14 CFR Part 39

[Docket No. 80-SO-70; Amdt. No. 39-3984]

Airworthiness Directives; Teledyne Continental Motors Models GTSIO-520-L, -M, and -N Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection of the oil filter for contamination, inspection of the propeller shaft end clearance for excessive thrust washer bearing wear and a preflight and post flight special engine oil pressure check on certain Teledyne Continental Motors Models GTSIO-520-L, -M, and -N engines installed on but not limited to certain Cessna Models 404 and 421C airplanes. This AD is necessary to detect malfunctioning propeller shaft thrust washers and subsequent loss of bearing material and propeller shaft thrust flange material which could result in low engine oil pressure, engine oil contamination, propeller shaft damage and subsequent engine failure.

DATE: Effective December 5, 1980. Compliance required as indicated.

ADDRESS: The applicable service bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Gil Carter, ASO-214, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of failed thrust washers which have resulted in low engine oil pressure, contaminated engine oil and friction heat damage to the propeller shaft thrust flange on certain Teledyne Continental Motors Models GTSIO-520-L, -M, and -N engines with 100 hours or less time in service. Since this situation is likely to exist or develop on other engines of the same type design, an Airworthiness Directive is being issued which requires inspection of the oil filter element to detect excessive quantities of bearing and thrust flange material, inspection of the propeller shaft end clearance to detect excessive thrust washer bearing wear, and a preflight and postflight special engine oil pressure check on these engines.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Teledyne Continental Motors: Applies to Models GTSIO-520-L, serial numbers 608324 and up; GTSIO-520-M, serial numbers 606619 and up; and GTSIO-520-N, serial numbers 610001 and up, engines with 100 hours or less time in service on the effective date of this AD, installed on but not limited to certain Cessna Models 404 and 421C model airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent engine failure due to loss of engine oil pressure, damage due to contaminated oil, and propeller shaft damage resulting from a malfunctioning thrust washer accomplish the following:

(a) Before each flight and immediately after each flight until the accumulation of 100 hours total time in service, perform a special oil pressure check to determine the oil pressure with engine power at the same level as the magneto check. If oil pressure fluctuates or is less than 30 psi, accomplish paragraphs (b)(1) and (b)(2) before further flight. This oil pressure check may be accomplished by the pilot as provided in FAR 43.3(h).

(b) Prior to the next flight and at each oil change until the accumulation of 100 hours total time in service:

(1) Remove the oil filter, disassemble the cannister, and inspect the paper element between the pleats to determine the quantity of metallic material visually and by using a clean magnet. If total metallic contaminants are in excess of the quantity necessary to cover a ¼ inch diameter surface, before further flight take the necessary maintenance action to replace those parts that are malfunctioning.

Note.—Exercise caution to prevent contamination of the filter element during disassembly.

(2) Inspect to determine the end clearance (shaft end play) of the propeller drive shaft with engine at ambient temperature. If axial movement is in excess of .020 inch, before further flight take necessary maintenance action to replace those parts that are malfunctioning.

(c) Prior to the next flight, inspect the engine and airplane records and change oil if necessary to ensure that SAE No. 50 oil is installed for ambient temperature above 40°F or SAE No. 30 oil is installed for ambient temperatures below 40°F.

(d) Upon or before the accumulation of 25 hours, 50 hours and 100 hours total time in service, change oil and oil filter. At the 25 and 50 hour oil change, install either SAE No. 50 or SAE No. 30 oil as appropriate. For engines with 100 hours or more time in service, SAE No. 10W-30 may be substituted for SAE No. 30 oil.

(e) Make appropriate maintenance record entry when accomplishing each requirement of this AD.

The airplanes equipped with affected engines may be flown in accordance with FAR 21.197 to a location where the AD compliance procedures can be accomplished.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective December 5, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For further information contact."

Issued in East Point, Georgia, on November 19, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-37294 Filed 11-28-80; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

[Form 1-FR]

Minimum Financial and Related Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"), as well as the basic financial reporting form for FCMs, Form 1-FR. The amendments will alter, for certain FCMs, the amount of adjusted net capital which must be maintained. In addition, the Commission

is adopting amendments to the minimum financial regulations regarding the treatment of undermargined accounts and debit/deficit accounts, and the treatment of collateral used to secure receivables, as well as conforming changes to the financial early warning system and Commission Form 1–FR to reflect all the new amendments.

DATES: The rule amendments shall be effective on December 31, 1980.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, at the address listed above. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

A. Introduction

On June 25, 1980, the Commission published proposed amendments to the minimum financial and related reporting requirements for FCMs (45 FR 42633). The Commission originally permitted ninety days for public comment thereon,[1] and later extended the comment period for an additional fifteen days.[2] Fifty-two written comments were received in response to the proposed amendments, from forty-seven commentators.[3] The commentators included thirty-five FCMs, four contract markets, three public accounting firms, and two trade associations, as well as a clearing organization, another government agency, and a law foundation. The Commission has carefully considered each of the comments, including those submitted after the close of the comment period extension.

B. Minimum Net Capital Requirement

The first proposed amendment was to delete one of the two methods by which FCMs compute minimum required levels of adjusted net capital (17 CFR 1.17(a)(1) (1980)). Specifically, the Commission proposed to eliminate the method of computation which, in effect, permits an FCM to maintain adjusted net capital equal to 6⅔ percent of its aggregate indebtedness. Under the proposal, all references to aggregate indebtedness would be deleted from the minimum financial and related reporting requirements, and the current "alternative" method of computing the required amount of adjusted net capital would become the required method of computation for all FCMs, except those FCMs which are also securities brokers or dealers. This method of computation requires adjusted net capital equal to 4 percent of the funds required to be segregated under the Commodity Exchange Act, as amended ("Act") and the Commission's regulations. All FCMs which are also securities brokers or dealers would be required to compute the required minimum level of adjusted net capital, as under the present alternative method, based on the greater of 4 percent of the aggregate debit items computed in accordance with the formula for determination of reserve requirements under SEC regulations (Exhibit A to rule 15c3–3, 17 CFR 240.15c3–3), or 4 percent of segregated funds. In the June 25, 1980 release the Commission proposed no change in the required minimum dollar levels of adjusted net capital, which are currently $50,000 for an FCM which is a member of a designated self-regulatory organization[4] and $100,000 for an FCM which is not a member. Six commentators recommended increasing the minimum dollar levels, although they did not agree on what those levels should be. Based upon those comments, and its own further experience with the operation of the minimum financial regulations, the Commission believes that such an increase may be necessary. Accordingly, the Commission is today proposing, in a separate release, to increase the minimum dollar levels for adjusted net capital to $100,000 for members, and $250,000 for non-members.

