

By the Commission.  
George A. Fitzsimmons,  
Secretary.

August 27, 1980.

[FR Doc. 80-27123 Filed 9-4-80; 8:45 am]

BILLING CODE 8010-01-M

## 17 CFR Part 249

[Release No. 34-17100]

### Registration of Municipal Securities Dealers

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final amendments to form.

**SUMMARY:** The Commission is amending Form MSD, the registration form used by municipal securities dealers which are banks or separately identifiable departments or divisions of banks. The amendments (1) conform a definition in Form MSD to a definition contained in a rule of the Municipal Securities Rulemaking Board, (2) allow, under certain circumstances, bank municipal securities dealers to substitute, for forms currently required to be filed with the Commission, forms containing similar information with respect to supervisory personnel currently filed with the bank regulatory agencies, and (3) make certain technical changes in Form MSD. Banks or separately identifiable departments or divisions of banks whose municipal securities dealer registration is either currently effective or pending will be required to update their registrations or applications on Form MSD if such registrations or applications do not already contain the new information required by the amendments.

**EFFECTIVE DATES:** With respect to registrants or applicants whose municipal securities dealer registration is either effective or pending on October 6, 1980, the effective date of the amendments is December 28, 1980. With respect to other applicants, the effective date of the adopted amendments is October 6, 1980.

**FOR FURTHER INFORMATION CONTACT:** Thomas G. Lovett, Esq., Office of Self-Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2411.

**SUPPLEMENTARY INFORMATION:** On July 17, 1978, the Securities and Exchange Commission published and solicited comments concerning three proposed substantive amendments and two proposed technical amendments to Form

MSD. The Commission has determined to adopt certain of the substantive amendments described below and the two technical amendments. The Commission, in a companion release, is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD.<sup>1</sup>

The first proposed substantive amendment would amend Form MSD's definition of the phrase "municipal securities dealer activities" in the instructions to Form MSD to conform to the definition of that term in rule G-1(b) of the Municipal Securities Rulemaking Board (the "MSRB").<sup>2</sup> As originally adopted, MSRB rule G-1 included four types of activities as "municipal securities dealer activities"; this list of activities was incorporated verbatim into Form MSD. After the Commission adopted Form MSD, the MSRB amended rule G-1 to expand the list of "municipal securities dealer activities" to include (1) financial advisory and consultant services in connection with the issuance of municipal securities and (2) activities which involve communication, directly or indirectly with public investors in municipal securities. As a result, the instructions in Form MSD do not conform to the MSRB's current definition of the term "municipal securities dealer activities." The amendment would replace the current list of activities enumerated in Form MSD with language referring to the definition of the term "municipal securities dealer activities," thus conforming the two definitions eliminating the need for future amendments to the same instructions in the event additional amendments to the term, as defined in MSRB rule G-1, become effective.

The second proposed amendment would permit certain persons named in response to item 5 of Form MSD, who are required to complete a separate Schedule A,<sup>3</sup> to substitute for that

<sup>1</sup>The Commission published and solicited comments concerning the proposed amendments in Securities Exchange Act Release No. 14971 (July 17, 1978) (43 FR 32309 (1978)). The Commission, in this release, is adopting two of the substantive amendments and the two technical amendments. In Securities Exchange Act Release No. 17101 (August 28, 1980), the Commission is withdrawing the proposed substantive amendment to the instruction to item 6 of Form MSD. See discussion beginning at fn. 5, *infra*.

<sup>2</sup>MSRB rule G-1 defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act (the "Act") (15 U.S.C. 78c(a)(30)).

<sup>3</sup>Each person directly engaged in the management, direction or supervision of any of the applicant's or registrant's municipal securities dealer activities, as enumerated in MSRB rule G-1(b), is required to be listed in response to item 5 and on Schedule A of Form MSD. Such persons include personnel responsible for the clearance and

schedule Form MSD-4.<sup>4</sup> In order to satisfy the requirements in MSRB rule G-7 with respect to information concerning associated persons, the federal bank regulatory agencies have uniformly adopted Form MSD-4, which every bank municipal securities dealer is required to submit to its appropriate regulatory agency on behalf of each municipal securities principal or municipal securities representative associated with such bank dealer. Applicants would still be required, however, to complete a Schedule A for any disciplined personnel named in response to item 7 of Form MSD even if such persons have also completed a Form MSD-4, since Schedule A solicits additional disciplinary information which is not available on Form MSD-4.

The third proposed substantive amendment would amend the instruction to item 6 of Form MSD. Item 6 solicits information concerning any person who "directly or indirectly control(s) any of the applicant's municipal securities dealer activities." The current instruction can be interpreted to exclude members of the board of directors of a bank dealer and of a parent bank holding company (if any) from the category of persons considered to control directly or indirectly an applicant bank's municipal securities dealer activities. The proposed amendment to the instruction to item 6 would explicitly require a bank municipal securities dealer, whether it applies for registration as a whole or as a separately identifiable department or division, to list on Schedule B all the members of the board of directors of the applicant, or of the bank of which it is a part, and of the parent bank holding company, if any.

The first proposed technical amendment to item 1 of Form MSD would facilitate the processing of registration forms filed by applicants which intend to succeed to and continue the business of another registered municipal securities dealer by requiring that such applicants check a box on the form indicating their successor status. The second proposed technical amendment would make a minor correction to item 10(c) of Form MSD to avoid an overlap with item 12(h) of the form. Under the proposed amendment, an applicant which is a department or

processing activities of the bank with respect to transactions in municipal securities.

<sup>4</sup>Form MSD-4 is an abbreviation for the form entitled "Uniform Application for a Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Dealer." The information required by Form MSD-4 is substantially identical to, or more detailed than, similar information required on Schedule A.

division of a bank, rather than a whole bank, would not be required to answer item 10(c) in addition to item 12(h), which requests identical information.

As stated above, the Commission has determined to adopt all of the proposed amendments, with the exception of the proposed amendment to the instruction to item 6.<sup>5</sup> The Commission believes that adoption of the proposed amendment to the instruction to item 6 is not necessary at this time in view of the public availability elsewhere of much of the information the proposed amendment is designed to elicit,<sup>6</sup> and the potentially duplicative paperwork burden that the requirement would impose on bank municipal securities dealers.<sup>7</sup> The proposed amendment, if adopted, would have required every member of the board of directors of the applicant or registrant, or of the bank of which it is a part, and of a parent bank holding company to (i) state on Schedule B his or her name, business address, and basis for control, (ii) respond to the list of questions in item 7, and (iii) update such information on a periodic basis.

Information with respect to persons associated with an applicant bank is important for the Commission to evaluate properly whether registration as a municipal securities dealer should be granted or denied in accordance with Section 15B(a)(2) of the Act (15 U.S.C.

780-4(a)(2)). Under that section, the Commission is directed to deny registration to an applicant if it finds that, if the applicant were already registered as a municipal securities dealer, its registration would be subject to revocation or suspension under Section 15B(c) of the Act (15 U.S.C. 780-4(c)).

Information relating to an applicant's associated persons is relevant in determining whether its registration would be subject to suspension or revocation. Section 15B(c)(2) (15 U.S.C. 780-4(c)(2)) empowers the Commission to suspend or revoke the registration of a municipal securities dealer which has committed or omitted any act or omission enumerated in Section 15(b)(4) (15 U.S.C. 780(b)(4)), including a violation of any provision of the Act or rules or regulations thereunder. A municipal securities dealer that permits a person subject to a disciplinary order entered pursuant to Section 15B(c) of the Act to become or remain an associated person violates Section 15B(c)(4) of the Act (15 U.S.C. 780-4(c)(4)), if the dealer knows or should have known of the order. Thus, by violating a provision of the Act, a municipal securities dealer would be subject, if already registered, to revocation or suspension pursuant to Section 15B(c)(2). Accordingly, it is evident that, pursuant to Section 15B(a)(2) of the Act, the Commission could deny an application for registration based on the applicant's relationship with certain persons associated with it, and it is important that information concerning those persons be furnished to the Commission.

Nevertheless, since item 7 of Form MSD currently asks for information with respect to enumerated disciplinary actions taken against any person who meets the definition of the term "person associated with a municipal securities dealer,"<sup>8</sup> the Commission will not at this time specifically require information on Schedule B concerning every member of the board of directors. Instead, applicants and registrants will continue to be required, in response to item 6, to make individual case-by-case decisions as to whether a director is in fact a controlling person.

In the case of those directors who are not viewed by applicants as within the definition of "person associated with a municipal securities dealer" and for whom information accordingly will not be furnished, the Commission notes that the federal bank regulatory agencies,

which have primary inspection and enforcement authority with respect to bank municipal securities dealers, are authorized to enforce compliance by those entities and associated persons with applicable provisions of the securities laws.<sup>9</sup> In exercising those responsibilities, the bank regulatory agencies can be expected to examine the control relationship of members of the board of directors of a bank, and of a parent bank holding company, with the bank or the department of the bank which engages in municipal securities dealer activities. Accordingly, the Commission believes that appropriate statutory safeguards exist to ensure that it has access to certain relevant information with respect to associated persons for whom information is not furnished on Form MSD.<sup>10</sup>

In withdrawing the proposed amendment to the instruction to item 6, the Commission, of course, reserves the right to reconsider the matter at a later date if information in Form MSD about all members of the boards of directors of a municipal securities dealer proves necessary to the registration process.

#### Discussion of Certain Aspects of Commission Authority With Respect to Bank Municipal Securities Dealers

As indicated above, the Commission, in withdrawing the proposed amendment to the instruction to item 6, has considered the commenters' concerns that the information which would be elicited by the proposed amendment is already publicly available to a large degree,<sup>11</sup> and that the proposed amendment would impose a duplicative paperwork burden without a corresponding benefit.<sup>12</sup> The commenters also argued that the proposed amendment was contrary to the legislative history of Section 3(a)(32) of the Act<sup>13</sup> which defines the term

<sup>5</sup>Section 15B(c)(5) of the Act (15 U.S.C. 780-4(c)(5)).

<sup>6</sup>For example, the appropriate bank regulatory agency, prior to the commencement of any proceeding against a person associated with a municipal securities dealer for a violation of applicable provisions of the securities laws, is required to notify the Commission of the identity of such person. Section 15B(c)(6)(A) of the Act (15 U.S.C. 780-4(c)(6)(A)). In addition, pursuant to Section 17(c) of the Act (15 U.S.C. 780q(c)) the appropriate bank agency is required to furnish the Commission, upon request, with a copy of any report of an examination of a municipal securities dealer.

<sup>7</sup>See fn. 6, *supra* for commenters.

<sup>8</sup>See fn. 7, *supra* for commenters.

<sup>9</sup>Section 3(a)(32) of the Act provides: The term "person associated with a municipal securities dealer" when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person directly engaged in the management, direction, supervision,

Footnotes continued on next page

<sup>5</sup>The Commission received 14 comment letters on the proposed amendments. The commenters generally favored their adoption, with the exception of the proposed amendment to the instruction to item 6.

<sup>6</sup>As indicated in the responses of the staff of the Board of Governors of the Federal Reserve System (the "Federal Reserve") and the Hartford National Bank and Trust Co. ("Hartford"), a publicly-held bank holding company may be subject to Section 12(g) of the Act (15 U.S.C. 78j(g)), thereby requiring Form 10-K to be filed with the Commission. Form 10-K requires a listing or diagram of all subsidiaries of the registrant, and the names of all directors of the registrant. A publicly-held bank is subject to substantially similar regulations issued by the appropriate bank regulatory agencies pursuant to Section 12(i) of the Act (15 U.S.C. 78j(i)) and accordingly must file similar information with those agencies. In addition, certain professional publications provide listings of the members of the boards of directors of banks. Responses of the American Bankers Association (the "ABA") (Sept. 8, 1978), the Association of Bank Holding Companies (the "Association") (Sept. 15, 1978), the Dealer Bank Association (the "DBA") (Aug. 31, 1978), Federal Reserve (Aug. 31, 1978), Hartford (Aug. 31, 1978), the Irving Trust Co. ("Irving") (Aug. 31, 1978), the Manufacturers Hanover Trust Co. ("Manufacturers") (Aug. 31, 1978), the Pacific National Bank of Washington ("Pacific") (Aug. 24, 1978), the Public Securities Association (Aug. 31, 1978), and Seattle Trust and Savings Bank ("Seattle") (Aug. 31, 1978); Securities and Exchange Commission File No. S7-746 ("File No. S7-746").

<sup>7</sup>Responses of the ABA, the Association, the DBA, Federal Reserve, Hartford, Irving, Manufacturers, Pacific, the Republic National Bank of Dallas ("Republic") (Sept. 14, 1978), and Seattle; File No. S7-746.

<sup>8</sup>The term "person associated with a municipal securities dealer" is defined in Section 3(a)(32) of the Act (15 U.S.C. 780(a)(32)). The text of that section is set forth in full *infra*, at fn. 13.

"person associated with a municipal securities dealer,"<sup>14</sup> and, as a further amplification on that concern, that the proposed amendment, contrary to case law and previous Commission positions, would establish an irrebuttable presumption concerning the existence of a control relationship, in contrast to a case-by-case approach.<sup>15</sup> The Commission believes, however, that the commenters have misconstrued the legislative history of Section 3(a)(32) in asserting that the Commission should not require information concerning members of the board of directors of a bank unless such persons are directly involved in the management of the municipal securities department. Accordingly, it is appropriate, at this time, to interpret that section, together with the term "separately identifiable department or division" used in Section 3(a)(30) of the Act,<sup>16</sup> in order to clarify the Commission's views concerning certain aspects of the regulatory scheme applicable to municipal securities dealers which are banks or separately identifiable departments or divisions of banks.

Some commenters, relying on the legislative history of the Securities Acts Amendments of 1975 (the "1975 Amendments"),<sup>17</sup> indicated that they believed the term "person associated

with a municipal securities dealer," as defined in Section 3(a)(32) of the Act, was intended to be limited to "[p]ersons involved in the management, direction or supervision of a bank's municipal securities activities."<sup>18</sup> Thus, absent personal intervention in the municipal securities activities of the bank's municipal securities department or division, a person would not be considered a "person associated with a municipal securities dealer,"<sup>19</sup> and, therefore, information concerning such person need not be supplied on Schedule B of Form MSD. The legislative history cited by the commenters, however, interprets only the specific language in Section 3(a)(32) referring to persons "directly engaged in the management, direction, supervision or performance of any of the municipal securities dealer's activities," and does not address the "directly or indirectly controlling" language which follows. The legislative history, therefore, does no more than clarify the intent behind the "directly engaged in" language of Section 3(a)(32). Accordingly, the commenters' reference to the legislative history of Section 3(a)(32) inappropriately focuses on only one aspect of that section. The Senate Report does not explain the application of the section with respect to persons "directly or indirectly controlling" a municipal securities dealer's activities, and should not be interpreted to limit the definition with respect to such controlling persons.

Furthermore, the Senate Report discussion of the activities of a bank president which would result in the president's being considered a "person associated with a municipal securities dealer" should be read in conjunction with the Commission's comment on draft Section 3(a)(32) in S. 2474, the "Municipal Securities Act of 1973." In order to clarify the application of the proposed section to bank officers, the Commission suggested that the adverb "directly" be substituted for "actively" in the phrase "any person \* \* \* engaged in" certain management-related

activities of a bank municipal securities dealer.<sup>20</sup> That drafting suggestion, which was subsequently adopted by the Congress, indicates the section is meant to apply broadly to *all* persons responsible, no matter how infrequently, for the activities of a bank municipal securities dealer.

Some commenters, in connection with a discussion of the scope of Commission regulation intended by the Congress for bank municipal securities dealers and their associated persons, relied on the provisions in the 1975 Amendments permitting a bank to register as a separately identifiable department or division ("SIDD") as evidence of Congressional intent to allow a bank to separate completely its municipal securities dealer activities from its other activities for purposes of registration and subsequent regulation. The term "separately identifiable department or division," as noted above, is defined in MSRB rule G-1 as "that unit of the bank which conducts all of the activities of the bank relating to the conduct of business as a municipal securities dealer \* \* \*." This definition serves to limit the scope of MSRB and Commission regulation so that certain requirements which more appropriately apply to a department or division of a bank are not imposed upon the entire bank.<sup>21</sup> MSRB rule G-1 further provides:

The fact that directors and senior officers of the bank may from time to time set broad policy guidelines affecting the bank as a whole and which are not directly related to the day-to-day conduct of the bank's municipal securities dealer activities, shall not disqualify the unit hereinbefore described as a separately identifiable department or division of the bank or require that such directors or officers be considered as part of such unit.<sup>22</sup>

Moreover, those directors and senior officers who merely set broad policy guidelines with respect to the activities

Footnotes continued from last page or performance of any of the municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling such activities or controlled by the municipal securities dealer in connection with such activities.

<sup>14</sup> Responses of the ABA, the DBA, the Federal Reserve, the MSRB (Sept. 21, 1978), and Republic; File No. S7-746.

<sup>15</sup> Responses of the Association, the Continental Illinois National Bank and Trust Co. ("Continental Bank") (Aug. 31, 1978), and Irving; File No. S7-746. Commenters should be aware of the distinction between actions of a director undertaken in an individual capacity and of actions undertaken as a member of a board of directors. As indicated in the text of this release *infra*, to the extent an individual director intervenes in the activities of the dealer department, the director would be a "person associated with a municipal securities dealer." In addition, however, as a group, the board of directors of a bank or of a bank holding company, except in a rare instance, at least indirectly controls the activities of the dealer department. Accordingly, the board as a whole would be "a person associated with a municipal securities dealer," as that term is defined in Section 3(a)(32) of the Act. *Cf.* rule 19g2-1 (17 CFR 240.19g2-1), adopted under Section 19(g) of the Act (15 U.S.C. 78s(g)), which establishes a rebuttable presumption that certain persons "control" a securities exchange or securities association member firm. Among the persons presumed to control are the directors of the firm.

<sup>16</sup> Section 3(a)(30) of the Act provides, in pertinent part: The term "municipal securities dealer" means any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise \* \* \*.

<sup>17</sup> Pub. L. 94-29 (June 4, 1975).

<sup>18</sup> Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Sess. 45 (1975). (Hereafter cited as the "Senate Report")

<sup>19</sup> The Senate Report on Section 3(a)(32) of the Act, *id.*, at 93, states:

[The term "person associated with a municipal securities dealer" \* \* \* is intended to be applied broadly to persons assuming any significant role in a dealer's activities. That is to say, in the event a bank president personally intervened in the municipal securities activities of his bank's municipal securities department or division, he would be regarded as a "person associated with a municipal securities dealer" and would be subject to all provisions of the Act governing or affecting persons with that status.

<sup>20</sup> The Commission stated: If the president of a bank is responsible for or has directed improper activities in connection with the operation of his bank's municipal securities department, he should be subject to those sanctions established for persons associated with a municipal securities dealer. Therefore, the Commission would \* \* \* eliminate the adverb "actively" \* \* \* and \* \* \* substitute therefor the word "directly," so that direct intervention in the activities of a bank municipal securities department by a bank officer, even on a single occasion, would provide an adequate basis for deeming such an officer to be a "person associated with" that department. *Hearings on S. 1933 and S. 2474 before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, 93rd Cong., 2nd Sess., 82 (1974).*

<sup>21</sup> For example, MSRB rule G-8 concerning recordkeeping applies only to transactions in municipal securities effected by the dealer department, if the bank is registered in that capacity.

<sup>22</sup> MSRB rule G-1(c).

of the municipal securities dealer department are not subject to the qualification requirements for municipal securities principals set forth in MSRB rule G-3.<sup>23</sup>

A bank may, therefore, register as a SIDD in order to limit the application of certain regulatory requirements to a department or division rather than the entire bank. Nevertheless, there is a distinction which should be drawn between persons who are considered a part of the dealer unit for purposes of MSRB rule G-1 and persons who are associated with that unit under Section 3(a)(32) of the Act.<sup>24</sup> An application for registration as a SIDD does not limit the Commission's statutory authority with respect to persons associated with the SIDD for purposes of determining whether registration should be granted or denied.

**Effective Dates of Amendments to Form MSD**

The amendments to Form MSD adopted in this release will require registrants, as well as applicants for registration, to make any necessary amendments to Form MSD in order to comply with the new requirements. The Commission recognizes that an appropriate period should be allowed for registrants and applicants to make such amendments. Therefore, with respect to municipal securities dealers whose registration is either effective or pending on October 6, 1980, the effective date of the amendments to Form MSD is December 28, 1980. This delayed effectiveness does not extend, however, to a registrant or applicant that, because the registration or pending application becomes inaccurate for other reasons during the intervening period, is required to amend its registration statement "promptly" in accordance with Securities Exchange Act Rule 15Ba2-1(b) (17 CFR 240.15Ba2-1(b)). With

<sup>23</sup> MSRB rule G-3(a)(1) defines a municipal securities principal, in the case of a bank dealer, as "a natural person associated with such bank dealer which is directly engaged in the management, direction or supervision of one or more municipal securities dealer activities \* \* \*." Unless an officer or director meets this definition he is not required to satisfy the qualification requirements of rule G-3.

<sup>24</sup> As discussed above, the term "person associated with a municipal securities dealer" is broadly defined to include not only persons directly engaged in the municipal securities dealer activities of the dealer department or division (who would be considered a part of such department or division), but also persons who directly or indirectly control such activities. As an example, the board of directors of a bank holding company owning a subsidiary engaged in municipal securities dealer activities would, as a whole, be considered a person associated with a municipal securities dealer.

respect to new applicants, the effective date of the proposed amendment is, in accordance with 5 U.S.C. 553(d), October 6, 1980.

Accordingly, Part 249 of Title 17 of the Code of Federal Regulations is amended by the Securities and Exchange Commission to revise the instructions to § 249.1100, as well as two items of § 249.1100, as follows:

**§ 249.1100 Form MSD, Application for registration as a municipal securities dealer pursuant to rule 15Ba2-1 under the Securities Exchange Act of 1934 or amendment to such application.**

*G. General Definitions*

d. Municipal securities dealer activities—The term "municipal securities dealer activities" has the meaning set forth in Municipal Securities Rulemaking Board rule G-1(b), which defines the term "separately identifiable department or division of a bank" for purposes of Section 3(a)(30) of the Securities Exchange Act of 1934.

*L. Instructions to Specific Items*

a. *Item 1(a)*.—If the applicant is not registered currently with the Commission and is not succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a new application" should be checked. If a registered municipal securities dealer is amending items on a currently effective Form MSD, the box marked "an amendment" should be checked. If the applicant is succeeding to and continuing the business of another registered municipal securities dealer, the box marked "a successor application" should be checked. If a bank registered as a municipal securities dealer determines it would prefer to register as a separately identifiable department or division, or the converse, it is necessary that (i) the applicant file a Form MSD, indicating in item 1 that it is a "successor application" and (ii) the currently registered entity file a Form MSDW to withdraw its registration. Pursuant to Securities Exchange Act Rule 15Ba2-4, 17 CFR 240.15Ba2-4, if a municipal securities dealer succeeds to and continues the business of another registered municipal securities dealer, the registration of the predecessor shall be deemed to remain effective as the registration of the successor for a period of 75 days after such succession: *Provided*, That a Form MSD is filed by such successor within 30 days after such succession.

c. *Item 5*.—This item calls for information concerning persons directly engaged in the supervision of any of the applicant's municipal securities dealer activities. A separate Schedule A or Form MSD-4 must be completed for each person named in response to item 5.

- 1. (a) This Form is filed with the Securities and Exchange Commission as:
  - A new application
  - An amendment
  - A successor application

- 10. (c) If applicant is a bank, \* \* \*
- By the Commission.

George A. Fitzsimmons,  
Secretary.

August 28, 1980.  
[FR Doc. 80-27291 Filed 9-4-80; 8:45 am]  
BILLING CODE 8010-01-M

**WATER RESOURCES COUNCIL**

**18 CFR Part 701**

**Council Organization; Interagency Liaison Committee Review of Agenda Packages**

**AGENCY:** Water Resources Council.

**ACTION:** Final rule.

**SUMMARY:** By Action Memorandum dated July 11, 1980, the Council staff requested that Council regulations be revised to allow additional time for Interagency Liaison Committee review of agenda packages. This change was adopted by the Council by unanimous approval on July 28, 1980.

**DATE:** Effective July 29, 1980.

**FOR FURTHER INFORMATION CONTACT:** Gerald D. Seinwill, Acting Director, Water Resources Council, 2120 L Street, NW., Suite 800, Washington, DC 20037 (202) 254-6303.

Accordingly, 18 CFR 701.54 paragraph (e) is revised as follows:

**§ 701.54 Interagency Liaison Committee.**

(e) Draft agenda items shall be submitted to ILC representatives at least 30 days prior to the Council meeting. The ILC shall meet at least 20 days prior to the Council meeting. Final Council agenda material shall be submitted to the Members at least 7 days prior to the Council meeting.

(Sec. 402, Pub. L. 89-80, 79 Stat. 254 (42 U.S.C. 1962d-1))

Dated: August 24, 1980.  
Gerald D. Seinwill,  
Acting Director.

[FR Doc. 80-27243 Filed 9-4-80; 8:45 am]  
BILLING CODE 8410-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 172

[Docket No. 80F-0096]

**Polysorbate 80; Food Additives Permitted for Direct Addition to Food for Human Consumption**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors. This action is based on a petition filed by General Foods Corp.

**DATES:** Effective September 5, 1980; objections by October 6, 1980.

**ADDRESS:** Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Carl L. Giannetta, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of April 18, 1980 (45 FR 26464), the Food and Drug Administration (FDA) announced that a petition (FAP 7A3309) had been filed by General Foods Corp., Technical Center, 250 North St., White Plains, NY 10625, proposing that the food additive regulations (21 CFR Part 172) be amended to provide for the safe use of polysorbate 80 as a surfactant and wetting agent for natural and artificial colors, intended for use in barbecue sauce.

FDA has evaluated data in the petition and other relevant material and concludes that the food additive regulation, § 172.840 *Polysorbate 80* (21 CFR 172.840), should be amended as requested in the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.840 by adding a new paragraph (c)(14) to read as follows:

## § 172.840 Polysorbate 80.

\* \* \* \* \*

(c) \* \* \*

(14) As a surfactant and wetting agent for natural and artificial colors for use in barbecue sauce where the level of the

additive does not exceed 0.005 percent by weight of the barbecue sauce.

\* \* \* \* \*

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 6, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation.

Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

**EFFECTIVE DATE:** This regulation shall become effective September 5, 1980.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-26796 Filed 9-5-80; 8:45 am]

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## 21 CFR Part 172

[Docket No. 78F-0433]

**Bakers Yeast Glycan; Food Additives Permitted for Direct Addition to Food for Human Consumption**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration amends the food additive regulations to provide for the safe use of bakers yeast glycan in certain additional food products. Anheuser-Busch, Inc., petitioned for the amendment.

**DATE:** Effective September 5, 1980; objections by October 6, 1980.

**ADDRESS:** Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In notice published in the Federal Register of February 23, 1979 (44 FR 10789), the Food and Drug Administration (FDA) announced that a food additive petition (FAP 6A3188) had been filed by Anheuser-Busch, Inc., St. Louis, MO 63118, which proposed that the food additive regulations be amended to provide for the safe use of bakers yeast glycan in certain additional food products.

Following the evaluation of data in the petition and other relevant material, the FDA has concluded that § 172.898 *Bakers yeast glycan* (21 CFR 172.898) should be amended to provide for the use of bakers yeast glycan as a stabilizer, thickener and texturizer in frozen dessert analogs, sour cream analogs, cheese spread analogs, and cheese-flavored and sour cream-flavored snack dips.

For the purpose of clarification, the agency further concludes that an editorial change should be made in § 172.898 to indicate specifically that the additive is to be used in the prescribed foods only when standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) do not preclude such use.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that document may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic (secs. 201(s) and 409 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 172 is amended in § 172.898 by revising paragraph (d) to read as follows: