FEDERAL HOUSING FINANCE BOARD

12 CFR Part 935

[No. 93-65]

Advances to Capital Deficient Members, and Other Matters

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulations to incorporate requirements governing secured loans (called advances) made by the Federal Home Loan Banks (Banks) to capital deficient members. The proposed rule would prohibit Bank lending to tangibly insolvent members, except at the request of the appropriate federal regulator or insurer, and would restrict the Banks from lending to other capital deficient members whose use of Bank advances has been prohibited by the appropriate federal regulator or insurer.

DATES: Comments must be submitted in writing to the Finance Board by October 25, 1993.

ADDRESSES: Written comments may be mailed to: Executive Secretariat, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Christine M. Freidel, Financial Analyst, (202) 408-2976; Thomas D. Sheehan, Assistant Director, (202) 408-2870, District Banks Directorate; James H. Gray Jr., Associate General Counsel, Office of Legal and External Affairs, (202) 408-2552; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Lending to Capital Deficient Members

A. Background

In April 1992, the Finance Board adopted policy guidelines governing the extension of advances to capital deficient members. See Finance Board Resolution No. 92-277.1. The policy precludes the Banks from making new advances available to members without positive tangible capital, unless a member's regulator requests that the Bank provide such funding and the Bank determines it can safely make the advance. The Banks may extend new advances to undercapitalized but solvent members without regulatory approval, but must refrain from doing so at the request of the appropriate federal regulator. The policy permits the Banks to renew existing advances to tangibly insolvent members for terms of up to 30 days without regulatory approval.

Prior to the adoption of these policy guidelines, there were no Finance Board-mandated restrictions on a Bank's ability to lend to an insolvent member. The Federal Home Loan Bank Act (Bank Act) does not address lending to capital deficient members. Although the secured nature of advances generally protects the Banks from credit risk, the Finance Board was concerned that, by making advances available to certain capital deficient members, a Bank could inadvertently contravene the wishes of a member's Federal regulator.

On October 1, 1992, the Finance Board published a proposed rule (earlier proposed rule) governing the Banks' advances programs. See 57 FR 45338 (Oct. 1, 1992) (to be codified at 12 C.F.R. 935.5(b)–(e)). The earlier proposed rule incorporated substantially all of the current policy requirements on lending to capital deficient members. The only substantive difference between the earlier proposed rule and the policy was the proposed removal of the requirement that the Banks not lend to an undercapitalized but solvent member at the request of the member's regulator. The proposed elimination of this provision reflected the Finance Board's view, when the proposed rule was issued, that sufficient and more direct mechanisms were available to the federal regulators for limiting a troubled member's access to outside funding.

Eight commenters, three Banks, one trade association, three federal regulators and one commercial bank member addressed the provisions in § 935.5(b)–(e). Due to the important points raised by the commenters, particularly the concern expressed by two of the regulators that the earlier proposed rule did not place sufficient limits on Bank lending to capital deficient members, the Finance Board decided to defer action on this section of the earlier proposed rule so that the concerns expressed could be more fully evaluated. Accordingly, the Finance Board's final advances rule published at 58 FR 29456 (May 20, 1993) did not include § 935.5 (b) through (e). The Finance Board today is publishing this section of the earlier proposed advances rule as a new proposed rule (current proposed rule). The approach taken in the current proposed rule, as well as a discussion of the eight comment letters received on the earlier proposed rule, are included in the analysis of this current proposed rule.

B. Analysis of Current Proposed Rulemaking

1. New Advances to Members Without Positive Tangible Capital

Section 935.5(b) of the current proposed rule would restrict a Bank from making a new advance to a member that does not have positive tangible capital, unless the appropriate federal banking agency or insurer requests in writing that funding be made available to such member. This requirement is consistent with the provision in the earlier proposed rule, which was not opposed by the commenters. Section 935.5(b) of the current proposed rule also requires each Bank to promptly provide the Finance Board with a copy of any appropriate federal banking agency or insurer's request that the Bank lend to a tangibly insolvent member. A Bank shall use the most recently available Report of Condition and Income, Thrift Financial Report, or other regulatory report of financial condition to determine whether a member has positive tangible capital.

One Bank and one commercial bank member suggested that state banking regulators, as well as federal banking regulators, be permitted to request that a Bank lend to a tangibly insolvent member. (The earlier proposed rule designated only federal regulators as entities eligible to request that advances be made to federally insured depository institution members without positive tangible capital.) Except as provided in § 935.5(e) in the case of members that are not federally insured depository institutions, the Finance Board continues to believe that it is necessary to limit the authority to request funding for tangibly insolvent members to federal banking regulators and insurers. This limitation ensures that the Banks do not inadvertently act in contravention of a federal banking regulator's wishes.