Commentators frequently cited two criticisms of the proposal to make the amount of adjusted net capital which must be maintained by an FCM equal to 4 percent of the funds required to be segregated pursuant to the Act and the Commission's regulations. One is that if the proposal were adopted, it would create an incentive to FCMs to reduce the amount of margin which they assess their customers to the exchange minimum levels, and to return any excess customer funds to the customer. It was argued that the consequence of such actions might be an increase in the risks to the financial stability of FCMs. The second objection is that the 4 percent proposal is anti-competitive. Arguments supporting this contention were as follows: The proposal will have the greatest impact on smaller and newer firms. It will inhibit the growth of all firms. It will cause upward pressure on commissions due to increases in the cost of doing business. And, finally, it will give an advantage to FCMs who are securities brokers or dealers over FCMs which are not and will favor FCMs who are subsidiaries of large corporations, and thus able to obtain subordinated loans from the parent firm, over those FCMs not so situated.

While many of the commentators opposed the 4 percent of segregated funds proposal, a number of them also agreed with the principle that required minimum adjusted net capital for FCMs should be related to the amount of customer business undertaken by such firms and the amount of segregated funds. Alternative proposals presented by these commentators included using one, two, or three percent of segregated funds as the required minimum level of adjusted net capital; a percentage of the exchange minimum margin levels for customer positions; four percent of segregated funds for non-member FCMs, but a smaller percentage for members; and a graduated percentage scale based on the amount of segregated funds.

The Commission has carefully considered the comments on the four percent of segregated funds proposal. The Commission continues to believe, as it stated when it announced the proposal, that:

> [A] net capital requirement based on a percentage of customers' segregated funds is a more accurate measure of the level of net capital which an FCM should maintain than is such a requirement based on (aggregate indebtedness). (Aggregate indebtedness) excludes amounts owed to customers by an FCM, and, thus, for those FCMs which are principally involved in servicing customer accounts, a potentially serious financial condition may go undetected. An FCM's net capital may be well below 4 percent of segregated funds, yet the FCM's computation of net capital based on (aggregate indebtedness), and the early warning system based on that computation, could fail to

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[1] The June 25, 1980 Federal Register release incorrectly listed August 25, 1980 as the close of the comment period. This error was corrected in a subsequent release which gave the correct original closing date for the comment period, September 23, 1980 (45 FR 44966, July 2, 1980).

[2] 45 FR 62847 (September 22, 1980).

[3] Three commentators submitted two letters each, and one commentator submitted three letters.

[4] The term "self-regulatory organization" ("SRO") means a contract market (as defined in 17 CFR 1.3(h)), or a registered futures association under Section 17 of the Act (no such association presently exists). The term "designated self-regulatory organization" ("DSRO") means a self-regulatory organization of which an FCM is a member or, if the FCM is a member of more than one self-regulatory organization and such FCM is the subject of an approved plan under 17 CFR 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such FCM for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the FCM is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such FCM. 17 CFR 1.3 (ee) and (ff).

reflect the potential danger to the FCM's financial condition.[5]

The Commission also remains convinced that four percent of segregated funds is the proper minimum adjusted net capital level (and, thus, falling below six percent would require notice to be given under the early warning system). While this will reduce the excess net capital of many firms if those firms maintain their current amounts of capital, the Commission believes that this is a necessary consequence of increasing capital requirements from the present level, which is too low, to a more appropriate level. The studies which the Commission has conducted, as well as the studies submitted by certain commentators, have shown that while many firms would have a reduced amount of excess net capital if the four percent of segregated funds requirement were applied to their present capital situation, relatively few firms would be undercapitalized. The firms that would be undercapitalized are those that should have more capital to carry on their current volume of business.

Of course, the studies of the effect of the four percent of segregated funds requirement are made under existing conditions, and do not take into account the fact that firms will be able to increase their amounts of capital. In addition, the Commission believes that there will be an incentive for firms to maintain higher margin levels than exchange minimums since this serves as a cushion for the firm's financial stability, and because firms are free to invest segregated funds in statutorily-authorized instruments, which many firms utilize to derive a significant portion of their income. Firms will have a further incentive to maintain higher margin levels than exchange minimum levels to avoid having to take capital charges for undermargined accounts, expecially since the treatment of undermargined accounts is being tightened (*See* discussion *infra*).

As to the comments that the four percent of segregated funds requirement is anti-competitive, the Commission does not agree that growth will be unduly inhibited or that newer and smaller firms will be impacted disproportionately. Since the present financial rules became effective on December 20, 1978, and significantly increased the capital requirements from those previously in existence, the volume of commodity futures trading has continued to grow, as have the number of new firms of all sizes entering the industry. Moreover, in adopting this regulation the Commission has, as required by Section 15 of the Act,[6] taken into consideration the public interest to be protected by the antitrust laws and endeavored to take the least anti-competitive means of achieving the objectives of the Act, as well as the policies and purposes of the Act.[7] As the Commission stated when it proposed the four percent of segregated funds requirement, such a requirement will

> enhance the protection of customers' segregated funds and better protect the financial condition of FCMs, and those two results are of the greatest importance to the security and overall well-being of individual participants and institutions involved in the futures markets. [It will also] cause the minimum financial requirement to reflect more accurately the amount of customer business of an FCM, help to safeguard customers' funds and provide an improved system of early warning of the deterioration of an FCM's financial condition.[8]

Customer protection and the financial stability of the marketplace are central objectives of the Act, and their achievement by insuring an adequate minimum capital requirement for FCMs, when balanced against the public interest to be protected by the antitrust laws, must clearly take precedence.

Several commentators suggested changes in the treatment of various assets included in the net capital computation, and the Commission agrees that one such suggested change from the proposed amendments should be made. The Commission had proposed to delete § 1.17(c)(2)(v) because it referred to aggregate indebtedness, but, as one commentator pointed out, deletion of that entire paragraph would be incompatible with the financial rules of the Securities and Exchange Commission ("SEC"). The Commission's intended deletion was only for the purposes of eliminating the reference to aggregate indebtedness. Accordingly, consistent with the Commission's continuing effort to preserve as much uniformity as possible between the Commission's regulations and those of the SEC, § 1.17(c)(2)(v) will be amended to delete only the reference to aggregate indebtedness, and to make clear that current assets include fixed assets or other assets acquired in the ordinary course of the trade or business which collateralize long-term debt.

