1996 (''NSMIA'')[1] was signed into law. Among other changes made to the federal securities laws, NSMIA amends Section 18 of the Securities Act[2] to provide for exclusive federal registration of securities listed, or authorized for listing, on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or listed on the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), or any other national securities exchange designated by the Commission to have substantially similar listing standards to those markets. More specifically, Section 18(a) provides that ''no law, rule, regulation, or order, or other administrative action of any State * * * requiring, or with respect to, registration or qualification of securities * * * shall directly or indirectly apply to a security that—(A) is a covered security.'' Covered securities are defined in Section 18(b)(1) to include those securities listed, or authorized for listing, on the NYSE, Amex, or listed on Nasdaq/NMS (collectively the ''Named Markets''), or those securities listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule are ''substantially similar'' to one of the Named Markets.

The Pacific Exchange, Incorporated (''PCX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the Chicago Stock Exchange, Incorporated (''CHX''), and the Philadelphia Stock Exchange, Incorporated (''Phlx'') (collectively the ''Petitioners'') have petitioned the Commission to adopt a rule which finds their listing standards to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS and, therefore, entitling securities listed pursuant thereto to be deemed covered securities under Section 18 of the Securities Act.[3]

On June 10, 1997, the Commission issued a release proposing to adopt Rule 146(b) that would designate securities listed on the CBOE and Tier I of the PCX as designated securities for the purposes of Section 18(a) of the Securities Act, and soliciting comment on whether Tier I securities of the CHX and Phlx should be included in Rule 146(b).[4] The Commission received three comment letters in response to the proposal.[5]

As to the inclusion of securities listed on Tier I of the CHX and Tier I of the Phlx in Rule 146(b), the Commission stated that while most of their Tier I listing standards are substantially similar to one of the Named Markets, they differed in several important respects.[6] The Commission also indicated, however, that if the CHX and Phlx were to revise their Tier I listing standards in these areas to conform them to those of the NYSE, Amex, or Nasdaq/NMS prior to the adoption of the proposed Rule, the Commission likely would include securities listed on these markets in final Rule 146(b). Accordingly, in order to obtain the benefits of the exemption under the proposed Rule, the CHX and Phlx[7] both revised their Tier I listing standards to address the noted deficiencies. Although CHX has modified its listing and maintenance standards as suggested, the Commission has concerns regarding the CHX's listing and maintenance procedures and thus does not include CHX in the final Rule. The Commission will continue to review the CHX's listing program, including listing standards and operations, and may determine to include securities listed on CHX Tier I in the future.

After careful comparison, the Commission concludes that currently

[1] Pub. L. 104–290, 110 Stat. 3416 (1996).

[2] 15 U.S.C. 77r.

[3] *See* Letter from David P. Semak, Vice President, Regulation, Pacific Stock Exchange, Incorporated (n/k/a Pacific Exchange, Inc.), to Arthur Levitt, Jr., Chairman, Commission, dated November 15, 1996 (''PCX Petition''); letter from Alger B. Chapman, Chairman, CBOE, to Jonathan G. Katz, Secretary, Commission, dated November 18, 1996 (''CBOE Petition''); letter from J. Craig Long, Esq., Foley and Lardner, to Jonathan G. Katz, Secretary, Commission, dated February 4, 1997(''CHX Petition''); and letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Phlx, to Jonathan G. Katz, Secretary, Commission, dated March 31, 1997 (''Phlx Petition'') (collectively the ''Petitions'').

[4] Securities Act Release No. 7422, Securities Exchange Act Release No. 38728 (June 10, 1997) (''proposing release''), 62 FR 32705 (June 17, 1997).

[5] *See* Letter from J. Craig Long, Esq., Foley & Lardner, to Jonathan G. Katz, Secretary, Commission, dated June 26, 1997 (received June 30, 1997) (''Foley letter''); letter from Ira L. Kotel, Esq., Roberts, Sheridan & Kotel, to Jonathan G. Katz, Secretary, Commission, dated July 16, 1997 (received July 21, 1997) (''Kotel letter''); and letter from James C. Yong, First Vice President and General Counsel, The Options Clearing Corporation (''OCC''), to Jonathan G. Katz, Secretary, Commission, dated July 8, 1997 (received July 22, 1997) (''OCC letter'').