One Bank also requested clarification on whether a funding request from a conservator satisfies the requirements of § 935.5(b). Since generally all member conservatorships are operated or supervised by a federal banking agency or insurer, the Finance Board believes that a request from such a conservator, certifying that the conservator is acting with authorization from the regulator, would satisfy the requirements of the section.

2. Renewal of Advances to Members Without Positive Tangible Capital

Section 935.5(c)(1) of the current proposed rule, consistent with the earlier proposed rule, would permit a

Bank to renew an outstanding advance to a member without positive tangible capital for successive terms of up to 30 days each. Section 935.5(c)(2) of the current proposed rule also would add a new provision prohibiting a Bank from making such a renewal if so requested by the appropriate federal banking agency or insurer. A Bank would be permitted to renew an advance to a member without positive tangible capital for a term greater than 30 days at the written request of the appropriate federal banking agency or insurer. One Bank commenter expressed support for this position.

3. Lending to Capital Deficient But Solvent Members

Section 935.5(d) of the current proposed rule would authorize the Banks to make new advances and renew outstanding advances to capital deficient members (defined as members that fail to meet their minimum capital requirements) that have positive tangible capital. However, the current proposed rule would direct the Banks not to make new advances or renew outstanding advances to such capital deficient members upon receipt of written notification from the appropriate federal regulator or insurer that the member's regulator or insurer has prohibited the use of Bank advances.

Bank lending to members that have positive tangible capital, but that fail to meet their minimum capital requirements, was not addressed in the earlier proposed rule. Two federal regulators commenting on the earlier proposed rule suggested that, in addition to the restrictions on advances to members without positive tangible capital, restrictions should also be placed on lending to certain solvent members that are capital deficient. One regulator recommended that the Banks not be permitted to lend to "critically undercapitalized" members (institutions with less than two percent Tier 1 capital to assets), if the appropriate federal banking agency or insurer objects.

The regulator recommended as well that the Finance Board require the Banks to consult with the appropriate federal regulator or insurer before lending to an "undercapitalized" or "significantly undercapitalized" institution. It suggested this would help prevent an undercapitalized member from using Bank advances to fund excessive growth.

A second federal regulator requested that the Finance Board retain the provision in current Finance Board policy requiring the Banks to refrain from lending to an undercapitalized but tangibly solvent member at the request of the regulator. The regulator noted that while it has sufficient authority to restrict liability growth, the current Finance Board policy provides an additional safeguard against funding violations by financially troubled institutions.

The Finance Board wants to ensure that the Banks do not lend to members whose access to advances has been restricted by the appropriate federal banking agencies. However, the Finance Board also wants to ensure that the federal regulators, and not the Banks, have the responsibility for determining whether a member's access to funding should be restricted and for enforcing any directives that limit the member's access to loans. The Finance Board therefore believes that it is appropriate for a Bank to refrain from lending to a capital deficient but tangibly solvent member after the appropriate federal banking agency or insurer has established restrictions on the member's access to Bank advances.

Accordingly, the current proposed rule directs the Banks to refrain from lending to a capital deficient but solvent member once the Bank receives written notice from the regulator or insurer that the member's use of Bank advances has been prohibited. The Bank may resume lending to such a member once it receives a written statement from the appropriate federal banking agency or insurer that re-establishes the member's access to advances. The Finance Board requests comment on this proposed treatment.

4. Bank Determination That It Can Safely Make an Advance

A new § 935.5(a)(3) has been added to reiterate the provision in the Bank Act that all advances, including advances to capital deficient members, can only be made if the Bank determines that it can safely make the advance to the member. See 12 U.S.C. 1430(a).

5. Report of Outstanding Bank Advances

Section 935.5(e) of the current proposed rule would require each Bank to provide the Finance Board with a monthly report of outstanding Bank advances and commitments to all members. Section 935.5(e) also would direct the Banks, upon written request from a member's appropriate federal banking agency or insurer to provide to such entity information on advances and commitments outstanding to the member. This requirement is consistent with the approach taken in the earlier proposed rule.

6. Capital Deficient Members That Are Not Federally Insured Depositories

Section 935.5(f) of the current proposed rule would require that, in the case of members that are not federally insured depository institutions, the relevant provisions in § 935.5 (b), (c), (d) and (e) would apply to a member's state regulator acting in a capacity similar to an appropriate federal banking agency or insurer. This is consistent with the approach taken in the earlier proposed rule.

7. Advance Commitments

Section 935.5(g) of the current proposed rule provides that the written advances agreement required by § 935.4(b)(2) of the Finance Board's regulations, or the written advances application required by § 935.4(a) of the Finance Board's regulations, stipulate that a Bank shall not fund commitments for advances, including CIP and Affordable Housing Program advance commitments, previously made to members whose access to advances has subsequently been restricted pursuant to § 935.5. Consistent with § 935.8 of the Finance Board's advances regulation, a Bank may charge a fee for a commitment cancellation resulting from the restrictions in § 935.5.

The Finance Board is making all commitments entered into after August 25, 1993, subject to regulatory restrictions to ensure that commitments entered into by the Banks going forward do not result in the Banks inadvertently circumventing the wishes of the federal banking agencies. The Finance Board believes that immediate application of the restrictions on advance commitments is justifiable, given that the Banks and their members have been aware of the Finance Board's views on lending to capital deficient members since the adoption of the Finance Board's capital deficient lending policy on April 22, 1992. The Finance Board specifically requests comment on applying the regulatory restrictions to all commitments entered into by the Banks after August 25, 1993.

The earlier proposed rule stipulated that this limitation on funding advance commitments appear in the advances agreement. Two Bank commenters requested, for purposes of greater operational flexibility, that this requirement be revised to permit the Banks to include this stipulation in either the advances application or the advances agreement. The Finance Board agrees that placing the provision in the advances application is substantially the same as placing it in the advances agreement. Therefore, the current

proposed rule would amend § 935.5(g) accordingly.

8. Definition of "Tangible Capital"

The restrictions on access to Bank advances are triggered by a member's level of tangible capital. Section 935.1 of the current proposed rule would define "tangible capital" as: (1) Capital, calculated according to Generally Accepted Accounting Principles (GAAP), less "intangible assets" as reported in the member's Thrift Financial Report for members whose primary federal regulator is the Office of Thrift Supervision (OTS), or as reported in the Report of Condition and Income for members whose primary federal regulator is the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), or the Board of Governors of the Federal Reserve System (Federal Reserve Board); or (2) capital calculated according to GAAP, less intangible assets, as defined by a Bank for members which are not regulated by the OTS, the FDIC, the OCC, or the Federal Reserve Board. This definition remains unchanged from the earlier proposed rule.

As in the earlier proposed rule, the Finance Board is proposing a definition of tangible capital that is consistent with the definition established by the FDIC in its final rulemaking on prompt corrective action. See 57 FR 44886 (Sept. 29, 1992). The prompt corrective action procedures provide a framework for determining supervisory action for financial institutions. The FDIC has implemented prompt corrective action procedures based on an institution's level of Tier 1 or core capital. GAAP capital less intangible assets results in a definition of tangible capital that is similar to Tier 1 or core capital, as defined by the federal banking regulators. See e.g., 12 CFR part 3, Appendix A, section 2(a) (OCC); 12 CFR part 208, Appendix A, II.A.1 (Federal Reserve Board); 12 CFR 325.2(m) (FDIC); 12 CFR 567.5(a) (OTS).

The Finance Board received two comment letters on the definition of tangible capital in the earlier proposed rule. One federal regulator suggested that the Banks consider credit unions' unique membership orientation when computing their tangible capital and that it may not be appropriate to compute credit union tangible capital in accordance with the definition in § 935.1 of the Finance Board's regulations for calculating commercial bank and thrift tangible capital. A trade association recommended that the Banks specifically exclude from tangible capital insurance and reserve accounts held by credit unions and insurance companies, respectively, since such accounts are earmarked for other purposes and may be unavailable as a general loss reserve.

The Finance Board believes that it is appropriate for the Banks to define intangible assets in connection with setting their underwriting criteria. It expects that each Bank will define intangible assets in the same manner for all of its members and will treat all members equally.

II. Transfer of Advances

The current proposed rule also would amend § 935.17 of the Finance Board's advances regulation, which governs the transfer of advances. Section 935.17 provides that a Bank may allow one of its members to assume advances previously extended by the Bank to another of its members. The current proposed rule would amend this section also to provide that a Bank may allow a member to assume advances held by a nonmember, provided the advances were originated by the Bank.

The Banks generally may not make advances to nonmembers, except in the limited circumstances provided for in section 10b of the Bank Act, 12 U.S.C. 1430b. However, a nonmember, through acquisition of a member institution, may assume outstanding Bank advances held by the acquired member. Section 935.17, as amended, would authorize a Bank to allow the transfer of advances from a nonmember to a member, provided the advance was originated by the Bank, and provided the assumption complies with the requirements governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

III. Treatment of Nursing Homes as Residential Property

In the Finance Board's final advances rule, nursing homes were treated as nonresidential property. The Finance Board has subsequently reconsidered this issue and determined that nursing homes have a sufficiently residential character to be treated as residential real property, and may be accepted as collateral for advances. Therefore, the current proposed rule deletes nursing homes from the definition of "nonresidential real property" and includes nursing homes in the definition of "multifamily property." Thus, loans backed by nursing homes would become eligible collateral for an advance.

IV. Solicitation of Comment

The Finance Board requests public comment on all aspects of the current proposed rule.

Paperwork Reduction Act

Section 935.5(e) of the proposed rule would require the Banks to report certain information to the Finance Board. However, proposed § 935.5(e) does not involve a "collection of information" for purposes of the Paperwork Reduction Act because proposed § 935.5(e) does not require the Banks to collect any additional information from the public. The Paperwork Reduction Act defines "collection of information" to include the obtaining of facts or opinions from ten or more persons "other than * * * instrumentalities * * * of the United States." 44 U.S.C. 3502(4)(A).

The Banks are considered to be instrumentalities of the United States under statute and case law. See 12 U.S.C. 1431(e)(1); *Fahey* v. *O'Melveny & Myers*, 200 F.2d 420, 446 (9th Cir. 1952) ("a Federal Home Loan Bank is a federal instrumentality organized to carry out public policy * * *" *Id.*); *Association of Data Processing Service Organizations v. Fed. Home Loan Bank Board*, 568 F.2d 478 (6th Cir. 1977) (court found Banks to be federal instrumentalities in action preventing a Bank from providing on-line data processing services); *Osei-Bonsu* v. *Fed. Home Loan Bank of New York*, 726 F. Supp. 95, 97–98 (S.D.N.Y. 1989) (Banks held to be federal instrumentalities in an employment context).

Reporting requirements imposed upon the Banks are not "collection[s] of information" unless the collection is for general statistical purposes. See 12 U.S.C. 3502(4)(B). The requirements that the Banks provide information to the Finance Board in proposed § 935.5(e) would not be for general statistical purposes and, therefore, would not be information collections under the Paperwork Reduction Act.

Regulatory Flexibility Act

The proposed rule applies to all System members, regardless of their size. The proposed rule does not contain any requirements that the Finance Board believes will have a disproportionate impact on small entities. Therefore, it is certified, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rule, as promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 935

Advances, Credit, Federal home loan banks.

The Finance Board hereby proposes to amend chapter IX, title 12, Code of Federal Regulations, as follows:

PART 935—ADVANCES

1. The authority citation for part 935 is revised to read as follows:

Authority: 12 U.S.C. 1422b(a)(1), 1426, 1429, 1430, 1430b, 1431.

Subpart A—Advances to Members

2. Section 935.1 is amended by removing the definitions of "insurer," "nonresidential real property" and "multifamily property" and by adding the following definitions in appropriate alphabetical order to read as follows:

§ 935.1 Definitions.

* * * * *

Capital deficient member means a member that fails to meet its minimum regulatory capital requirements as defined or otherwise required by the member's appropriate federal banking agency, insurer or, in the case of members that are not federally insured depository institutions, state regulator.

* * * * *

Insurer means the Federal Deposit Insurance Corporation for "insured depository institutions" as defined in 12 U.S.C. 1813(c)(2) and the National Credit Union Administration for federally insured credit unions.

* * * * *

Multifamily property means, for purposes of this part:

(1)(i) Real property that is solely residential and which includes five or more dwelling units; or

(ii) Real property which includes five or more dwelling units with commercial units combined, provided the property is primarily residential.

(2) Multifamily property as defined in this section includes nursing homes, dormitories and homes for the elderly.

* * * * *

Nonresidential real property means, for purposes of this part, real property not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, educational and charitable institutions, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property, except as otherwise determined by the Board in its discretion.

* * * * *

State regulator means a state insurance commissioner or state regulatory entity with primary responsibility for supervising a member borrower that is not a federally insured depository institution.

Tangible capital means:

(1) Capital, calculated according to GAAP, less "intangible assets" as reported in the member's Thrift Financial Report for members whose primary federal regulator is the OTS, or as reported in the Report of Condition and Income for members whose primary federal regulator is the FDIC, the OCC or the Board of Governors of the Federal Reserve System; or

(2) Capital calculated according to GAAP, less intangible assets, as defined by a Bank for members which are not regulated by the OTS, the FDIC, the OCC, or the Board of Governors of the Federal Reserve System.