Another commentator correctly notes that, in connection with omnibus accounts, both the originating FCM and the clearing FCM are required to segregate funds under the Act and Commission regulations. The commentator further notes that the four percent of segregated funds requirement would require that both such entities maintain minimum capital based on the same funds. The commentator requests consideration of relief on this point. The Commission has considered this comment but continues to believe that the proposed requirement is necessary and appropriate.

C. Undermargined Accounts

The Commissioner's June 25, 1980 release announced four proposed changes in the treatment of undermargined accounts (17 CFR 1.17(c)(5)(viii) and (ix)(1980)). These changes relate to the charges which an FCM is required to take against net capital because of such accounts, and offsets to be applied against the required charges due to outstanding margin calls.

The first such proposed change would shorten the period within which an FCM may collect margin on an undermargined customer account before the full charge against net capital for the undermargined amount must be incurred. The regulations currently allow five business days for such collection, and this period is scheduled to be reduced, under the regulations now in effect, to four business days beginning in 1981, and to three business days in 1983.[9] Essentially, the proposed amendment would accelerate the three-business-day standard by two years.

The Commission also proposed, in connection with the proposed amendments to the treatment of undermargined accounts, to change its interpretation of how to count the business days for purposes of § 1.17(c)(5) (viii) and (ix).[10] The proposed new interpretation was to have been applied to the amount of time allowed to collect margin calls discussed above. The new interpretation would have required that business day number one be the first day after an account becomes undermargined,

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[5] 45 FR 42633, at 42634–5 (June 25, 1980).

[6] 7 U.S.C. 19 (1976).

[7] *Id. See also*, British American Commodity Options Corp. v. Bagley, [1975–1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,245, at 21,334 (S.D.N.Y. 1976), *aff'd and rev'd in part on other grounds*, 552 F. 2d 482 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977).

[8] 45 FR 42633, at 42635 (June 25, 1980).

[9] The Commission had proposed, during the rulemaking process culminating in the adoption of the current minimum financial and related reporting requirements, to have § 1.17(c)(5)(viii) of the regulations require the three-business-day standard begining in 1981 (43 FR 15072, at 15088 (April 10, 1978)), but, after further deliberation, the Commission decided to permit the present schedule for phasing in the three-day requirement (43 FR 39956, at 39964, 39975 (September 8, 1978)).

[10] *See* 43 FR 39956, at 39964; "Financial and Segregation Interpretation No. 1—Safety Factors on Undermargined Accounts," 1 Comm. Fut. L. Rep. (CCH) ¶7111, at 7071–72.

according to the following example. On Monday, market action causes a customer's account to become undermargined, and the resulting margin call is sent on Tuesday. Under the proposed new interpretation, Tuesday would be the first day the margin call would be outstanding; Wednesday would be the second day; and Thursday would be the third day. Thus, if no margin were received by the close of business on Thursday, the firm would be required, on that day, to take a charge against net capital. In this example, if the margin call were not made until Wednesday, or even if the call for margin had been made on Monday, the firm would still be required to make a charge to net capital if the funds are not received by the close of business on Thursday. Of course, if a margin call is not made, a charge to capital for the undermargined amount is made immediately.[11]

The commentators who addressed the proposal to accelerate the institution of the three-business-day standard opposed it by a ratio of seven to one. The objection raised most frequently regarding the proposal was that the present banking, communications and mail systems make it impossible or extremely difficult to collect margin calls within the time frame allowed by the proposal. Several commentators stated that the three-business-day proposal would disadvantage customers in rural areas, small businesses and customers who were likely to transact business with banks which do not provide for wire transfer of money. Such customers, it was argued, have to use the mails to respond to margin calls, and, thus, are unable to respond to such calls as quickly as urban area customers and those larger customers normally transacting business with banks that do provide wire transfer services. A few commentators objected to the proposal as it would affect foreign accounts, citing problems with international wire transfers and currency regulations. The effect of the proposals, according to the majority of commentators, is that FCMs would be forced either to absorb additional capital charges, or frequently to liquidate positions for those without access to wire transfer services, and positions in foreign accounts.

Many of the commentators who objected to the acceleration of the three-business-day standard were especially opposed to the acceleration when combined with the proposed change in the method of counting business days. These commentators, while objecting to the acceleration proposal, stated that if it were adopted, the Commission should at least continue to maintain the current method for counting days.

The Commission has reevaluated the acceleration of the three-business-day standard in conjunction with the proposed new method for counting days, and has determined to adopt the three-business-day standard but to retain the present method of counting days. The present method of counting business days for purposes of the capital charge to be taken for an undermargined account provides that business day one is the second business day following the business day upon which the account became undermargined. Thus, if an account becomes undermargined on Monday, Wednesday is counted as business day one.[12] The effect of the proposed three-day-standard plus the new counting method would have been to eliminate two days. The Commission's decision to adopt the three-business-day standard but retain the present method for counting days will reduce the days allowed for collection of margin by one, rather than two. In view of the retention of the present method for counting business days, the Commission believes that acceleration of the effectiveness of the three-day collection period will not unduly inconvenience customers in rural areas, small businesses, and other customers without access to wire transfer services.

The Commission's third proposal related to undermargined accounts was to prohibit any reduction in the required charge to be taken against net capital for an undermargined account with respect to any customer commodity futures accounts for which any portion of a margin call remains outstanding for six (6) or more business days (for non-customer or omnibus accounts, the applicable time period would be four (4) or more business days). The Commission believes that undermargined accounts, in general, pose significant financial risks for an FCM. The Commission further believes that accounts remaining undermargined for longer than the periods of time specified in this paragraph pose significant additional risks to an FCM's financial condition which should be reflected in the computation of adjusted net capital.

Only a few commentators addressed this issue, and some of those stated that extensive studies should be conducted to assess the impact of such a rule. While the Commission continues to view with concern the particular threats imposed by outstanding margin calls, particularly those outstanding for six or more business days, it recognizes that most computators directed their attention to assessing the impact of other proposed changes, principally the four percent of segregation requirements for computing minimum adjusted net capital. The Commission, therefore, has decided not to adopt the proposed amendments to paragraphs (c)(5)(viii) (customer accounts) and (c)(5)(ix) (non-customer and omnibus accounts) of § 1.17 at this time but to repropose them so that interested persons, particularly those directly affected, may have a greater opportunity to study the effects of such a six-day cutoff and so that the Commission may further evaluate the rule in light of additional, more detailed, comments. The reproposal of these amendments is set forth in a separate release issued today. Comments already received on this issue will be considered as part of the record of this further rulemaking proceeding.

