merely providing guidance in the rule to clarify recent amendments to section 31 of the Exchange Act. Likewise, the Commission has concluded that the amendment to the rule will not have an impact on capital formation. To the extent the amendment to the rule reduces any ambiguity regarding the application of Section 31 to security futures transactions and the physical settlement of security futures, the amendment to Rule 31–1 promotes efficiency.

VI. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act,[35] the Chairman of the Commission certified that the amendment to the rule would not have a significant economic impact on a substantial number of small entities. This certification was attached to the Proposing Release as Appendix A.[36] The Commission received no comments concerning the impact on small entities or the Regulatory Flexibility Act Certification.

VII. Statutory Authority

For the reasons set forth above, the Commission amends Rule 31–1 under the Exchange Act pursuant to its authority under Exchange Act Sections 3(b), 23(a), and 31.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Final Rule

For the reasons set out in the preamble, the Commission is amending Part 240 of Chapter II, Title 17 of the Code of Federal Regulations as follows.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Amend § 240.31–1 by:

a. Removing the Preliminary Note;

b. Adding Preliminary Notes 1 and 2; and

c. Adding introductory text to § 240.31–1.

The additions read as follows:

[35] 5 U.S.C. 605(b).

[36] *See* Proposing Release, *supra* note 4.

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary Notes

1. The section 31 fee for options transactions occurring on a national securities exchange, or transactions in options subject to prompt last sale reporting occurring otherwise than on an exchange (with the exception of sales of options on securities indexes) is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option. In the event of the exercise of an option, whether such option is traded on an exchange or otherwise, a section 31 fee is to be paid by the exchange or the national securities association itself, or The Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the exercise price of the option.

2. The section 31(d) assessment on a round turn transaction on a security future traded on a national securities exchange, or by or through a member of a national securities association otherwise than on a national securities exchange, is to be paid by the exchange or the national securities association itself, respectively, or by The Options Clearing Corporation on behalf of the exchange or association, and such assessment is to be computed on the basis of the number of contracts of sale for future delivery traded on such exchange or by or through any member of such association otherwise than on an exchange. In the event of the physical settlement of a security future, a section 31 fee is to be paid by the exchange on which the round turn transaction on the security future was traded, or, if the round turn transaction on the security future was traded by or through a member of a national securities association otherwise than on a national securities exchange, by the association, or by The Options Clearing Corporation on behalf of such exchange or association. Such fee, whether paid under section 31(b) or section 31(c), is to be computed on the basis of the price received by the seller in exchange for delivery of the security or securities underlying the security future. The obligation to pay fees under section 31(b) or (c) does not accrue until the time that physical delivery occurs.

The following shall be exempt from section 31 of the Act:

* * * * *

Dated: July 8, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–17494 Filed 7–11–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

22 CFR Part 11

[Public Notice 4065]

RIN 1400–AB–42

Waivers of the Worldwide Availability Requirement for Foreign Service Candidates

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This Final Rule amends the regulations on the appointment of Foreign Service Officers to allow the Director General (DG) of the Foreign Service, or the Director General's delegatee, to review the case of a Department of State Foreign Service candidate who has been denied an unlimited medical clearance for assignment worldwide to determine whether or not it is in the best interest of the Service to appoint the candidate despite the medical disqualification. This decision, as to whether or not to grant a waiver of the Foreign Service worldwide availability requirement, was previously made by a committee created solely for that purpose. The shifting of this decision to the Director General, or the Director General's delegatee, in no way alters the rights or interests of any parties, nor does it alter the substantive criteria by which a decision whether or not to waive the worldwide availability requirement will be made. As with the committee's decisions at present, the decisions of the Director General, or the Director General's delegatee, will be final and will not be subject to further appeal.

In addition, while candidates must still be medically cleared for full overseas duty, the Department of State no longer considers the medical condition of eligible family members for pre-employment purposes. References to previous practices in this regard are therefore being removed as are references to the procedures of the former United States Information Agency.

DATES: This rule is effective August 12, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Amory, Office of the Legal Adviser, 202–647–4646.

SUPPLEMENTARY INFORMATION: When requested and authorized by the candidate, the Director General of the Foreign Service, or the Director General's delegatee, will review the case of any Department of State Foreign Service candidate who has been denied an unlimited medical clearance for assignment worldwide and will determine whether or not it is in the best interest of the Service to appoint the candidate despite the medical disqualification. This decision, as to whether or not to grant a waiver of the Foreign Service worldwide availability requirement, was previously made by a committee established solely for that purpose. The shifting of responsibility for this decision to the Director General, or the Director General's delegatee, is being made in appreciation of the magnitude of such decisions for the Service and as part of a general effort to increase the efficiency and transparency of the Foreign Service appointment process. This change in no way alters the rights or interests of any parties nor does it alter the substantive criteria by which a decision whether or not to waive the worldwide availability requirement will be made. As with the committee's decisions, the decisions of the Director General, or the Director General's delegatee, are final and are not subject to further appeal.

In addition, while candidates must still be medically cleared for full overseas duty, the Department of State no longer considers the medical condition of eligible family members for pre-employment purposes. References in 22 CFR § 11.1 (e)(4) to previous practices in this regard are hereby removed and the citation to the Foreign Affairs Manual has been updated. It should be noted, however, that the Department still requires medical clearances for family members before they can travel overseas to accompany an employee on assignment at US Government expense. Finally, references in 22 CFR Part § 11.1(e)(5) to the procedures of the former United States Information Agency are hereby removed pursuant to the Foreign Affairs Reform and Restructuring Act of 1998.

List of Subjects in 22 CFR Part 11

Foreign Service.

As stated in the preamble, the Department of State amends 22 CFR part 11 as follows:

PART 11—APPOINTMENT OF FOREIGN SERVICE OFFICERS

1. The authority citation for part 11 is revised to read as follows:

Authority: 22 U.S.C. 3926, 3941.

2. Amend § 11.1 to revise paragraphs (e)(4) and (5) and the second sentence in paragraph (f) as follows:

§ 11.1 Junior Foreign Service officer career candidate appointments.

* * * * *

(e) * * *

(4) *Determination.* The Medical Director of the Department of State will determine, on the basis of the report of the physician(s) who conducted the medical examination, whether the candidate has met the required medical standards for appointment (see section 1930, Volume 3, Foreign Affairs Manual).

(5) *Waiver of worldwide availability requirement.* When authorized and requested by the candidate, the Director General of the Foreign Service, or the Director General's delegatee, will review the case of any Department of State Foreign Service candidate who has been denied an unlimited medical clearance for assignment worldwide, and determine whether or not the candidate should be appointed despite the medical disqualification. Decisions of the Director General of the Foreign Service, or the Director General's delegatee, are final and are not subject to further appeal by the candidate.

(f) * * * Candidates who have completed the examination process; have passed their medical examination, or have obtained a waiver from the Director General of the Foreign Service, or his or her delegatee, or the equivalent in accordance with the procedures of the other participating agencies; and on the basis of their background investigation, have been found suitable to represent the United States abroad, will have their names placed on the functional rank-order register(s), or a special register, for the agency or agencies for which they have been found qualified. * * *

* * * * *

Grant S. Green, Jr.,

Under Secretary for Management, Department of State.

[FR Doc. 02–17585 Filed 7–11–02; 8:45 am]

BILLING CODE 4710–35–P

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 580

RIN 3141–AA04

Environment, Public Health and Safety

AGENCY: National Indian Gaming Commission.

ACTION: Interpretive rule.

SUMMARY: The Indian Gaming Regulatory Act established the National Indian Gaming Commission (NIGC or Commission) as an independent federal regulatory agency responsible for federal oversight of Indian gaming. This interpretive rule explains the Commission's understanding of its oversight authority in the area of environment, public health and safety.

EFFECTIVE DATE: This rule is effective August 12, 2002.

FOR FURTHER INFORMATION CONTACT: Christine Nagle at 202–632–7003; fax 202-632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act, 25 U.S.C. 2701–21 (IGRA or Act), creating the National Indian Gaming Commission (NIGC or Commission) and developing a comprehensive framework for the regulation of gaming on Indian lands to shield Indian tribes from organized crime and other corrupting influences; ensure that Indian tribes are the primary beneficiaries of gaming revenues; and assure that gaming is conducted fairly and honestly by both operators and players. To effect these goals, the Commission was granted, among other things, oversight and enforcement authority, including the authority to monitor tribal compliance with the Act, the Commission's regulations, and tribal gaming ordinances, 25 U.S.C. 2713.

A tribal government, as a condition precedent to the lawful operation of gaming activities on Indian lands, must adopt an ordinance governing gaming activities on its Indian lands, 25 U.S.C. 2710. The Act specifies a number of mandatory provisions to be contained in each tribal gaming ordinance and subjects such ordinances to agency review and the Chairman's approval. Approval by the Chairman is predicated on the inclusion of each of the specified mandatory provisions in the tribal gaming ordinance. Among these is a requirement that the ordinance must contain a provision ensuring that ''the construction and maintenance of the gaming operation, and the operation of that gaming is conducted in a manner that adequately protects the environment and the public health and safety,'' 25 U.S.C. 2710 (b)(2)(E).

The Act further extends authority to the Commission to impose sanctions, including civil fines and closure orders, if the Commission finds that gaming on Indian lands is being conducted in violation of the provisions contained in