* * * * *

3. Section 935.5 is amended by removing the period at the end of paragraph (a)(2) and adding in its place "; and" and adding paragraphs (a)(3) and (b) through (g) to read as follows:

§ 935.5 Limitations on access to advances.

(a) * * *

(3) Advances and renewals shall only be made if the Bank determines in its discretion that it may safely make such advance or renewal to the member, including advances and renewals made pursuant to this section.

(b) *New advances to members without positive tangible capital.* (1) A Bank shall not make a new advance to a member without positive tangible capital unless the member's appropriate federal banking agency or insurer requests in writing that the Bank make such advance. The Bank shall promptly provide the Finance Board with a copy of any such request.

(2) A Bank shall use the most recently available Thrift Financial Report, Report of Condition, and Income or other regulatory report of financial condition to determine whether a member has positive tangible capital.

(c) *Renewals of advances to members without positive tangible capital.*—(1) *Renewal for 30-day terms.* A Bank may renew outstanding advances, for successive terms of up to 30 days each, to a member without positive tangible capital; provided, however, that a Bank shall honor any written request of the appropriate federal banking agency or insurer that the Bank not renew such advances.

(2) *Renewal for longer than 30-day terms.* A Bank may renew outstanding advances to a member without positive tangible capital for a term greater than 30 days at the written request of the appropriate federal banking agency or insurer.

(d) *Advances to capital deficient but solvent members.* (1) Except as provided in paragraph (d)(2)(i) of this section, a Bank may make a new advance or renew an outstanding advance to a capital deficient member that has positive tangible capital.

(2)(i) A Bank shall not lend to a capital deficient member that has positive tangible capital if it receives written notice from the appropriate federal banking agency or insurer that the member's use of Bank advances has been prohibited. The Bank shall promptly provide the Finance Board with a copy of any such notice.

(ii) A Bank may resume lending to such a capital deficient member if the Bank receives a written statement from the appropriate federal banking agency or insurer which re-establishes the member's ability to use advances.

(e) *Reporting.* (1) Each Bank shall provide the Finance Board with a monthly report of the advances and commitments outstanding to each of its members.

(2) Such monthly report shall be in a format or on a form prescribed by the Finance Board.

(3) Each Bank shall, upon written request from a member's appropriate federal banking agency or insurer, provide to such entity information on advances and commitments outstanding to the member.

(f) *Members without federal regulators.* In the case of members that are not federally insured depository institutions, the references in paragraphs (b), (c), (d) and (e) of this section to "appropriate federal banking agency or insurer" shall mean the member's state regulator acting in a capacity similar to an appropriate federal banking agency or insurer.

(g) *Advance commitments.* (1) In the event that a member's access to advances from a Bank is restricted pursuant to this section, the Bank shall not fund outstanding commitments for advances not exercised prior to the imposition of the restriction. This requirement shall apply to all advance commitments made by a Bank after August 25, 1993.

(2) Each Bank shall include the stipulation contained in paragraph (g)(1) of this section as a clause in either:

(i) The written advances agreement required by § 935.4(b)(2) of this part; or

(ii) The written advances application required by § 935.4(a) of this part.

4. Section 935.17 is revised to read as follows:

§ 935.17 Intradistrict transfer of advances.

(a) *Advances held by members.* A Bank may allow one of its members to assume an advance extended by the Bank to another of its members, provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

(b) *Advances held by nonmembers.* A Bank may allow one of its members to assume an advance held by a nonmember, provided the advance was originated by the Bank and provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

Dated: August 25, 1993.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93–22603 Filed 9–22–93; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWP–16]

Proposed Modification of Class E Airspace, Oxnard, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Oxnard, CA. The Class E extension that was established using the Camarillo Very High Frequency Omnidirectional Range (VOR) 246° radial was in error. The correct description should be the Camarillo VOR 264° radial.

DATES: Comments must be received on or before November 5, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 93–AWP–16, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Charles Register, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0433.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AWP–16." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California, 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 NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E airspace extension at Oxnard, CA based on the Camarillo VOR 264° radial. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace is published in paragraph 6004 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298, July 6, 1993). The Class E airspace listed in the 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. It, therefore—(1) is not a "major rule" under Executive Order 12291; (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 rule, when promulgated, 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

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace designations and reporting points, dated June 17, 1993, and