The fourth proposal in the undermargined account area was to require an FCM to take an immediate charge against its net capital when the FCM executes a new trade for an account which is already undermargined, or if such new trade would cause an account to become undermargined and in such circumstances not to permit any offset for a margin call. One commentator agreed with this proposal as it would apply to an account which was undermargined before the new trade was executed, but not to a new trade which causes an account to become undermargined. Another commentator agreed with the proposal in principle but stated that, with current data processing systems, the calculations which would be required would be very complicated or difficult to make. The remaining commentators who addressed this proposal expressed opposition, most frequently citing the problems that would be encountered in trying to make the required calculations. The Commission has reevaluated this proposal and has determined that the comments concerning the practical difficulties of making the calculations which would be required have merit. The Commission has, therefore, decided not to adopt this proposal. The Commission is concerned, however, that an FCM might attempt to use multiple or excess calls for margin, or margin calls for new trades, to improve its net capital

[11] If the above situation involved an undermargined non-customer or omnibus account, the FCM would be required to take a charge against its net capital if the margin call was not met by the close of business on Wednesday.

[12] This counting method will not apply to the treatment of debit/deficit accounts. *See* discussion *infra*.

position at a time when its net capital position is actually deteriorating,[13] and wishes to emphasize that such a practice is impermissible under the regulations. An FCM may not apply as an offset to a charge against its net capital any portion of a call for margin that would have the effect of making prior, but non-current, margin calls appear current.

D. Debit/Deficit Accounts

The Commission also proposed to eliminate the one-business-day grace period relating to the exclusion from current assets of any unsecured commodity futures or option accounts consisting of a ledger balance and open trades which, when combined, would liquidate to a deficit, or which contain a debit ledger balance (17 CFR 1.17(c)(2)(i)(1980)). At present, for example, if market activity occurs on a Monday, and such market activity causes an account to be in a debit or deficit status, the FCM must collect money, securities or property which would alleviate the debit or deficit situation in the account by the close of business on Wednesday or exclude the account from current assets for net capital purposes. The proposal would have required such exclusion from current assets as of the close of business on Monday.

Of the twenty-three comments on this issue, twenty were opposed. Many of the arguments in opposition were similar to those made in response to the proposal to shorten the time within which to collect margin or undermargined accounts before the full capital charge must be incurred. (*See* discussion supra.) Several commentators stated that the proposal to eliminate the one-business-day grace period for debit/deficit accounts is unreasonable because there exists no on-line computer system which is capable of constantly updating accounts, and, thus, an FCM could not determine until the following business day whether, and by how much, an account is in a debit or deficit status. It was also frequently asserted in the comments on the debit/deficit proposal that it is impossible, even with wire transfer of funds, to collect margin calls and have them credited on the same day, especially when the markets involved are those, such as the financial futures markets, which close late in the day.

While the majority of commentators objected to the proposal to completely eliminate the grace period for debit/deficit accounts, many indicated that they would not be opposed to an exclusion of debit or deficit accounts from current assets provided the FCM had twenty-four hours in which to alleviate the debit or deficit situation. The Commission has considered the comments on the debit/deficit proposal, reevaluated the proposal, and determined to adopt a somewhat less stringent requirement than the one proposed but one which strengthens § 1.17(c)(2)(i) as follows. Using the example referred to above, if market activity occurs on a Monday, and such market activity causes an account to be in a debit or deficit status, the FCM will have until the close of business on Tuesday to collect money, securities or property which would alleviate the debit or deficit situation in the account. If the debit or deficit were not alleviated on Tuesday, the FCM could not include the amount owed as a current asset in a capital computation as of the close of business on Tuesday.

The Commission wishes to emphasize that the method for counting business days with respect to undermargined accounts will, after the effective date of the new amendments, have no bearing on the calculation of business days for purposes of § 1.17(c)(2)(i). The Commission has determined that such differing treatment is necessary because any account liquidating to a deficit or containing a debit ledger balance presents a significantly greater risk to an FCM than one which is undermargined (frequently an account in a debit or deficit status will have been undermargined for quite some time).

E. Non-Cash Assets

The Commission proposed two amendments to the regulation which sets forth the standards for determining whether receivables are secured (17 CFR 1.17(c)(3)(1980)). For purposes of making such a determination, § 1.17(c)(3) currently allows the collateral for a receivable to be valued at 100 percent of its market value. The first proposed amendment would change the valuation method so that receivable would be considered secured only to the extent of the market value of the collateral after making the percentage deductions that would be required by § 1.17(c)(5) if the collateral were owned by the FCM. Only two commentators directly addressed this proposal. One commentator stated that the proposed amendment seemed reasonable and appropriate. The other commentator generally agreed with the amendment, but expressed the view that commodities eligible for delivery on a contract market should be exempted from this provision. The Commission disagrees with this suggestion. Uncovered deliverable commodities, while readily marketable, are subject to potential adverse market movements and consequently should not be valued at 100 percent of market value.[14] The Commission feels that the 20 percent safety factor which an FCM must apply to its uncovered commodity inventory which is eligible for delivery is also appropriate in the context of valuing the collateral for secured receivables. Therefore, this amendment will be adopted as proposed.

The second proposed amendment to § 1.17(c)(3) concerns certain situations in which a physical commodity is deposited to collateralize a loan, advance or other receivable, the proceeds of which are deposited with the FCM by the borrower to margin, guarantee or secure a futures account. The proposal was that the physical commodity so deposited would be given no value when determining to what extent the loan, advance or other receivable is secured. The Commission also proposed similar amendments to the safety factor charges relating to undermargined customer or non-customer accounts (paragraphs (c)(5)(viii) and (ix) of § 1.17). These proposed amendments would prevent an FCM from attributing any value to a physical commodity deposited to margin, guarantee or secure an account, if such account has an open futures contract in such commodity, unless the futures contract "covered" the deposited physical commodity.

Most commentators who addressed these proposed amendments expressed opposition to their adoption. The most frequently voiced concern was that a physical commodity will always have some value and that the proposal seemed to treat them as though that value could decline to zero. Commentators generally agreed that some percentage deduction from market value is appropriate, but argued that a 100 percent deduction would be excessive. Several individuals also asserted that the proposed amendments would interfere with the delivery

[13] See discussion in "Financial and Segregation Interpretation No. 1—Safety Factors on Undermargined Accounts," 1 Comm. Fut. L. Rep. (CCH) ¶7111, at 7072–73.

[14] In general, commodities deposited as collateral by any person will not be considered as covered for purposes of this provision unless the futures contracts or fixed-price commitments that represent cover for the collateral are carried on the books of the FCM for such person. The Commission's Division of Trading and Markets will, however, consider, on a case-by-case basis, requests from FCMs for a "no-action" position with respect to situations where such person is covered but not on the books of the FCM.

process and restrict liquidity on the contract markets.