[6] Specifically, the Commission noted that unlike the NYSE, Amex, or Nasdaq/NMS, the CHX did not have a minimum share price requirement for continued listing of common stock on Tier I. With regard to the Phlx, the Commission identified the Exchange's lack of a maintenance standard for bonds and debentures listed on Tier I of the Exchange as a deficiency in their listing standards. Moreover, with respect to stock index, currency and currency index warrants, the Phlx had no public distribution, aggregate market value, nor term to maturity requirements. Finally, the Commission noted that issuers of ''other securities'' listed on Tier I of the Phlx were required to have pre-tax income of only $100,000 in three of the four last fiscal years, versus the Amex requirement that issuers have $750,000 in pre-tax income in their last fiscal year, or in two of their last three fiscal years. *See* proposing release, *supra* note 4.

[7] *See* Phlx Listing Standards Order, *infra* note 18.

the listing standards of Tier I of the PCX, and Phlx, and the listing standards of the CBOE are substantially similar to the listing standards of the NYSE, Amex or Nasdaq/NMS. Accordingly, the Commission today is adopting Rule 146(b) which designates securities listed on such markets as covered securities under Section 18(b)(1) of the Securities Act. As adopted, Rule 146(b) will provide those covered securities with an exemption from state blue sky provisions as set forth under Section 18(a) of the Securities Act.

II. Background

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is of critical importance to financial markets and the investing public. Listing standards serve as a means for a self-regulatory organization (''SRO'') to screen issuers and to provide listed status only to bona fide companies with sufficient float, investor base and trading interest to maintain fair and orderly markets. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity.

Many States have recognized the importance of listing standards by excepting from state registration requirements securities traded on the Named Markets.[8] In enacting Section 18, Congress intended to codify in the Securities Act an exemption from state registration requirements similar to these state law provisions.[9] In order to avoid competitive disparities, Congress provided the Commission with the discretionary authority to extend similar preemption treatment to other national securities exchanges (or tiers or segments thereof) that have substantially similar listing standards.[10]

As noted above, the PCX, CBOE, CHX, and Phlx all have petitioned the Commission to adopt a rule as contemplated by Section 18.[11] The Petitioners assert that their Tier I listing standards [12] are substantially similar to those of the Named Markets, and that until the Commission acts to provide them with the benefits of the Section 18 exemption, they will be at a competitive disadvantage to these markets. The Commission recognizes the competitive concerns raised by the Petitioners, but notes that the statute requires the Commission to make an independent finding that the Petitioners' listing standards are substantially similar to those of the NYSE, the Amex or Nasdaq/NMS.

III. Comment Letters

As noted above, the Commission received three comment letters in response to the proposal.[13] The Foley letter, filed on behalf of the CHX, noted that the CHX had submitted a proposed rule change with the Commission to amend its maintenance standards for common stock listed on Tier I of the Exchange to add a minimum share price. The Foley letter urged that once approved, the amendment should resolve the Commission's concerns relating to the CHX's Tier I standards and that the Commission should include securities listed on CHX's Tier I in Rule 146(b).

The Kotel letter did not address the desirability of adopting proposed Rule 146(b) generally, but urged the Commission to include securities listed on the Nasdaq SmallCap Market (''SmallCap'') in the Rule. In support of this view, the Kotel letter noted that the National Association of Securities Dealers, Inc. (''NASD'') recently proposed to amend the requirements for initial listing on SmallCap and that once the new SmallCap listing standards were approved, they would be substantially similar to those of the Amex.[14] Accordingly, the Kotel letter urged that securities listed on SmallCap should be deemed covered securities for purposes of Rule 146(b). In addition, the Kotel letter stated that extending the benefits of the Rule to securities listed on SmallCap would further the Commission's policy of simplifying securities regulation for small businesses and would lower the costs for small businesses in complying with federal and state regulations.

The third comment letter received by the Commission, the OCC letter, generally supported the proposed Rule. In addition, the OCC letter urged the Commission to designate standardized options traded on Tier I of the Phlx as covered securities under the Rule, in the event the Phlx did not file to amend its listing standards to address the concerns raised by the Commission in the proposing release.

IV. Discussion

The Commission has reviewed extensively the listing and maintenance standards for all securities listed and traded on the Petitioners' markets, including common stock, preferred stock, bonds and debentures, and options.[15] With regard to applying the ''substantially similar'' standard, the Commission notes that under Section 18(b)(1)(B) of the Securities Act the Commission has the authority to compare the listing standards of a petitioner with those of either the NYSE, Amex, or Nasdaq/NMS. The Commission attempted initially to compare a petitioner's listing standards for all securities with only one of these markets.[16] If a petitioner's listing standards in a particular category did not meet the standards of that market, however, the Commission compared the petitioner's standards to the other two markets. Additionally, the Commission interpreted the substantially similar standard to require listing standards at least as comprehensive as those of the markets named in Section 18(b)(1)(A). If a petitioner's standards were higher than such markets, then the Commission still determined that the petitioner's standards were substantially similar to these markets. Finally, the Commission reviewed the listing standards for each type of security in making the substantially similar determination. Differences in language or approach of the listing standards for a particular security did not necessarily lead to a determination that the listing standards of a petitioner were not substantially similar to those of the named exchange.

After careful comparison, using the approach outlined above, the Commission concludes that currently the listing standards of the CBOE and Tier I of the PCX, and Phlx are substantially similar to the listing standards of the NYSE, Amex or Nasdaq/NMS.[17] Therefore, the

[8] *See, e.g.*, Del. Code Ann. tit. 6 sec. 7309(a)(8) (1996).

[9] H.R. Rep. No. 622, 104th Cong., 2d Sess., pt. 1, at 30 (1996) (''Legislative History''). As a result of this federal preemption of the state registration process, SRO listing standards have become all the more important to preserving the integrity of U.S financial markets and protecting investors.

[10] *See* Legislative History, *supra* note 9.

[11] *See* Petitions, *supra* note 3.

[12] The Commission notes that presently the CBOE only has one tier, or segment, for listing purposes.

[13] *See supra* note 5.

[14] The changes to the SmallCap listing standards referred to in the Kotel letter were recently approved by the Commission. *See* Securities Exchange Act Release No. 38961 (August 22, 1997) (''Nasdaq Listing Standards Order'').

[15] The Commission also has reviewed each exchange's listing and maintenance standards for warrants, currency and index warrants, other securities, contingent value rights, equity linked notes, and unit investment trusts. *See* proposing release, *supra* note 4.

[16] For purposes of comparing the listing standards of the CBOE and Tier I of the PCX, Phlx and CHX, the Commission used the listing standards applicable to securities listed on the Amex.

[17] The proposing release contains a more detailed description of the comparison of these exchanges to the Named Markets. *See* proposing release, *supra note 4.*

Commission is adopting Rule 146(b), designating securities listed on these markets as ''covered securities'' for purposes of Section 18 of the Securities Act. With regard to the CHX, the Commission has determined not to include securities listed on Tier I of the Exchange at this time. Although the Exchange has modified its listing and maintenance standards as suggested, the Commission has concerns regarding the CHX's listing and maintenance procedures. The Commission will continue to review the CHX's listing program, including listing standards and operations, and may determine to include securities listed on CHX Tier I in the future.

With regard to the Phlx, the Commission concludes that the changes recently made by the Exchange to its Tier I listing standards [18] enable the Commission to make the substantially similar finding.[19] First, the Phlx amended Rule 803(e) to adopt additional listing standards for stock index warrants, currency warrants and currency index warrants (collectively ''non-equity warrants''). New subsection (2) to Rule 803(e) requires that non-equity warrants have a term of between one and five years from the date of issuance. Rule 803(e)(3) imposes a minimum public distribution and market value requirement of 1,000,000 non-equity warrants with at least 400 public warrant holders and a minimum aggregate market value of $4,000,000. Finally, new subsection (9) to Rule 803(e) requires that non-equity warrants be cash-settled in U.S. dollars.[20]

Second, the Phlx increased the pre-tax income requirement for issuers of ''other securities'' in Rule 803(f)(2) from $100,000 in three of the four prior fiscal years to $750,000 in the issuer's last fiscal year or in two of its last three fiscal years.[21] Other securities are hybrid securities that have features common to both equity and debt securities, yet do not fit within the traditional definitions of either.

