

14 CFR Part 71

[Airspace Docket No. 80-NE-39]

Description of the Concord, New Hampshire 700-Foot Transition Area Amended and the Laconia, New Hampshire 700-Foot Transition Area Deleted**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final Rule.**SUMMARY:** This amendment changes the Concord, New Hampshire, 700-foot transition area so as to provide additional airspace for radar vectoring in the terminal area.**EFFECTIVE DATE:** June 11, 1981.**FOR FURTHER INFORMATION CONTACT:** Charles Taylor, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rulemaking was published in the Federal Register [46 FR 12003, 12004, February 12, 1981] stating that the FAA proposed to amend the description of the Concord, New Hampshire 700-Foot Transition Area so as to provide additional airspace for radar vectoring in the terminal area.

This additional airspace, approximately four hundred (400) square miles, encompasses the Laconia, New Hampshire, 700-Foot Transition Area, therefore, the Laconia 700-Foot Transition Area will be deleted in its entirety.

Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations [14 CFR Part 71] as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the entire description of the Concord, New Hampshire 700-Foot Transition Area and substitute in lieu thereof:

That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°23'00" N., 71°11'50" W. to 43°09'00" N., 71°11'50" W. to 43°03'00" N., 71°05'00" W. to 42°50'00" N., 71°05'00" W. to 42°38'00" N., 71°20'00" W. to 42°40'00" N., 71°35'00" N., 42°43'00" N., 71°36'00" W. to 42°45'00" N., 71°38'25" W. to 42°54'30" N., 72°00'00" W. to 43°41'00" N., 72°00'00" W. to

43°41'00" N., 71°26'00" W. to 43°38'00" N., 71°14'00" W. to 43°34'00" N., 71°14'00" W. to 43°23'00" N., 71°06'00" W. to point of beginning, excluding that portion within the Lebanon, New Hampshire; Keene, New Hampshire; and Boston, Massachusetts, transition areas.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Laconia, New Hampshire, 700-Foot Transition Area in its entirety.

It has been determined under the criteria of the Regulatory Flexibility Act that this proposed Rule, at promulgation, will not have significant impact on a substantial number of small entities.

(Sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a) and 1354(c); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on April 29, 1981.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 81-14043 Filed 5-8-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ANW-24]

Alteration of Eugene, Oregon, Transition Area**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.**SUMMARY:** This action provides for controlled airspace for aircraft to operate on direct routes or on radar vectors throughout west central Oregon at altitudes lower than the existing floor of controlled airspace.**EFFECTIVE DATE:** July 9, 1981.**FOR FURTHER INFORMATION CONTACT:** Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2810.**SUPPLEMENTARY INFORMATION:****History**

On February 17, 1981, a Notice of Proposed Rulemaking was published in the Federal Register (46 FR 12500) stating that the Federal Aviation Administration proposed to alter transition areas at Eugene, Salem, and Corvallis, Oregon. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901 GMT, July 9, 1981, as follows:

Eugene, Oregon

1. Delete entire description and substitute "That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at latitude 45°10'00" N, longitude 122°30'00" W, thence south to latitude 44°30'00" N, longitude 122°30'00" W, south to latitude 44°06'00" N, longitude 122°31'30" W, thence clockwise via the Eugene, Oregon, VOR 34.5 mile arc to latitude 44°16'00" N, longitude 123°53'30" W, thence north to latitude 45°10'00" N, longitude 123°30'00" W, direct to point of beginning."

Salem, Oregon

2. Delete entire description.

Corvallis, Oregon

3. Delete entire description.

(Sec. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c), and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current and promote flight safety. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, April 30, 1981.

Jonathan Howe,
Acting Director, Northwest Region.

[FR Doc. 81-14041 Filed 5-8-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 80-ASO-74]

Amendment to Restricted Area, Fort Stewart, Ga.

Correction

In FR Doc. 81-12010 appearing at page 23046 in the issue of Thursday, April 23, 1981, make the following changes:

1. On page 23046, third column, under "Part 73—SPECIAL USE AIRSPACE", in the amendatory paragraph "20" "R-3005C" should be corrected to read "R-3005A".