The experiences which led to the proposal of the above charges continue to be of significant concern to the Commission. However, based upon its own further study in this area and upon the comments, the Commission has determined to adopt a somewhat less stringent standard than the one proposed and to monitor its implementation with a view to possible further rulemaking on this subject. Accordingly, the second proposed amendment to § 1.17(c)(3) will not be adopted. Likewise, the Commission has chosen not to adopt this aspect of the proposed amendments to paragraphs (c)(5)(viii) and (ix) of § 1.17. Instead, the value attributed to any non-cash item deposited to margin, guarantee or secure a futures account (regardless of the commodities traded in the account) will be the lesser of (A) the value attributable to such item under the margin rules of the applicable board of trade, or (B) the market value of such item after application of the percentage deductions specified in § 1.17(c)(5).

The Commission continues to believe, however, that a more stringent safety factor may be appropriate in situations where a person or related group of persons have deposited significant amounts of a non-cash item with an FCM to margin, guarantee or secure a futures account or to collateralize a debt to the FCM and that person or related group of persons have a net long futures position in the same non-cash item so deposited. Accordingly, the Commission is today proposing, in a separate release, to add a new paragraph (c)(5)(iii) to § 1.17 which would provide that if, in the above circumstances, the total amount of all loans, advances or other receivables owed to, and included in the current assets of, the FCM, plus the amount of the maintenance margin requirements of the applicable boards of trade for all of the open futures contracts of such person or persons held by the firm, exceed 20 percent of the FCM's net capital, the FCM must first apply the non-cash item, at a rate not to exceed 50 percent of its market value, to the exchange maintenance margin requirements for such net long futures position. An exemption would be provided for obligations of the United States and obligations which are fully guaranteed as to principal and interest by the United States. An exemption would also be provided in a situation where an applicant or registrant has received collateral through the delivery process of a contract market and has not held such collateral for more than five business days.

F. Miscellaneous Items

One contract market reaffirmed its long-standing position that the Commission is without legal authority to require contract markets to adopt the financial requirements for FCMs which are at least as stringent as the Commission's, as well as any amendments to the Commission's requirements, and it further stated that "[s]erious questions under Sections 5a(12) and 8a(7) of the Commodity Exchange Act are also posed by the proposed amendments." The Commission has previously considered these issues and fully expressed its views thereon in connection with its rulemaking proceeding in adopting the current minimum financial and related reporting requirements.[15] The Commission wishes to reiterate those views.

The Commission also wishes to reiterate that central to the operation of its minimum financial and related reporting requirements for FCMs is that each contract market have in effect, and be responsible for enforcing, financial and reporting rules for their member FCMs which are at least as stringent as those contained in §§ 1.10 and 1.17. Most of the contract markets' rules in this regard incorporate, by reference, the requirements of §§ 1.10 and 1.17 and, hence, the amendments to § 1.17 will be incorporated automatically into the rules of those contract markets upon the effective date of the amendments. Two contract markets do not follow this approach, however, and instead have detailed financial and reporting rules of their own, and these exchange rules will require amendment to bring them into conformity with the amendments to § 1.17. If it would work an undue hardship on those latter contract markets to adopt conforming amendments to their rules prior to the effective date of the amendments described in this release, such markets may request that the Commission's Division of Trading and Markets take a "no-action" position, for a reasonable period of time, to allow the process of amending rules to be completed.

No comments were received on the Commission's proposed technical amendments to the regulations governing the filing of subordination agreements, and the proposals will be adopted. One commentator did, however, request clarification regarding the effect of the amendments concerning aggregate indebtedness upon existing subordination agreements which refer to this concept.

Five technical changes are being adopted to eliminate reference to aggregate indebtedness from subordination agreements (17 CFR 1.17(h) (1980)). These concern colateral for secured demand notes, permissive prepayments, suspended repayment, notice of maturity or accelerated maturity, and temporary subordinations. Any subordination agreement which has been approved by a contract market or the Commission prior to the adoption of the new amendments will continue to be considered a "satisfactory subordination agreement" for net capital purposes.

The Commission has also examined standard form subordination agreements now in use and it believes that such forms could continue to be used after the new amendments become effective. The agreements are generally phrased in terms which permit an FCM to use either an aggregate indebtedness-based minimum net capital computation, or a computation based on four percent of segregation requirements. The existing forms may thus be used, and all FCMs which use them for future agreements will be considered to be operating under the four percent of segregated funds formula, previously referred to as the "alternative" method. Of course, FCMs and contract markets are free to amend any subordination agreement forms which they might have used previously to eliminate language which is not applicable.

In addition to the rule changes proposed by the Commission in the June 25 release, the Commission stated that it was considering the development and implementation of a capital charge for FCMs which would take into consideration large concentrations of positions in customer, non-customer or proprietary accounts held in a particular commodity or a particular group of commodities.[16] The Commission expressed its concern that such concentrations of positions can greatly increase an FCM's financial exposure in the event of large price movements. The Commission stated that it was considering several possible approaches. One approach would compare a standard fluctuation based upon historical price changes in the concentrated future to the net capital of the firm, and require an FCM to make deductions from its capital based upon the comparison.[17] Another approach would be to group certain commodity futures contracts based upon the

[15] *See* 43 FR 39956, at 39966–7 (September 8, 1978).

[16] 45 FR 42633, at 42637.

[17] *See* 42 FR 27166, at 27171, 27175 (May 26, 1977).

historical tendency of their prices to move together. An FCM would calculate the total exchange margin required for all positions with the firm in each group, and be required to take a charge against its net capital equal to all or some percentage of the largest amount of margin that would be necessary for any one group. The Commission invited interested persons to submit comments which would assist in the development of such a capital charge.

The Commission received fifteen comments on this issue. One commentator stated that concentration was the issue of primary importance in the context of the financial rules, and that any new rules should be tied to a certain concentration formula. That commentator went on to state that, for example, if the amount of a margin call for an undermargined account(s) of a customer or related group of customers exceeds 10 percent of the FCM's net capital, a credit for such margin call(s) should be allowed only to the extent that it is outstanding three business days or less (for smaller calls, the present five-day rule should apply). Two other commentators suggested a similar approach when a physical commodity is used as margin so that if the margin requirements for one customer or related group of customers exceeds twenty percent of an FCM's net capital, a fifty percent deduction would be applied to the market value of the unhedged physical commodity. This suggestion, as discussed above, is being proposed for public comment, in a separate release. Other commentators suggested that the problem of concentration would best be addressed by exchange-established speculative position limits for all commodities (with Commission-established charges for any commodities without such limits), or by differential margin levels based on the number of open positions in a particular commodity in an account, or by predetermined limits on an FCM's business based on its net capital. Two commentators expressed the desire to study the issue further, and six commentators opposed any concentration charge.

The Commission expects to study this issue further, and it invites, in a separate release issued today, further comments from interested persons which will assist in the development of appropriate regulations respecting concentration charges. For the present, however, the only measure which will be formally proposed is the one previously discussed respecting physical commodities used, in essence, to margin long futures contracts in the same commodity.

In consideration of the foregoing, the Commission, pursuant to the authority contained in Sections 4d, 4f, and 8a of the Act, 7 U.S.C. 6d, 6f, and 12a, as amended, 92, Stat. 865 *et seq.*, hereby amends 17 CFR Chapter I and Commission Form 1-FR in the manner set forth below. Certain non-substantive, technical changes (such as commas for clarity and capitalization) have also been made.

1. 17 CFR Part 1 would be amended by revising paragraph (b) of § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

* * * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the greatest of 150 percent of the appropriate minimum dollar amount required by § 1.17, or 6 percent of the funds required to be segregated pursuant to section 4d(2) of the Act and these regulations, or, for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (§ 240.15c3-3 of this title), must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1-FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file (in accordance with § 1.10(h)) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR, or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

* * * * *

2. 17 CFR Part 1 is further amended by revising paragraphs (a)(1), (b)(1), (c)(2)(i) and (v), (c)(3), (c)(4)(v), (c)(5)(viii) and (ix), (e), (f)(1), (f)(2)(i), (f)(3), (f)(4), (h)(2)(vi)(C), (h)(2)(vii), (h)(2)(viii), (h)(3)(ii), (h)(3)(v), and (h)(3)(vi) and by removing and reserving paragraphs (c)(6) and (g) of § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of $50,000, ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers and dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3).

* * * * *

(b) * * *

(1) Where the applicant or registrant has an asset or liability which is defined in Securities Exchange Act Rule 15c3-1 (§ 240.15c3-1 of this title) the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital shall be in accordance with § 240.15c3-1 of this title, unless specifically stated otherwise in this § 1.17.

* * * * *

(c) * * *

(2) * * *

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledge balance only: *Provided, however,* Deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts, which are the subject of calls for margin or other required deposits may be included in current assets until the close of business on the business day following the date on which such deficit or debit ledger balance originated;

* * * * *

(v) Include fixed assets and assets which otherwise would be considered noncurrent to the extent of any long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of an applicant or registrant and any other long-term debt adequately collateralized by assets of the applicant or registrant if the sole recourse of the creditor for nonpayment of such liability is to such asset: *Provided,* Such liabilities are not excluded from liabilities in the computation of net capital under paragraph (c)(4)(v) of this section;

* * * * *

(3) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (c)(2) of this section unless the following conditions exist:

(i) The receivable is secured by readily marketable collateral which is otherwise unencumbered and which can be readily converted into cash: *Provided, however,* That the receivable will be considered secured only to the extent of the market value of such collateral after application of the percentage deductions specified in paragraph (c)(5) of this section; and

(ii)(A) The readily marketable collateral is in the possession or control of the applicant or registrant; or

(B) The applicant or registrant has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the State in which the readily marketable collateral is located.

(4) * * *

(v) Excludes liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property and equipment which is used in the ordinary course of any trade or business of the applicant or registrant which is a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the applicant's or registrant's business activities: *Provided,* That such plant, property and equipment is not included in current assets pursuant to paragraph (c)(2)(v) of this section.

(5) * * *

(viii) For undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding three business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding three days or less to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(viii). In the event that an owner of a customer account has deposited an asset other than cash to margin, guarantee or secure his account, the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to the asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of the asset after application of the percentage deductions specified in this paragraph (c)(5);

(ix) For undermargined non-customer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary, after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(ix). In the event that an owner of a non-customer or omnibus account has deposited an asset other than cash to margin, guarantee or secure his account the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to such asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of such asset after application of the percentage deductions specified in this paragraph (c)(5);

* * * * *

(6) [Reserved].

* * * * *

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(v) of this section which are scheduled to occur within six months following such withdrawal, advance or loan, either adjusted net capital of any of the consolidated entities would be less than the greatest of 120 percent of the appropriate minimum dollar amount required by § 1.17 or 7 percent of the amount required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed pursuant to § 240.15c3–3 of this title, or in the case of any applicant or registrant included within such consolidation, if equity capital of the applicant or registrant (inclusive of satisfactory subordination agreements which qualify as equity under paragraph (d) of this section) would be less than 30 percent of the required debt-equity total as defined in paragraph (d) of this section: *Provided,* That this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in the public interest or for the protection of non-proprietary accounts.

(f)(1) Every applicant or registrant, in computing its net capital pursuant to this section must, subject to the provisions of paragraphs (f)(2) and (f)(4) of this section, consolidate in a single computation, assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the applicant or registrant may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (f)(2) of this section.

(2)(i) If the consolidation, provided for in paragraph (f)(1) of this section, of any such subsidiary or affiliate results in the increase of the applicant's or registrant's adjusted net capital or decreases the minimum adjusted net capital requirement, and an opinion of counsel called for in paragraph (f)(2)(ii) of this section has not been obtained, such benefits shall not be recognized in the applicant's or registrant's computation required by this section.

* * * * *

(3) In preparing a consolidated computation of adjusted net capital pursuant to this section, the following minimum and non-exclusive requirements shall be observed:

* * * * *

(4) No applicant or registrant shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of adjusted net capital pursuant to this section except as provided in paragraph (f)(2)(i) of this section.

(g) [Reserved]

(h) * * *

(2) * * *

(vi) * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender with the prior written consent of the applicant or registrant and the designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note: Provided, that after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title: *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments.* An applicant or registrant at its option but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section. No prepayment shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title, or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the adjusted net capital of the applicant or registrant would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title, or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section: *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) of this section for a period of not less than six months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than 120 percent of the minimum dollar amount required by § 1.17, or its adjusted net capital would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title.

* * * * *

(v) *Temporary Subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective: *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title, or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section, or the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

(vi) *Filing.* Two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed with the Commission at the Office of the Chief Accountant, Division of Trading and Markets, in Washington, D.C. at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed in such quantities and at such time as the designated self-regulatory organization may require with the designated self-regulatory organization, if any, of which the applicant or registrant is a member. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined at the Commission or the designated self-regulatory organization with whom such agreements are required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or the Commission has found the agreement acceptable and such agreement has become effective in the form found acceptable.