Third, the Phlx amended Rule 810(a), which contains the maintenance standards for Tier I securities, to add maintenance standards for bonds, notes and debentures. New subsection (5) to Rule 810(a) requires that debt securities maintain an aggregate market value or principal amount of bonds that are publicly held of $400,000 and that the issuer is able to meet its obligations in the listed debt securities. Also, for any debt security convertible into a listed equity security, the debt security will be reviewed when the underlying equity security is delisted and will be delisted when the underlying equity security is no longer subject to real-time trade reporting in the United States. In addition, if common stock is delisted for violation of any of the corporate governance criteria in Phlx Rules 812 through 899, the Exchange also will delist any listed debt security convertible into that common stock.[22]

In light of the above changes made by the Phlx to its Tier I listing standards, the Commission concludes that the Phlx's Tier I listing standards, when taken as a whole, are substantially similar to those of the Amex, and that securities listed on Tier I of the Phlx should be included in Rule 146(b) as covered securities. In addition, because Phlx Tier I securities include options, the Commission need not consider whether standardized options traded on the Phlx could be deemed covered securities separately from other Phlx Tier I securities, as suggested in the OCC letter.

With regard to the Kotel letter, while it does appear that the SmallCap initial listing standards for common stock are similar to those of the Amex, the Commission has determined not to include securities listed on SmallCap in Rule 146(b) at this time. First, the proposing release did not solicit comment on whether SmallCap listing standards are substantially similar to one of the Named Markets. Second, the Commission has identified several aspects of the SmallCap listing standards which appear to differ significantly from those of the Amex and the other primary markets.[23] Third, pursuant to the Nasdaq Listing Standards Order, the new maintenance standards do not become effective until six months after the Order was issued (February 22, 1998), and the existing maintenance standards for securities listed on SmallCap are considerably less stringent than those of any one of the Named Markets. Finally, the Commission notes that it has the authority to undertake a more extensive review of the SmallCap listing standards in the future and, if appropriate, propose an amendment to Rule 146(b) to include securities listed on SmallCap in the Rule.

With respect to a designated exchange maintaining its status under Rule 146(b), the Commission notes that Congress intended for the Commission to monitor the listing requirements of the regional exchanges, consistent with its supervisory authority under the Securities Exchange Act of 1934 (''Exchange Act''), to ensure the continued integrity of these markets and the protection of investors.[24] For example, if a regional exchange proposed to lower its listing standards for common stock, the Commission likely would consider this to be a substantive revision which may change the finding that the regional exchange's listing standards are substantially similar to those of the Named Markets.[25] Accordingly, in reviewing future proposed changes to SRO listing standards, the Commission will consider whether the proposed change(s) will require an amendment to Rule 146(b). In the event that the

[18] *See* Securities Exchange Act Release No. 39053 (September 11, 1997), 62 FR 49286 (September 19, 1997) (''Phlx Listing Standards Order'').

[19] As noted above, the Commission stated in the proposing release that if the Phlx were to revise its Tier I listing standards in the areas where the Commission identified deficiencies prior to the adoption of the proposed Rule, the Commission likely would include securities listed on the Phlx in final Rule 146(b).

[20] Although the Commission did not identify the lack of a cash-settlement requirement as a deficiency in the Phlx's Tier I listing standards, the Phlx determined to codify its existing requirement that non-equity warrants be cash-settled in U.S. dollars. This requirement is identical to Section 106(d) of the Amex Company Guide.

[21] This provision is substantially similar to Section 107 and, by reference, Section 101(b) of the Amex Company Guide.

[22] These provisions are substantially similar to Section 1003(b)(iii) and (e) of the Amex Company Guide.

[23] Specifically, the minimum share price for preferred stock to be listed on SmallCap is $4 per share, while the minimum share price for initial inclusion of preferred shares on the Amex is $10. *See* Section 103(b) of the Amex Company Guide and NASD Rule 4310(c)(4). In addition, SmallCap does not have a minimum distribution requirement for preferred stock, while the Amex requires a minimum of 100,000 publicly held shares when the issuer of the preferred shares has common stock listed on the Amex or NYSE. *See* Amex Section 103(b). Lastly, warrants listed on SmallCap are required to have a minimum distribution of 100,000 warrants for initial inclusion, while Amex requires a minimum distribution of 1,000,000 warrants to 400 public holders or 500,000 warrants to 800 public holders. *See* Amex Section 105(b) and NASD Rule 4310(c)(9).

[24] *See* Legislative History, *supra* note 9.

[25] If, however, one of the Named Markets raised its listing standards with respect to a particular security, a conforming change by the exchanges designated in Rule 146(b) may not necessarily be required for two reasons. First, Section 18(b)(1)(B) requires that the regional exchanges' listing standards be substantially similar to only one of the Named Markets in order to qualify for the exemption. Second, a listing standard change made by one of the Named Markets should not force the exchanges designated in Rule 146(b) to conform their listing standards. Otherwise, a single Named Market would be, in effect, setting the listing standards for all the regional exchanges. If, however, all three Named Markets were to raise their listing standards, and the Commission believed that the change was significant enough so that failure to adopt the new standard rendered the exchanges designated in Rule 146(b) to have substantially inferior standards, then the Commission may require the latter exchanges to raise their standards in order to maintain their exemption under the Rule.

Commission determines that a proposed change in listing standards would require an amendment to Rule 146(b), and where the proposed rule change is subject to full notice and comment under Section 19(b) of the Exchange Act, the Commission may conclude that it is unnecessary to provide notice and comment for the corresponding amendment to this Rule.[26] Finally, the Commission notes that enforcement of an SRO's listing standards is subject to periodic inspections by Commission staff, as is enforcement of all SRO rules, and should the Commission find that an exchange designated in Rule 146(b) is not adequately enforcing its requirements for initial and continued listing, the Commission will take appropriate action to revoke that exchange's exemption.

V. Conclusion

For the reasons discussed above, as supplemented by the Commission's detailed discussion in the proposing release, the Commission concludes that the listing standards of the CBOE, and Tier I of the PCX, and Phlx are substantially similar to those of the NYSE, Amex or Nasdaq/NMS. Accordingly, securities listed on these Exchanges should be deemed covered securities and entitled to an exemption from state blue sky provisions as set forth in Section 18(a) of the Securities Act.

The Commission concludes that the Rule offers potential benefits for investors. The Rule should facilitate listings on qualifying exchanges, or tiers or segments thereof, which should increase competition and enhance the overall liquidity of the U.S. securities markets. The Commission does not anticipate that the Rule would result in any costs for U.S. investors or others. As noted above, through the review of SRO listing standards pursuant to Section 19(b) of the Exchange Act, the Commission will be able to continue to ensure such listing standards are sufficient to protect investors. The Commission also concludes that Rule 146(b) should serve to reduce the cost of raising capital because it will streamline the registration process for issuers listing on the Exchanges designated in the Rule. Thus, the Commission has considered the Rule's impact on efficiency, competition and capital formation and concludes that it would promote these three objectives.[27] At the same time, Rule 146(b) does not undercut the state securities review of offerings because the listing standards of the CBOE and Tier I of the PCX, and Phlx are substantially similar to the Named Markets, which are already exempt from state registration. Finally, Rule 146(b) imposes no recordkeeping or compliance burdens, and merely provides a limited purpose exemption under the federal securities laws.

VI. Administrative Requirements

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that Rule 146(b) should not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as Appendix A. The Paperwork Reduction Act does not apply because the proposed amendments do not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et. seq.

VII. Statutory Basis

Rule 146(b) is being adopted pursuant to 15 U.S.C. 77r *et seq.*, particularly Section 18 of the Securities Act unless otherwise noted.

List of Subjects in 17 CFR Part 230

Securities.

Text of the Rule

For the reasons set forth in the preamble, Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.146 is amended by revising the section heading, redesignating the introductory text and paragraphs (a) and (b) as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively, and adding paragraph (b) to read as follows:

§ 230.146 Rules under Section 18 of the Act.

* * * * *

(b) *Covered securities for purposes of Section 18.* (1) For purposes of Section 18(b) of the Act (15 U.S.C. 77r), the Commission finds that the following national securities exchanges, or segments or tiers thereof, have listing standards that are substantially similar to those of the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), and that securities listed on such exchanges shall be deemed covered securities:

(i) Tier I of the Pacific Exchange, Incorporated;

(ii) Tier I of the Philadelphia Stock Exchange, Incorporated; and

(iii) The Chicago Board Options Exchange, Incorporated.

(2) The designation of securities in paragraphs (b)(1)(i) through (iii) of this section as covered securities is conditioned on such exchanges' listing standards (or segments or tiers thereof) continuing to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS.

By the Commission.

Dated: January 13, 1998.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that Rule 146(b) (''Rule'') under the Securities Act of 1933 (''Securities Act''), which will designate securities listed on certain national securities exchanges, or tiers or segments thereof, as covered securities under Section 18 of the Securities Act, and therefore provide them with an exemption from state registration requirements, will not have a significant economic impact on a substantial number of small entities for the following reasons. Under the Securities Act, a small entity is defined as ''an issuer whose total assets on the last day of its most recent fiscal year were $5,000,000 or less.'' Issuers of this size generally will not qualify for listing on the national securities exchanges, or tiers or segments thereof, designated in Rule 146(b). More specifically, both the Chicago Board Options Exchange, Incorporated and Tier I of the Pacific Exchange, Incorporated require issuers of common stock to have net worth of at least $4,000,000. To be listed on Tier I of the Philadelphia Stock Exchange, Incorporated issuers of common stock must have net tangible assets of at least $4,000,000. I do not believe that there are a substantial number of small entities which have total assets less than $5,000,000, yet a net worth or net tangible assets of at least $4,000,000. For example, none of the issuers of common stock listed exclusively on Tier I of the

[26] Although the Administrative Procedure Act states that an agency must provide general notice of the proposed rulemaking and an opportunity for comment, these requirements do not apply if the agency for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

[27] 15 U.S.C. 77b(b).

Pacific Exchange have total assets of $5,000,000 or less. In addition, the proposed rule imposes no record-keeping or compliance burden, but merely exempts certain qualifying securities from state law registration requirements.

Dated: January 2, 1998.

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 98–1295 Filed 1–20–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–97–004]

RIN 2115–AE46

Special Local Regulation; Laughlin, Nevada

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard amends the table of events in 33 CFR 100.1102 by adding the Laughlin Aquamoto Sports Challenge and Expo being conducted in the waters of the Colorado River from Davis Dam south to Harrah's Hotel and Casino on the following dates: annually, commencing on the last Thursday of May every year, and lasting a total of 4 days, ending on Sunday. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike A. Arguelles, Coast Guard Marine Safety Office San Diego; telephone number (619) 683–6484.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 27, 1997, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (62 FR 14379). The comment period ended May 10, 1997. The Coast Guard received one letter commenting on the proposal. A public hearing was not requested and no hearing was held. The only change the Coast Guard has made to the language of this regulation since the publication of the NPRM is to specify a more certain date and time schedule for the annual Laughlin Aquamoto Sports Challenge and Expo.

Background and Purpose

The Laughlin Aquamoto Sports Challenge and Expo will consist of five various styles of watercraft racing. The races will take place, annually, over a four day period beginning on the last Thursday of May, and ending on Sunday. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events. The race zone encompasses the Colorado River from the Davis Dam south to Harrah's Hotel and Casino. The race courses will be marked by vessels with signs, and both north and south boundaries of the race zone will have major signs to alert non-participants using the river. On the following days and times, the race zone will be in use by vessels competing in the event: (1) the first day of the event, the last Thursday of each May each year, from 3:00 PM PDT to 5:00 PM PDT, (2) the second day of the event, Friday, from 8:00 AM PDT to 2:00 PM PDT, and from 3:30 PM PDT to 6:00 PM PDT, (3) the third day of the event, Saturday, from 8:00 AM PDT to 1:30 PM PDT, and from 4:00 PM PDT to 5:00 PM PDT; and, (4) the fourth and final day of the event, Sunday, from 9:00 AM PDT to 1:30 PM PDT, from 3:00 PM PDT to 4:00 PD PDT, and from 6:00 PM PDT to 7:00 PM PDT. During these times the Colorado River from Davis Dam south to Harrah's Hotel and Casino will be closed with the exception of emergency vessels. No vessels other than participants or official patrol vessels will be allowed to enter this zone unless specifically cleared by or through an official patrol vessel. Once the zone is established, authorization to remain within the zone is subject to termination at any time.

The Patrol Commander may impose other restrictions within the zone if circumstances dictate. Restrictions will be tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary to safely conduct the Aquamoto and Expo.

Discussion of Comments

The only comment received was from a local business that sought notice of the exact date of the event. The comment also expressed concern that closure of the area of the Colorado River specified in the NPRM for an entire Saturday afternoon in May or June might prejudice business; suggested that the river be open for unrestricted use on Saturday afternoon from 1 p.m. PDT until Sunday morning. The language of this Final Rule provides the public with more specific notice of the date and time schedule for the annual Laughlin Aquamoto Sports Challenge and Expo. It also alleviates the concern that the river not be closed for an entire Saturday afternoon, because on Saturday, the river will be open from 1:30 P.M. PDT to 4 P.M. PDT, and from 5 P.M. PDT on.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order.

It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000. Because it expects the impact of this proposal to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a substantial impact on a significant number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.).*

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B as revised in 59 CFR 38654, July 29 1994 and 61 FR 13563, March 27, 1996, it will have no significant environmental impact and it is categorically excluded from further environmental