2. On page 23046, third column, under "Part 73—SPECIAL USE AIRSPACE", in the land description following amendatory paragraph "3.", in the 11th line, reading "thence south along Georgia Highway 144" should be corrected to read "thence southwest along Georgia Highway 144".

3. On page 23047, first column, in the 17th line, in the land description, "R-300D Fort Stewart, Ga." should be corrected to read "R-3005D Fort Stewart, Ga."

BILLING CODE: 1505-01-M

14 CFR Part 95

[Docket No. 21713; Amdt. No. 95-298]

IFR Altitudes; Miscellaneous Amendments.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the

required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: June 11, 1981.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information

to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT, June 11, 1981.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on May 5, 1981.

John S. Kern,

Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.1001 DIRECT ROUTES - U.S.

is amended to delete:

FROM	TO	MEA
Acins INT, Calif.	Deway INT, Calif.	9500
		MAA-17500
Deway INT, Calif.	Palm Springs, Calif. VORTAC	9500
		MAA-17500
Falso INT, Ala.	Rocket, Ala. VOR	*3000
*2500 - MOCA		
Hobbi INT, Ala.	Rocket, Ala. VOR	*3000
*2600 - MOCA		
Paradise, Calif. VORTAC	Acins INT, Calif.	7000E
		5000W
		MAA-17500

§95.1001 DIRECT ROUTES-U.S.

is amended to read:

FROM	TO	MEA
Rocket, AL VOR	Rome, GA VOR	6000

§95.1001 DIRECT ROUTES-U.S.

is added to read:

FROM	TO	MEA
Indee INT, BH	Penca INT, BH	*2000
*1200-MOCA		
Penca INT, BH	Grand Turk, BH NDB	*2000
1300-MOCA		

§95.1001 DIRECT ROUTES-U.S.

is added to read:

FROM	TO	MEA
	Atlantic Routes	
A 699		
Jesse INT, BH	Nuca INT, FL	24000
		MAA-45000
Nuca INT, FL	Blufi INT, FL	24000
		MAA-45000

§95.6008 VOR FEDERAL AIRWAY 8

is amended to read in part:

FROM	TO	MEA
Morman Mesa, NV VOR	Hunch INT, UT	
	E-bound	12000
	W-bound	9000
Hunch INT, UT	Bryce Canyon, UT VOR	12000

§95.6013 VOR FEDERAL AIRWAY 13

is amended to read in part:

FROM	TO	MEA
Texarkana, AR VOR	*Pandy INT, AR	**2300
*5000-MRA		
**1700-MOCA		

§95.6016 VOR FEDERAL AIRWAY 16

is amended to read in part:

FROM	TO	MEA
Los Angeles, CA VOR	Prado INT, CA	4000

§95.6016 VOR FEDERAL AIRWAY 16

is amended to read in part:

FROM	TO	MEA
Quitman, TX VOR	Reder INT, TX	2300
Reder INT, TX	Texarkana, AR VOR	*2300
*1700-MOCA		

§95.6020 VOR FEDERAL AIRWAY 20

is amended to read in part:

FROM	TO	MEA
Palze INT, SC	Spartanburg, SC VOR	2900

§95.6025 VOR FEDERAL AIRWAY 25

is amended to read in part:

FROM	TO	MEA
Laped INT, CA	*Greny INT, CA	9000
*5500-MCA Greny INT, S-bound		

§95.6028 VOR FEDERAL AIRWAY 28

is amended to read in part:

FROM	TO	MEA
Altam INT, CA	Haire INT, CA	4500

§95.6029 VOR FEDERAL AIRWAY 29

is amended to read in part:

FROM	TO	MEA
Salisbury, MD VOR	Fatima, DE VOR	1800
Fatima, DE VOR	Modena, PA VOR	2000

§95.6032 VOR FEDERAL AIRWAY 32

is amended to read in part:

FROM	TO	MEA
Elko, NV VOR	*Wells, NV VOR	
Via N alter	Via N alter	13000
*11800-MCA Wells VOR, SW-bound		

§95.6047 VOR FEDERAL AIRWAY 47

is amended to read in part:

FROM	TO	MEA
Sacko INT, IN	Heals INT, IN	*3500
*2300-MOCA		
Heals INT, IN	Nabb, IN VOR	*3000
*2300-MOCA		

§95.6054 VOR FEDERAL AIRWAY 54

is amended to read in part:

FROM	TO	MEA
Quitman, TX VOR	Reder INT, TX	2300
Reder INT, TX	Texarkana, AR VOR	*2300
*1700-MOCA		

§95.6064 VOR FEDERAL AIRWAY 64

is amended to read in part:

FROM	TO	MEA
Thermal, CA VOR	Blythe, CA VOR	7000

§95.6066 VOR FEDERAL AIRWAY 66

is amended to read in part:

FROM	TO	MEA
Sulphur Springs, TX VOR	Reder INT, TX	
Via S alter	Via S alter	2300
Reder INT, TX	Texarkana, AR VOR	
Via S alter	Via S alter	*2300
*1700-MOCA		

§95.6077 VOR FEDERAL AIRWAY 77

is amended to delete:

FROM	TO	MEA
Oklahoma City, Okla. VOR	Pioneer Okla. VOR	
Via E alter	Via E alter	3000

§95.6107 VOR FEDERAL AIRWAY 107

is amended to read in part:

FROM	TO	MEA
Imley INT, CA	Oakland, CA VOR	
	SE-bound	7000
	NW-bound	4500

§95.6143 VOR FEDERAL AIRWAY 143

is amended to read in part:

FROM	TO	MEA
Pottstown, PA VOR	Yardley, PA VOR	5000

§95.6157 VOR FEDERAL AIRWAY 157

is amended to read in part:

FROM	TO	MEA
Kenton, DE VOR	Fatima, DE VOR	1800
Fatima, DE VOR	Robinsville, NJ VOR	2000

§95.6166 VOR FEDERAL AIRWAY 166

is amended to read in part:

FROM	TO	MEA
Belay INT, MD	Fatima, DE VOR	2000
Fatima, DE VOR	Woodstown, NJ VOR	1800
Woodstown, NJ VOR	Brief INT, NJ	1900
Brief INT, NJ	Sea Isle, NJ VOR	1800

§95.6170 VOR FEDERAL AIRWAY 170

is amended to read in part:

FROM	TO	MEA
Modena, PA VOR	Kerno INT, MD	2000

§95.6210 VOR FEDERAL AIRWAY 210

is amended to read in part:

FROM	TO	MEA
Peach Springs, AZ VOR	Grand Canyon, AZ VOR	10000

§95.6259 VOR FEDERAL AIRWAY 259

is amended to read in part:

FROM	TO	MEA
Grand Strand, SC VOR	*Kooke INT, SC	2000
*3000-MRA		
Kooke INT, SC	Florence, SC VOR	2000

§95.6278 VOR FEDERAL AIRWAY 278

is amended to read in part:

FROM	TO	MEA
Texarkana, AR VOR	Weebr INT, AR	*2200
*1700-MOCA		
Weebr INT, AR	Warlo INT, AR	2200

§95.6289 VOR FEDERAL AIRWAY 289

is amended to read in part:

FROM	TO	MEA
Texarkana, AR VOR	*Provo INT, AR	**2500
*5000-MRA		
*1700-MOCA		

§95.6291 VOR FEDERAL AIRWAY 291

is amended to read in part:

FROM	TO	MEA
Winslow, AZ VOR	*Frisy INT, AZ	
Via N alter.	Via N alter.	9000
*10500-MCA Frisy INT, W-bound		

§95.6301 VOR FEDERAL AIRWAY 301

is amended to read in part:

FROM	TO	MEA
*Kloge INT, CA	Williams, CA VOR	7000
*6000-MCA Kluge INT, NE-Bound		

§95.6309 VOR FEDERAL AIRWAY 309

is amended to read in part:

FROM	TO	MEA
Charleston, WV VOR	Rande INT, WV	5000
Rande INT, WV	Burgs INT, WV	7000

§95.6354 VOR FEDERAL AIRWAY 354

is amended by adding:

FROM	TO	MEA
Oklahoma City, OK VOR	Trump INT, OK	3800
Trump INT, OK	Pioneer, OK	3000

§95.6388 VOR FEDERAL AIRWAY 388

is added to read:

FROM	TO	MEA
Paradise, CA VOR	Acins INT, CA	
	E-bound	7000
	W-bound	5000
Acins INT, CA	*Palm Springs, CA VOR	9500
*6300-MCA Palm Springs, VOR W-bound		

§95.6433 VOR FEDERAL AIRWAY 433

is amended to read in part:

FROM	TO	MEA
Swann INT, MD	Kerno INT, MD	2500
Kerno INT, MD	Fatima, DE VOR	2000
Fatima, DE VOR	Yardley, PA VOR	2400
Fatima, DE VOR	Mulla INT, NJ	
Via E alter.	Via E alter	2000
Mulla INT, NJ	Yardley, PA VOR	
Via E alter.	Via E alter.	2500

§95.6485 VOR FEDERAL AIRWAY 485

is amended to read in part:

FROM	TO	MEA
Hener INT, CA	Fellows, CA VOR	9000

§95.6405 HAWAII VOR FEDERAL AIRWAY 5

is amended to read in part:

FROM	TO	MEA
Maana INT, HI	*Rowin INT, HI	
Via W alter.	Via Walter	**4000
*5500-MCA Rowin INT N-bound		
**1200-MOCA		
Rowin INT, HI	Maken INT, HI	
Via W alter.	Via W alter	*7000
**6100-MOCA		

§95.6409 HAWAII VOR FEDERAL AIRWAY 9

is amended to read in part:

FROM	TO	MEA
Makai INT, HI	Soldo INT, HI	*2000
*1200-MOCA		
Soldo INT, HI	Honolulu, HI VOR	
	N-bound	4000
	S-bound	2000

§95.6416 HAWAII VOR FEDERAL AIRWAY 16

is amended to read in part:

FROM	TO	MEA
Honolulu, HI VOR	Soldo INT, HI	
	N-bound	4000
	S-bound	2000
Soldo INT, HI	Makai INT, HI	2000
*1200-MOCA		

§95.7005 is amended to delete:

FROM	TO	MEA	
Seal Beach, Calif. VORTAC	Porterville, Calif. VORTAC	18000	45000
Porterville, Calif. VORTAC	Reno, Nev. VORTAC	18000	45000

§95.7005 JET ROUTE NO. 5 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, CA VORTAC	Bakersfield, CA VORTAC	18000	45000
Bakersfield, CA VORTAC	Reno, NV VORTAC	18000	45000

MEA established with gap in navigation.

§95.7010 JET ROUTE NO. 10 is amended by adding:

FROM	TO	MEA	MAA
Gunnison, CO VORTAC	Shrew INT, CO	18000	45000
Shrew INT, CO	Byson INT, CO	18000	45000
Byson INT, CO	Denver, CO VORTAC	18000	45000
Denver, CO VORTAC	North Platte, NE VORTAC	18000	45000

§95.7040 JET ROUTE NO. 40 is amended to read in part:

FROM	TO	MEA	MAA
Richmond, VA VORTAC	INT Gordonsville VORTAC	18000	45000
	065M rad & Fatima VORTAC		
	233M rad		
INT Gordonsville VORTAC	Fatima, DE VORTAC	18000	45000
065M rad & Fatima VORTAC			
233M rad			

§95.7044 JET ROUTE NO. 44 is added to read:

FROM	TO	MEA	MAA
Shrew INT, CO	Byson INT, CO	18000	45000
Byson INT, CO	Denver, CO VORTAC	18000	45000

§95.7130 JET ROUTE NO. 130 is amended by adding:

FROM	TO	MEA	MAA
Castel INT, CO	Shrew INT, CO	18000	45000
Shrew INT, CO	Byson INT, CO	18000	45000
Byson INT, CO	Denver, CO VORTAC	18000	45000

§95.7189 JET ROUTE NO. 189 is amended to delete:

FROM	TO	MEA	MAA
Int 129 M rad Avenal, Calif.	Fresno, Calif. VORTAC	18000	45000
VORTAC & 158 M rad			
Fresno, Calif. VORTAC	Linden, Calif. VORTAC	18000	45000

§95.7189 JET ROUTE NO. 189 is amended by adding:

FROM	TO	MEA	MAA
Avenal, CA VORTAC	Linden, CA VORTAC	18000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-5 is added to read: Cincinnati, OH VORTAC	Appleton, OH VORTAC	64	Cincinnati
V-14 is added to read: Muncie, IN VOR	Findlay, OH VORTAC	44	Muncie
V-31 is amended to delete: Rochester, NY VOR	Elmira, NY VOR	30	Rochester
V-34 is amended to delete: Rochester, N.Y. VOR	Ithaca, N.Y. VOR	30	Rochester
V-104 is amended to read in part: Berlin, NH VOR	Bangor, ME VOR	25	Berlin
V-317 is added to read: Poggi, CA VOR	Imperial, CA	25	Poggi

[FR Doc. 81-14040 Filed 5-6-81; 8:45 am]

BILLING CODE 4910-13-C

FEDERAL TRADE COMMISSION

16 CFR Part 5

Standards of Conduct

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting rules to govern disciplinary actions concerning postemployment conflicts of interest. These regulations, which have been approved by the Office of Government Ethics, establish procedures for determining alleged violations of 18 U.S.C. 207 (a), (b), and (c). They establish a procedure whereby the Commission's General Counsel may conduct an investigation of the allegedly improper conduct which may culminate in the Commission issuing an order to show cause and ordering a trial-type hearing to determine whether disciplinary action is warranted.

EFFECTIVE DATE: May 11, 1981.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3520.

SUPPLEMENTARY INFORMATION: These rules provide a mechanism for Commission discipline for violations of the postemployment conflict of interest standards of the Ethics in Government Act. At the direction of the Commission, its General Counsel will conduct a nonpublic investigation to determine whether further Commission action is appropriate. If the Commission determines that reasonable cause exists to believe that a former employee violated 18 U.S.C. 207, the Commission may issue an order requiring the former employee to show cause why disciplinary sanctions should not be imposed. The former employee would then have the right to be heard at a trial-type hearing conducted by an Administrative Law Judge in accordance with the Commission's adjudicative procedures. At the close of the hearing, the ALJ would issue an initial decision which could then be appealed to the Commission. The sanctions that may be imposed include reprimand, suspension from practice before the Commission, or prohibiting the former employee from communicating with the Commission with the intent to influence it for a period not to exceed five years.

Accordingly, the Commission amends its rules of practice by adding Subpart E to Part 5 to read as follows:

Subpart E—Disciplinary Actions Concerning Postemployment Conflict of Interest

Sec.

- 5.51 Scope and applicability.
- 5.52 Nonpublic proceedings.
- 5.53 Initiation of investigation.
- 5.54 Referral to the Office of Government Ethics and to the Department of Justice.
- 5.55 Conduct of investigation.
- 5.56 Disposition.
- 5.57 Order to show cause.
- 5.58 Answer and request for a hearing.
- 5.59 Presiding official.
- 5.60 Scheduling of hearing.
- 5.61 Perhearing procedures; motions; interlocutory appeals; summary decision; discovery; compulsory process.
- 5.62 Hearing rights of respondent.
- 5.63 Evidence; transcript; in camera orders; proposed findings of fact and conclusions of law.
- 5.64 Initial decision.
- 5.65 Review of initial decision.
- 5.66 Commission decision and reconsideration.
- 5.67 Sanctions.
- 5.68 Judicial review.

Authority: 15 U.S.C. 41 et seq.

Subpart E—Disciplinary Actions Concerning Postemployment Conflict of Interest

§ 5.51 Scope and applicability.

These regulations establish procedures for investigating and determining alleged violations of 18 U.S.C. 207 (a), (b) and (c) (Postemployment restrictions applicable to federal employees) or regulations issued by the Office of Personnel Management set forth in 5 CFR Part 737, reflecting the joint views of the Office of Government Ethics and the Department of Justice as to the requirements of 18 U.S.C. 207.

§ 5.52 Nonpublic proceedings.

Any investigation or proceedings held under this Part shall be nonpublic unless the respondent specifically requests otherwise, except to the extent required by the Freedom of Information Act (5 U.S.C. 552) or by the Sunshine Act (5 U.S.C. 552b). However, the presiding official's initial decision and any final decision of the Commission shall be placed on the public record, except that information may be designated *in camera* in accordance with § 3.45 of the Commission's Rules of Practice.

§ 5.53 Initiation of investigation.

(a) Investigations under this Part may be initiated upon the submission by any person of a written statement to the Secretary setting forth sufficient information to indicate a possible violation of 18 U.S.C. 207 or by the Commission on its own initiative when

a possible violation is indicated by information within the Commission's possession.

(b) At the direction of the Commission, the General Counsel shall investigate any alleged violation of 18 U.S.C. 207.

§ 5.54 Referral to the Office of Government Ethics and to the Department of Justice.

(a) The General Counsel shall make a preliminary determination of whether the matter appears frivolous and, if not, shall expeditiously transmit any available information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice.

(b) Unless the Department of Justice communicates to the Commission that it does not intend to initiate criminal prosecution, the General Counsel shall coordinate any investigation or proceeding under this Part with the Department of Justice in order to avoid prejudicing criminal proceedings.

§ 5.55 Conduct of investigation.

(a) The General Counsel may (1) exercise the authority granted in § 2.5 of the Commission's Rules of Practice to administer oaths and affirmations; and (2) conduct investigational hearings pursuant to Part 2 of these rules. He may also recommend that the Commission issue compulsory process in connection with an investigation under this section.

(b) Witnesses in investigations shall have the rights set forth in § 2.9 of the Commission's Rules of Practice.

§ 5.56 Disposition.

(a) Upon the conclusion of an investigation under this Part, the General Counsel shall forward to the Commission a summary of the facts disclosed by the investigation along with a recommendation as to whether the Commission should issue an order to show cause pursuant to § 5.57.

(b) When the former government employee involved is an attorney, the General Counsel shall also recommend whether the matter should be referred to the disciplinary committee of the bar(s) of which the attorney is a member.

§ 5.57 Order to show cause.

(a) Upon a Commission determination that there exists reasonable cause to believe a former government employee has violated 18 U.S.C. 207, the Commission may issue an order requiring the former employee to show cause why sanctions should not be imposed.

(b) The show cause order shall contain (1) the statutory provisions

alleged to have been violated and a clear and concise description of the acts of the former employee that are alleged to constitute the violation; (2) notice of the respondent's right to submit an answer and request a hearing, and the time and manner in which the request is to be made; and (3) a statement of the sanctions that may be imposed pursuant to § 5.67 of this Part.

(c) Subsequent to the issuance of an order to show cause, any communications to or from the Commission or any member of the Commission shall be governed by the *ex parte* provisions of § 4.7 of the Commission's Rules of Practice. 18 CFR 4.7.

§ 5.58 Answer and request for a hearing.

(a) An answer and request for a hearing must be filed with the Secretary of the Commission within thirty (30) days after service of the order to show cause.

(b) In the absence of good cause shown, failure to file an answer and request for a hearing within the specified time limit (1) will be deemed a waiver of the respondent's right to contest the allegations of the show cause order or request a hearing and (2) shall authorize the Commission to find the facts to be as alleged in the show cause order and enter a final decision providing for the imposition of such sanctions specified in § 5.67 as the Commission deems appropriate.

(c) An answer shall contain (1) a concise statement of the facts or law constituting each ground of defense and (2) specific admission, denial, or explanation of each fact alleged in the show cause order or, if the respondent is without knowledge thereof, a statement to that effect. Any allegations of a complaint not answered in this manner will be deemed admitted.

(d) Hearings shall be deemed waived as to any facts in the show cause order that are specifically admitted or deemed to be admitted as a result of respondent's failure to deny them. Those portions of respondent's answer, together with the show cause order, will provide a record basis for initial decision by the Administrative Law Judge or for final decision by the Commission.

(e) If all material factual allegations of the show cause order are specifically admitted or have been deemed admitted in accordance with paragraph (c) of this Section, the Commission will decide the matter on the basis of the allegations set forth in the show cause order and respondent's answer.

§ 5.59 Presiding official.

(a) Upon the receipt of an answer and request for a hearing, the Secretary shall refer the matter to the Chief Administrative Law Judge, who shall appoint an Administrative Law Judge to preside over the hearing and shall notify the respondent and the General Counsel as to the person selected.

(b) The powers and duties of the presiding official shall be as set forth in § 3.42(b)-(h) of the Commission's Rules of Practice.

§ 5.60 Scheduling of hearing.

The presiding official shall fix the date, time and place of the hearing. The hearing shall not be scheduled earlier than fifteen days after receipt of the respondent's answer and request for a hearing. In fixing the time, date and place of the hearing, the presiding official shall give due regard to the respondent's need for adequate time to prepare a defense and an expeditious resolution of allegations that may be damaging to his or her reputation.

§ 5.61 Prehearing procedures; motions; interlocutory appeals; summary decision; discovery; compulsory process.

Because of the nature of the issues involved in proceedings under this Part, the Commission anticipates that extensive motions, prehearing proceedings and discovery will not be required in most cases. For this reason, detailed procedures will not be established under this Part. However, to the extent deemed warranted by the presiding official, prehearing conferences, motions, interlocutory appeals, summary decisions, discovery and compulsory process shall be permitted and shall be governed, where appropriate, by the provisions set forth in Subparts C and D, Part 3, of the Commission's Rules of Practice.

§ 5.62 Hearing rights of respondent.

In any hearing under this subpart, the respondent shall have the right (a) to be represented by counsel; (b) to present and cross-examine witnesses and submit evidence; (c) to present objections, motions, and arguments, oral or written; and (d) to obtain a transcript of the proceedings on request.

§ 5.63 Evidence; transcript; in camera orders; proposed findings of fact and conclusions of law.

Sections 3.43, 3.44, 3.45, and 3.46 of the Commission's Rules of Practice shall govern, respectively, the receipt and objections to admissibility of evidence, the transcript of the hearing, *in camera* orders and the submission and consideration of proposed findings of fact and conclusions of law except that

(a) a copy of the hearing transcript shall be provided the respondent; and (b) the Commission has the burden of establishing, by a preponderance of the evidence on the record as a whole, the allegations stated in the order to show cause.

§ 5.64 Initial decision.

Section 3.51 of the Commission's Rules of Practice shall govern the initial decision in proceedings under this subpart, except that the determination of the Administrative Law Judge must be supported by a preponderance of the evidence.

§ 5.65 Review of initial decision.

Appeals from the initial decision of the Administrative Law Judge or review by the Commission in the absence of an appeal shall be governed by §§ 3.52 and 3.53 of the Commission's Rules of Practice except that oral arguments shall be nonpublic subject to the exceptions stated in § 3.52 of this Part.

§ 5.66 Commission decision and reconsideration.

The Commission's decision and any reconsideration or reopening of the proceeding shall be governed by §§ 2.51, 3.54, 3.55, 3.71 and 3.72 of the Commission's Rules of Practice, except that (a) if the initial decision is modified or reversed, the Commission shall specify such findings of fact and conclusions of law as are different from those of the presiding official; and (b) references therein to "court of appeals" shall be deemed for purposes of proceedings under this Part to refer to "district court."

§ 5.67 Sanctions.

In the case of any respondent who fails to request a hearing after receiving adequate notice of the allegations pursuant to § 5.57 or who is found in the Commission's final decision to have violated 18 U.S.C. 207 (a), (b), or (c), the Commission may order such disciplinary action as it deems warranted, including: (a) reprimand; (b) suspension from participating in a particular matter or matters before the Commission; or (c) prohibiting the respondent from making, with the intent to influence, any formal or informal appearance before, or any oral or written communication to, the Commission or its staff on any matter or business on behalf of any other person (except the United States) for a period not to exceed five (5) years.

§ 5.68 Judicial review.

A respondent against whom the Commission has issued an order imposing disciplinary action under this

Part may seek judicial review of the Commission's determination in an appropriate United States District Court by filing a petition for such review within sixty (60) days of receipt of notice of the Commission's final decision.

By direction of the Commission.

Carol M. Thomas,
Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Part 5

Raising the Level of Rulemaking Authority of the Food and Drug Administration in Matters Involving Significant Public Policy; Response to Executive Order 12291

AGENCY: Office of the Secretary, HHS.

ACTION: Rule (Notice of Reservation of Authority).

SUMMARY: The President's Executive Order on Federal Regulation, Executive Order 12291, requires each Federal agency to minimize regulatory burdens on the public. This notice, raising the level of the rulemaking authority of the Food and Drug Administration in matters involving significant public policy to the Secretary, is part of HHS' response to that Executive Order.

EFFECTIVE DATE: May 6, 1981.

FOR FURTHER INFORMATION CONTACT: Robert Brady, Executive Assistant to the Commissioner, Office of the Commissioner (HF-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4124.

SUPPLEMENTARY INFORMATION:

Overview and Purpose

On February 17, 1981, President Reagan issued Executive Order 12291. The Executive Order establishes a government-wide framework for carrying out the President's policy of providing regulatory relief to the public. HHS is fully committed to this objective and will soon be establishing a number of Department-wide policies to assure its successful implementation.

Among the actions HHS will take are revisions to the Department's regulations development processes to assure consistency with the objectives of the President's regulatory relief program in all of the Department's regulatory actions. Included in the revisions will be steps to maximize

coordination and consultation with the President's Task Force on Regulatory Relief and the Director of the Office of Management and Budget, as required by the Executive Order.

Under the terms of the Order, all regulations, except several categories specifically exempted, must be reviewed by the Director of the Office of Management and Budget, subject to the direction of the President's Task Force on Regulatory Relief, chaired by the Vice President, and composed of a number of Cabinet members.

Under existing practice, all regulations issued by operating components of HHS, with the exception of the Food and Drug Administration, are approved by the Secretary prior to review by the Director of OMB. In order to effectively carry out HHS' substantive responsibilities under the Executive Order, as well as the procedural requirements pertaining to review by the Director of OMB, FDA regulations involving significant public policy must receive similar Secretarial consideration and approval.

Therefore, this document amends previous delegations of authority to issue regulations of the Food and Drug Administration by providing that the Secretary reserves the authority vested in him by applicable statutes to approve FDA regulations involving significant public policy, except regulations to which the formal rulemaking procedures of the Administrative Procedure Act apply.

More specifically, regulations which establish procedural rules applicable to a general class of foods, drugs, cosmetics, medical devices, or other subjects of regulation, or which present highly significant public issues involving the quality, availability, marketability or cost of one or more foods, drugs, cosmetics, medical devices, or other subjects of regulation, shall be reserved for Secretarial approval.

This reservation of authority is designed to continue previous delegations of authority to the Commissioner of Food and Drugs with respect to all other activities of the agency, including the approximately 1,000 regulatory actions taken annually by FDA regarding specific foods, drugs, cosmetics, medical devices, and other subjects of regulation not involving significant public policy. This reservation of authority is intended only to improve the internal management of the Department, and is not intended to create any legal right or benefit. Regulations issued by FDA without approval of the Secretary are to be conclusively viewed as falling outside the scope of this reservation of

authority. Moreover, it is the policy of the Secretary that with respect to those FDA regulations for which the Secretary hereby reserves approval authority, the Commissioner of Food and Drugs will be the Secretary's principal advisor.

This reservation of authority, set forth below, is effective this date.

Dated: May 6, 1981.

Richard S. Schweiker,
Secretary.

Title 21, Part 5 of the Code of Federal Regulations, is amended as follows:

§ 5.1 [Redesignated as § 5.10]

1. By redesignating § 5.1 as § 5.10;
2. By adding after § 5.10 the following new § 5.11:

§ 5.11 Reservation of authority.

(a) Notwithstanding provisions of § 5.10 or any previous delegations of authority to the contrary, the Secretary reserves the authority to approve regulations of the Food and Drug Administration, except regulations to which sections 556 and 557 of Title 5 of the United States Code apply, which:

- (1) Establish procedural rules applicable to a general class of foods, drugs, cosmetics, medical devices, or other subjects of regulation; or
- (2) Present highly significant public issues involving the quality, availability, marketability or cost of one or more foods, drugs, cosmetics, medical devices, or other subjects of regulation.

(b) This reservation of authority is intended only to improve the internal management of the Department of Health and Human Services, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the Department of Health and Human Services, the Food and Drug Administration, any agency, officer, or employee of the United States, or any person. Regulations issued by the Food and Drug Administration without the approval of the Secretary are to be conclusively viewed as falling outside the scope of this reservation of authority.

§ 5.10 [Amended]

3. By inserting in redesignated § 5.10(a)(15), after the word "Administration," a comma and the following: "except as provided in § 5.11."

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