* * * * *

3. By amending Form 1-FR as follows:

Form 1-FR

General Instructions

The terms "current assets," "liabilities," "net capital," and "adjusted net capital" are all defined terms. The definitions of these terms may be found in § 1.17 of the Commission's regulations.

* * * * *

Form 1-FR.—*Statement of Financial Condition as of ———/——/—— —Liabilities and Ownership Equity*

Liabilities	Total
19. Bank loans payable:	$
A. Secured	
B. Unsecured	
20. Securities sold under repurchase agreement	
21. Payable to clearing organizations:	
A. Securities accounts	
B. Commodities accounts:	
i. Customer segregated	
ii. Customer non-segregated	
iii. Noncustomer & firm	
22. Payable to other futures commission merchants or brokers:	
A. Payables relating to securities transactions (attach details or the FOCUS report)	
B. Payables relating to commodities transactions:	
i. Customer segregated	
ii. Customer non-segregated	
iii. Noncustomer & firm	
23. Payable to customers:	
A. Securities accounts	
B. Commodities accounts:	
i. Regulated futures	
ii. Regulated options	
iii. Non-regulated	
24. Payable to non-customers:	
A. Securities accounts	
B. Commodities accounts:	
i. General partners (not included in capital)	
ii. Other non-customers	
25. Securities sold not yet purchased at market value—including arbitrage	
26. Accounts payable, accrued liabilities and expenses:	
A. Drafts payable	
B Accounts payable	
C. Income taxes payable	
D. Deferred income taxes	
E. Accrued expenses and other liabilities	
F. Salaries, wages and commissions payable	
G. Advances against commodities	
H. Notes, mortgages and other payables due within twelve months of the date of this statement (See item 27)	
I. Other (itemize here or on a separate page)	
27. Notes, mortgages and other payables not due within twelve months of the date of this statement:	
A. Unsecured	
B. Secured	
28. Liabilities subordinated to claims of general creditors:	
A. Subject to a satisfactory subordination agreement	
B. Not subject to a satisfactory subordination agreement	
29. Total Liabilities	

* * * * *

14. Undermargined commodity futures accounts—amount in each account required to meet maintenance margin requirements less the amount of current margin calls in that account:	
A. Customer accounts	
B. Noncustomer accounts	
C. Omnibus accounts	
15. Uncovered open futures contracts in proprietary accounts—percentage of margin requirements applicable to such contracts	
Less: equity in proprietary accounts not otherwise includable in adjusted net capital	
16. Amount of any commodity option premiums used to increase adjusted net capital where registrant or applicant is a taker of a commodity option	

Form 1-FR.—*Statement of Financial Condition as of ———/——/—— —Liabilities and Ownership Equity*—Continued

Liabilities	Total
17. Amount of any commodity option premium which has not been previously recognized as income by a grantor of commodity options	
18. Ten percent (10%) of the market value of commodities which are the subject of commodity options carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options)	
19. Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers	
20. Secured demand note deficiency	
21. For securities brokers or dealers all other deductions specified in § 240.15c3-1	
22. Total Charges	
23. Adjusted Net Capital	
24. For minimum net capital required, enter the greatest of lines A, B, or C	
A. Enter $50,000 ($100,000 if registrant is not a member of a designated self-regulatory organization)	
B. Enter 4% of the amount of funds required to be segregated for commodity futures and options customers	
C. If a securities broker-dealer, enter 4% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (attach the computation of Exhibit A to SEC Rule 15c3-3)	
25. Adjusted net capital—Item 23 this statement	
26. Excess net capital	
27. Enter the greatest of $75,000 ($150,000 for an FCM who is not a member of a designated self-regulatory organization) or 6% of funds required to be segregated for commodity futures and options customers, or, for securities broker-dealers, enter 6% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (if the amount on line 25 is less than the amount on line 27, the applicant or registrant must immediately notify its designated self-regulatory organization and the Commission and commence filing monthly statements of its financial condition pursuant to Regulation 1.12)	

*References are to item numbers on the Statement of Financial Condition.

* * * * *

Issued in Washington, D.C. on November 25, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-37150 Filed 11-28-80; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-17321]

Record Production Obligations and Record Destruction and Disposition Rights of Registered Clearing Agencies, the Municipal Securities Rulemaking Board, National Securities Exchanges and Registered Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting proposed amendments to Rules 17a–1 and 17a–6 [17 CFR §§ 240.17a–1, 17a–6] under the Securities Exchange Act of 1934 ("Act") governing record retention, production and destruction by self-regulatory organizations which extend the requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board. The amendments are being adopted to implement the recordkeeping and production requirements of Section 17(a) of the Act. In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q–1(d)(3)(A)(i), the Commission has consulted and requested the views of the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Judith W. Axe, Esq., Division of Market Regulation, Securities and Exchange Commission, Room 357, 500 N. Capitol Street, Washington, D.C. 20549, (202) 272–2398.

SUPPLEMENTARY INFORMATION: On July 8, 1980, the Commission issued a release proposing to exercise its authority under Section 17(a) of the Securities Exchange Act [1] to amend Rules 17a–1 and 17a–6 [17 CFR §§ 240.17a–1, 240.17a–6] to extend the record retention, production and destruction requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board ("MSRB").[2]

Presently, Rule 17a–1 requires only exchanges and associations to keep, and to permit copying by members of the Commission's staff of all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities. The rule also requires that such records be kept for a period of not less than five years subject to the provisions of Commission Rule 17a–6. Rule 17a–6, which permits the early destruction or conversion to microfilm or other recording media of records maintained under Rule 17a–1, pursuant to a record destruction plan filed with and approved by the Commission, also currently applies only to exchanges and associations.[3]

The Commission believes that it would be appropriate at this time to extend its rules regarding record keeping and record destruction to registered clearing agencies and MSRB.[4] Accordingly, the Commission has determined to exercise its rulemaking authority under Section 17(a) of the Act to amend Rules 17a–1 and 17a–6 in the manner proposed in its July release.[5] The proposed amendments were not prompted by any lack of cooperation from the MSRB or the clearing agencies in furnishing documents requested by the Commission staff.

For the reasons stated above, the Commission finds that the proposed amendments are appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act. Accordingly, the Commission, acting pursuant to its authority under Section 23(a)(1) of the Act,[6] hereby revises §§ 240.17a–1 and 240.17a–6 of Part 240 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

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

§ 240.17a-1 Recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board.

(a) Every national securities exchange, national securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it in the course of its business as such and in the conduct of its self-regulatory activity.

(b) Every national securities exchange, national securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall keep all such documents for a period of not less than five years, the first two years in an easily accessible place, subject to the destruction and disposition provisions of Rule 17a–6.

(c) Every national securities exchange, registered securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it pursuant to paragraphs (a) and (b) of this section.

§ 240.17a-6 Right of national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board to destroy or dispose of documents.

(a) Any document kept by or on file with a national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board pursuant to the Act or any rule or regulation thereunder may be destroyed or otherwise disposed of by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board at the end of five years or at such earlier date as is specified in a plan for the destruction or disposition of any such documents if such plan has been filed with the Commission by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board and has been declared effective by the Commission.

(b) Such plan may provide that any such document may be transferred to microfilm or other recording medium after such time as specified in the plan and thereafter be maintained and preserved in that form. If a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board uses microfilm or other recording medium it shall (1) be ready at all times to provide, and immediately provide, easily readable projection of the microfilm or other recording medium and easily readable hard copy thereof, (2) provide indexes permitting the immediate location of any such document on the microfilm or other recording medium, and (3) in the case of microfilm, store a duplicate copy of the microfilm separately from the original microfilm for the time required.

(c) For the purposes of this rule a plan filed with the Commission by a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board shall not become effective unless the Commission, having due regard for the public interest and for the protection of investors, declares the plan to be effective. The Commission in its

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[1] 15 U.S.C. 78q(a).

[2] Securities Exchange Act Release No. 16966 (July 8, 1980), 45 FR 47160 (July 14, 1980). The Commission subsequently extended the comment period until October 10, 1980. Securities Exchange Act Release No. 17074 (August 18, 1980), 45 FR 56822 (August 26, 1980). No comments were received on the proposed amendments.

[3] Of course, under Section 17(b) of the Act, representatives of the Commission have direct statutory authority to obtain copies of any records maintained by persons described in Section 17(a) in the course of periodic, special or other examinations.

[4] One year after Rules 17a–1 and 17a–6 were adopted by the Commission, Congress expanded the record keeping and production requirements of Section 17(a) to include, among others, registered clearing agencies and the MSRB as part of the Securities Acts Amendments of 1975, Pub. L. 94–29 (June 4, 1975).

[5] At this time the Commission also is correcting a textual error made in drafting the original rule which inadvertently omitted national securities associations from subparagraph (a) of Rule 17a–6.

[6] 15 U.S.C. 78w(a)(1).

declaration may limit the applications, reports, and documents as to which it shall apply, and may impose any other terms and conditions to the plan and to the period of its effectiveness which it deems necessary or appropriate in the public interest or for the protection of investors.

By the Commission.

George A. Fitzsimmons,
Secretary.

November 21, 1980.

[FR Doc. 80-37288 Filed 11-28-80; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

Issued November 24, 1980.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of December 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

Table I.—*Incremental Pricing Acquisition Cost Threshold Prices*

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental pricing threshold	$1.702	$1.738	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.786	1,799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.380	7.400	7.400	7.450	7.580

[FR Doc. 80-37286 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner [Federal Housing Administration]

24 CFR Parts 201, 203, 205, 207, 213, 221, 234, 235, 236, 241, 244

[Docket No. R-80-892]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the HUD/FHA maximum interest rates on insured loan programs. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been raised from 13.00 percent to 13.50 percent for level payment insured home mortgage programs (including operative builder home loan programs), and from 13.50 percent to 14.00 percent for graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been raised from 13.00 percent to 13.50 percent for permanent financing loans. The maximum interest rate for multifamily construction and for Title X land development loans is raised from 14.00 percent to 17.00 percent. The maximum finance charge on mobile home loans has been raised from 15.50 percent to 17.00, and the finance charges on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been raised from 15.00 percent to 16.50 percent. The maximum charge on property improvement loans has been raised from 15.50 percent to 17.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart A—Eligibility Requirements—Property Improvement Loans

1. Section 201.4(a) is revised to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 17.00 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

2. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exced 17.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

3. Section 201.1511(a), paragraph (1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* (1) 16.50 percent per annum.

* * * * *

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

4. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

5. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

6. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

7. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

8. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

9. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

Subpart C—Eligibility Requirements; Individual Properties Released From Project Mortgage

10. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

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PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

11. In § 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

12. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in mortgages involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Supart A—Eligibility Requirements

13. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

Supart C—Eligibility Requirements—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

14. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.50 percent per annum with respect to loans insured on or after November 24, 1980.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

15. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

16. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate will not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

17. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Projects

18. Section 235.540(a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

19. Section 236.15(a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

20. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, with respect to loans insured on or after November 24, 1980, which rate shall not exceed:

(a) 13.50 percent per annum with respect to permanent financing;

(b) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal then outstanding.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

21. Section 242.33(a) is amended to read as follows:

§ 242.33 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal then outstanding.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

22. Section 244.45(a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

(Sec. 3(a), 82 Stat. 113; (12 U.S.C. 1709–1); sec. 7 of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-37321 Filed 11-28-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Conditional Approval of the Permanent Program Submission from the State of Maryland Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On March 3, 1980, the State of Maryland submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Maryland program meets the requirements of SMCRA and the permanent program regulations, except for minor deficiencies discussed below under "Supplementary Information." Accordingly, the Secretary of the Interior has conditionally approved the Maryland program.

A new Part 920 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective December 1, 1980.

This conditional approval will terminate as specified in 30 CFR 920.11 unless the deficiencies identified below have been corrected in accord with 30 CFR 920.11, adopted below.

ADDRESSES: Copies of the Maryland program and the administrative record on the Maryland program, including the letter from the Maryland Department of Natural Resources (DNR) agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

Office of Surface Mining, Region I, 603 Morris Street, Charleston, West Virginia 25311, Telephone: (304) 344–2331.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4728.

Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401, Telephone: (301) 269–2261.

Copies of the full text of the proposed program with modifications are also available for inspection and copying during regular business hours at the OSM Region I Office and the central office of the state regulatory authority listed above, and at the following locations:

Office of Surface Mining, U.S. Department of the Interior, Morgantown Field Office, Federal Building, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–5821.

Maryland Department of Natural Resources, Energy Administration, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, South Building, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Introduction:

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into five major parts:

A. General Background on the Permanent Program

B. General Background on the State Program Approval Process

C. General Background on the Maryland Program

D. The Secretary's Findings, the Explanation of the Findings, and Disposition of Public Comments

E. The Secretary's Decision.

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining