than $1.00 per Mcf on January 1, 1985, purely by virtue of an incentive price rule rather than by virtue of the price that would control under the contract in place at the time that Congress passed the NGPA. Congress intended to maintain an intrastate gas cushion that would not be deregulated on January 1, 1985. The Commission believes that allowing deregulation of such gas by reference to a price that was not the result of a contract in existence when the NGPA was enacted, but rather was due to a regulation promulgated by the Commission and corresponding contract amendments, would significantly alter the results of deregulation envisioned by Congress.

Lastly, Indicated Producers also request that the Commission establish a separate incentive price for wells whose production is enhanced by the use of inert gas injection. Inert gas injection is presently one of the ten techniques that can be used by a producer to enhance the production of a well and to qualify under this production enhancement rule. For the reasons stated in the final rule, the Commission does not believe that such a special, higher incentive price for inert gas production is warranted for this technique.

IV. Effective Date

The amendments to the Commission's regulations made in this order on rehearing will be effective on November 2, 1983.

List of Subjects

18 CFR Part 271

Continental shelf, Natural gas, Wage and price controls.

18 CFR Part 274

Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission is amending Parts 271 and 274, Subchapter H, Chapter I, Title 18, CFR, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. In § 271.704, paragraphs (c)(1)(i) and (c)(1)(ii) are revised to read as follows:

§ 271.704 Qualified production enhancement gas.

* * * * *

(c) * * *

(1) * * *

(i) Which is produced.

(A) For wells or zones for which a maximum lawful price prescribed by Subpart E of Part 271 applies (but for this section):

(*1*) From a well on which production enhancement work (other than production enhancement work described in paragraph (d)(3) of this section) was commenced on or after May 29, 1980; or

(*2*) From a zone that is perforated in accordance with paragraph (d)(3) of this section on or after May 29, 1980;

(B) For wells or zones for which a maximum lawful price prescribed by Subpart D or F of Part 271 applies (but for this section):

(*1*) From a well on which production enhancement work (other than production enhancement work described in paragraph (d)(3) of this section) was commenced on or after [insert date on which order on rehearing is issued]; or

(*2*) From a zone that is perforated in accordance with paragraph (d)(3) of this section on or after September 26, 1983.

(ii) For which a maximum lawful price prescribed by Subparts D, E, or F of Part 271 applies (but for this section):

* * * * *

PART 274—[AMENDED]

2. In § 274.205, paragraph (f)(7)(iv) is revised to read as follows:

§ 274.205 High-Cost Natural Gas.

* * * * *

(f) * * *

(7) * * *

(iv) The production enhancement work was not commenced before:

(A) May 29, 1980, for wells otherwise subject to the maximum lawful price prescribed by Subpart E of Part 271; or

(B) September 26, 1983, for wells otherwise subject to the maximum lawful price prescribed by Subparts D and F of Part 271.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V. 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V. 1981))

[FR Doc. 83-26789 Filed 9-30-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Carl S. Akey, Inc., providing for use of 8- or 20-gram-per-pound lincomycin premixes to be used for the manufacture of complete swine feeds. The supplemental application provides an additional claim for use in the reduction of severity of swine mycoplasmal pneumonia.

EFFECTIVE DATE: October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338, filed a supplement to NADA 132–657 which provides for use of 8- or 20-gram-per-pound lincomycin premixes to make complete swine feeds. The supplemental application provides for an additional claim for use in the reduction of severity of swine mycoplasmal pneumonia. The firm currently holds an approval for use of such premixes in swine feed for the control and treatment of swine dysentery. Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the approval. The basis of approval of this supplement is discussed in the freedom of information summary referred to below.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25. 24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is

amended in § 558.325 by revising paragraph (b)(5) and by adding new paragraph (b)(15), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(5) Premix levels of 8 and 20 grams per pound have been granted to Nos. 017255, 043733, and 050639 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2)(i), (ii), and (iii) of this section.

* * * * *

(15) Premix levels of 8 and 20 grams per pound have been granted to No. 017790 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2) of this section.

* * * * *

Effective date. September 30, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 26, 1983.

Richard A. Carnevale,

Acting Deputy Associate Director for Scientific Evaluation.

[FR Doc. 83-26685 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 71

Preparation of a Roll To Serve as the Basis for the Distribution of Judgment Funds Awarded Certain Warm Springs Indians

September 2, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule to revise the regulations governing the preparation of a roll of certain Warm Springs Indians to serve as the basis for the distribution of judgment funds awarded by the Indian Claims Commission in Docket 198. This Part has been redesignated from 25 CFR Part 431. The regulations were originally promulgated under a Secretarial judgment plan prepared pursuant to the Indian Judgment Funds Act of October 19, 1973. The plan was judicially invalidated on procedural grounds and legislation was subsequently enacted on January 8, 1983, to authorize the use and distribution of the judgment funds. This revision is to amend the regulations to provide for the preparation of a roll to serve as the basis for the distribution of the judgment funds in Docket 198 under the provisions of the Act of January 8, 1983.

EFFECTIVE DATE: The revision will become effective on November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Merritt E. Youngdeer, Superintendent, Warm Springs Agency, Bureau of Indian Affairs, Warm Springs, Oregon 97761, telephone number: FTS 420-1332, Commercial: (503) 553-1121.

SUPPLEMENTARY INFORMATION: The Indian Claims Commission in Docket 198 approved a proposed compromise settlement on October 17, 1973, and entered a final award in favor of the Confederated Tribes of the Warm Springs Reservation of Oregon. Funds to cover the award were appropriated by Congress. A Secretarial judgment plan for the use and distribution of the funds was prepared and submitted to Congress under the provisions of the Indian Judgment Funds Act of October 19, 1973, 87 Stat. 466, and became effective on October 10, 1974. Under the Secretarial judgment plan regulations were promulgated to govern the preparation of a roll of eligible beneficiaries of the award. However, on August 6, 1979, in the case titled *Gold v. Confederated Tribes of the Warm Springs*, 478 F. Supp. 190 (D. OR. 1979), the U.S. District Court enjoined the Secretary from distributing the funds according to the plan and directed him to submit legislation providing for the distribution of the funds. The Court rendered no decision regarding the merits of the judgment plan but concluded that the plan was invalid because of failure to follow procedures required by the Indian Judgment Funds Act and implementing regulations, including timely submittal of the plan to Congress. The government decided not to appeal the decision and the judgment of the District Court became final.

On January 8, 1983, legislation was enacted to provide for the distribution of the judgment funds that had been the subject of the October 10, 1974, Secretarial judgment plan. The 1983 Act directs the Secretary to prepare a roll of eligible beneficiaries. Members of the Confederated Tribes who have shared in the distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563), a distribution pursuant to any other judgment under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), are precluded from sharing in the judgment funds under the legislation as they were under the Secretarial judgment plan. In addition to members of the Confederated Tribes born on or before and living on the date of the Act, who otherwise meet the requirements, the 1983 Act provides for the inclusion on the roll of members of the Confederated Tribes, who are now deceased, but who qualified under the Secretarial judgment plan. Consequently, the regulations contained in this Part are basically only being amended to reflect the change of authority for the regulations and the addition of a new class of eligible beneficiaries. There are no significant changes being made that will affect the procedures with which individuals must comply. However, a number of other changes of an administrative nature are being made to the regulations and are, thus, the reason for revising the Part in its entirety.

The Superintendent of the Warm Springs Agency will be the lead official of this Bureau in the preparation of the roll of eligible beneficiaries rather than the Portland Area Director as was the case when the regulations were originally promulgated. Several changes are being made to effect this change. The qualifications for enrollment are being changed to reflect the requirements contained in the 1983 Act. In addition under the revised regulations, in order to provide notice to all potentially eligible participants, the Superintendent will mail a notice to all enrolled members of the Confederated Tribes, who were living on January 8, 1983, and whose names appear on the February 25, 1983, approved membership roll at their last known address advising them of the preparation of the roll, the requirements for enrollment, and the procedures to be followed.

A listing of only the names of persons who are included on the proposed roll rather than all information contained on the roll as was the case under the regulations as orginally promulgated will be placed on public display throughout the local community and the Washington-Oregon service area of the Bureau. This is to afford interested persons the opportunity to view the list and appeal the omission of any name from the proposed roll. In accordance with the provisions specified in the regulations, persons who believe they meet the qualifications for enrollment, but whose names are not included on the proposed roll, may appeal the omission of their names and submit information or evidence for consideration to support their claim to eligibility. A deadline of the thirtieth (30th) day after the list of names is placed on display for filing appeals is provided.

The primary author of this document is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs, Washington, D.C., telephone number: (202) 343-3594.

The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9); and 96 Stat. 2283. This final rule is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The regulations contained in this Part, promulgated as Part 431 (40 FR 36324) and redesignated as Part 71, were originally published as proposed rules and the public was afforded a 30 day comment period. During that period no comments, suggestions or objections were received from interested persons. Although this rulemaking action is revising the rule in its entirety, there are no significant changes being made that will affect the procedures with which the public must comply. This revision is basically to amend the regulations to reflect the change of authority and the addition of a new class of eligible beneficiaries provided for by the 1983 Act. For that reason an opportunity for public comment on this action is determined to be unnecessary. Therefore, advance notice and public procedure are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 533 (1970).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* Persons who are potentially eligible beneficiaries must be enrolled members of the Confederated Tribes of the Warm Springs Reservation. Information which has been submitted to the Confederated Tribes by individuals in order to establish their eligibility for enrollment as members will, for the most part, be sufficient to determine whether they meet the qualifications for enrollment under the 1983 Act.

The Department of the Interior has determined that this rule does not significantly affect the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement under Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible will be participating in a per capita distribution made by the Secretary of a relatively small amount of funds.

The Department of the Interior has determined that this rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because of the limited applicability, i.e., one entity, and the fact that this rule will basically require no additional information collection or recordkeeping.

List of Subjects in 25 CFR Part 71:

Indians—Claims, Indians enrollment.

Part 71 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to read as follows:

PART 71—PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF JUDGMENT FUNDS AWARDED CERTAIN WARM SPRINGS INDIANS

Sec.

Authority: 5 U.S.C. 301, R.S. secs. 463 and 465; 25 U.S.C. 2 and 9, and 96 Stat. 2283.

§ 71.1 Definitions.

As used in these regulations:

Act means the Act of Congress approved January 8, 1983 (96 Stat. 2283), Pub. L. 97-436, which authorized the use and distribution of judgment funds awarded the Confederated Tribes of the Warm Springs Reservation by the Indian Claims Commission in Docket 198.

Assistant Secretary means the Assistant Secretary for Indian Affairs or his/her authorized representative.

Director means the Area Director, Portland Area Office, Bureau of Indian Affairs or his/her authorized representative.

Living means born on or prior to and living on the date specified.

Sponsor means parents, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, the Superintendent, or other person who files an appeal on behalf of another person.

Staff Officer means the enrollment officer or other person authorized to prepare the roll.

Superintendent means the Superintendent, Warm Springs Agency, Bureau of Indian Affairs, or his/her authorized representative.

Tribes mean the Confederated Tribes of the Warm Springs Reservation.

§ 71.2 Purpose.

The regulations in this Part are to govern the compilation of a roll of certain members of the Confederated Tribes of the Warm Springs Reservation eligible to share in the distribution of the judgment funds awarded the Warm Springs Tribes by the Indian Claims Commission in Docket 198.

§ 71.3 Qualifications for enrollment.

The roll shall contain the names of all persons who meet the following requirements:

(a) They were living on January 8, 1983, and their names appear on the February 25, 1983, and/or January 25, 1983, approved membership rolls of the Tribes; *or*

(b) They were living on February 18, 1975, but are now deceased, and their names appeared on the March 25, 1975, and/or the February 25, 1975, approved membership rolls of the Tribes; *and*

(c) They have not participated in: (1) The distribution to the Malheur Paiutes under the provisions of the Act approved August 20, 1964 (78 Stat. 563).

(2) A distribution pursuant to any other judgment under the Act approved August 13, 1946 (25 U.S.C. 70 *et seq.*), or

(3) Any distribution under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

§ 71.4 Notice.

The Superintendent shall mail a notice to each member of the Tribes whose name appears on the Feburary 25, 1983, approved tribal membership roll advising him/her of the preparation of a roll of certain members, the qualifications for enrollment, and the relevant procedures to be followed.

§ 71.5 Preparation of a proposed roll and display of a listing of names included thereon.

The Superintendent shall prepare, with the assistance of the Tribes, a proposed roll of persons who meet the requirements specified in § 71.3. The proposed roll shall contain for each person a roll number, name, sex, date of birth, date of death if applicable, tribal derivation and degree of blood of each tribe. A listing of only the names of the persons included on the proposed roll shall be placed on public display for 30

days at the Warm Springs Agency, community building, local post offices, Portland Area Office, and other Bureau offices in the Washington-Oregon area. The listing shall indicate prominently the deadline for filing appeals contesting the omission of a name, as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 71.6 Appeals.

Persons who believe they meet the qualifications specified in the Act and the regulations in this Part and whose names are not included on the proposed roll may file or have filed by a sponsor an appeal with the Secretary contesting the omission of their names in accordance with the procedures provided in this Part.

§ 71.7 Filing appeals and the deadline.

(a) The appeal shall be in writing and addressed to the Secretary but filed with the Superintendent, Warm Springs Agency, Bureau of Indian Affairs, Warm Springs, Oregon 97761.

(b) The appeal must be received by the Superintendent no later than the close of business on the thirtieth (30th) day after the listing of the names of persons included on the proposed roll is placed on public display as provided for in § 71.5. If the appeal deadline falls on a Saturday, Sunday, legal holiday or other nonbusiness day, the deadline will be the next working day thereafter.

§ 71.8 Supporting evidence and burden of proof.

(a) The appeal should be accompanied by any supporting evidence relied upon as a basis for the appeal, including copies of Bureau or tribal records having a direct bearing on the appellant's contentions. The appellant may furnish affidavits from persons having personal knowledge of the facts at issue. Criminal penalties are provided by statute for knowingly filing false information in such statements (18 U.S.C. 1001).

(b) The appellant may request additional time to submit supporting evidence. A time period considered reasonable for such submissions may be granted by the official receiving the appeal.

(c) The burden of proof for establishing the improper omission of any name from the proposed roll is on the appellant.

§ 71.9 Action by the Superintendent.

The Superintendent shall consider each appeal. If after review of the evidence the Superintendent determines that the omission of any name is improper and eligibility has been established, the appellant shall be so notified in writing and the name entered on the roll. If the Superintendent determines that the omission of any name is proper and eligibility has not been established, the appellant shall be so notified in writing and the appeal together with the complete record and the recommendation of the Superintendent shall be forwarded to the Director.

§ 71.10 Action by the Director.

The Director shall consider each appeal. If after a review of the evidence the Director determines that the omission of any name is improper and eligibility has been established, the appellant shall be so notified in writing and the Superintendent directed to enter the name on the roll. If the Director determines that the omission of the name is proper and eligibility has not been established, the appellant shall be so notified in writing and the appeal together with the complete record and the recommendation of the Director shall be forwarded to the Secretary for final determination.

§ 71.11 Decision of the Secretary on appeals.

The Secretary shall consider the record as presented, together with any additional information he/she may consider pertinent. Any such additional information shall be specifically identified in the decision. The decision of the Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the appellant. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 71.12 Preparation, certification, and approval of the roll.

(a) The staff officer shall prepare a minimum of 5 copies of the roll of those persons determined to be eligible for enrollment, including those who established their eligibility by appeal. The completed roll shall contain, for each person, a roll number, name, sex, date of birth, date of death if applicable, tribal derivation and degree of blood of each tribe.

(b) A certificate shall be attached to the roll by the Superintendent certifying that to the best of his/her knowledge the roll contains only the name of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 71.13 Special instructions.

To facilitate the work of the Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

Theodore C. Krenzke,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 83-26885 Filed 9-30-83; 8:45 am]

BILLING CODE 4310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 433

[WH-FRL 2440-6]

Electroplating and Metal Finishing Point Source Categories; Effluent Limitations Guidelines Pretreatment Standards, and New Source Performance Standards; Clarification and Correction

Correction

In FR Doc. 83-26127 beginning on page 43680 in the issue of Monday, September 26, 1983, make the following correction:

On page 43682, first column, under "§ 433.10 [corrected]", the reference to "§ 433.10(a)" should have been "§ 433.10(b)".

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch.101

[FPMR Temp. Reg. D-70, Supp. 1]

Work Space Management Plans

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation supplements and amplifies FPMR Temporary Regulation D-70 and work space management plans to be submitted by executive agencies, and provides procedures for the efficient management of work space and related furnishings on a Government-wide basis. It is issued pursuant to Executive Order 12411. This supplement requires executive agencies to make optimum use of work space and related furnishings, to acquire only the minimum work space and related furnishings needed for known and verified mission requirements, and to excess unneeded property to the maximum extent feasible. In addition this supplement promulgates additions and changes to data elements of the world-wide inventory, establishes quarterly reporting of changes to the world-wide inventory, Part 101-3, and also provides new procedures for

identifying and reporting excess automated data processing and telecommunications equipment.

DATES: Effective date: October 3, 1983. Expiration date: May 15, 1985

FOR FURTHER INFORMATION CONTACT: Art Barton (202) 535–8120.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter D.

[Federal Property Management Regulations Temporary Regulation D–70, Supplement 1]

August 5, 1983.

To: Heads of Federal agencies.

Subject: Work Space Management Plans.

1. *Purpose.* This regulation supplements and amplifies FPMR Temp. Reg. D–70 and work space management plans to be submitted by executive agencies and provides procedures for the efficient management of work space and related furnishings on a Government-wide basis. It is issued pursuant to Executive Order 12411. This supplement requires executive agencies to make optimum use of work space and related furnishings, to acquire only the minimum work space and related furnishings needed for known and verified mission requirements, and to excess unneeded property to the maximum extent feasible. In addition this supplement promulgates additions and changes to data elements of the world-wide inventory, establishes quarterly reporting of changes to the world-wide inventory, Part 101–3, and also provides new procedures for identifying and reporting excess automated data processing and telecommunications equipment.

2. *Effective date.* This regulation is effective October 3, 1983.

3. *Expiration Date.* This regulation expires on May 15, 1985.

4. *Background.* Following the publication of Executive Order 12411 and the drafting of FPMR Temp. Reg. D–70, GSA conducted a series of meetings with representatives of executive agencies. This supplement, to the extent feasible, reflects informal comments and suggestions made by attendees at those meetings. Working copies of this supplement were made available to agency representatives before submission for publication in the **Federal Register.** In addition, guidance was received from the Executive Office of the President, the Office of Management and Budget, and the Cabinet Council on Management and Administration.

5. *Scope* This supplement applies to all executive agencies. It establishes uniform methods for developing planning, information and reporting systems for each agency's Government-wide work space and related furnishings.

6. *Work Space Management Plan (IRCN 0308–GSA–AN).*

a. *Planning objectives.* Initial agency plans shall meet the planning objectives set forth in section 101–16.501 of FPMR Temp. Reg. D–70.

b. *Submission of work space management plans.* The Work Space Management Plans of all executive agencies shall be signed by the head of the executive agency and submitted in two sections to the Administrator of General Services (A), Washington, DC, 20405. Section One shall be submitted as provided in FPMR Temporary Regulation D–70, section 101–16.501(a) and Section Two by February 29, 1984.

c. *Section One.* Section One of the Work Space Management Plan shall consist of the following elements (see appendix A for formats) and Temp. Reg. FPMR D–70, section 101–16.003(p)).

(i) Table I—Shows the agency's planned space reduction, the beginning inventory and projected ending inventory.

(ii) Table I–A—Shows personnel, office space and calculated utilization rate.

(iii) Table II—Shows, in gross square feet, the acquisitions and disposals to back up the net change shown in Table I.

(iv) Narrative—Section One of the initial submission shall include a narrative statement that explains the method used to measure each category of space as defined in Appendix C, Usage Classification Codes. Reduction of utilization rates in office space, however measured, will be indexed for reporting to the Cabinet Council on Management and Administration based on these explanations. An interagency working group will use these measurement descriptions to develop a uniform Government-wide measurement standard for determining efficient utilization of work space. This working group will recognize and take account of the individual characteristics that mission requirements impose on space usage.

The narrative shall also explain actions to be taken to achieve the space reduction objectives set forth in FPMR Temp. Reg. D–70, including a statement when the agency will reach the utilization rate of 135 square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) for all office space under its control. In the case of office space, indicate the areas of the building which have been included or excluded from the office work space measurement criteria used by the agency.

The narrative shall also include a description of the agency's survey program presently in place. Internal directives, where applicable, should be referenced, but do not submit copies. However, submit the plan of surveys to be conducted, including a description of the work space, by category, which is scheduled for survey. In the event surveys have been recently conducted, submit a narrative summary of the survey results. If there is no established survey program, indicate this. If the agency does not have an existing survey program, indicate in Section Two a narrative description of the plans to establish a survey program including a plan of surveys to be conducted between August 31, 1983, and September 30, 1984. Agencies not planning to establish a survey program should indicate this and the reasons in support of such determination. This decision will be reviewed by the Administrator of General Services for relevancy and approval or denial will be accomplished after consultation with the head of the agency.

d. *Section Two.* Section Two of the Work Space Management Plan shall consist of the following elements (see Appendix A for formats):

(i) Table III — This is the five year plan for projected acquisitions and disposals.

(ii) Table IV — Shows effects of space reductions on related furnishing.

(iii) Narrative — All Section Two plans shall contain narrative statements explaining objectives of each year's plan. They shall also specify when the office work space utilization rate of 135

square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) will be accomplished. The data submitted on outleases and permits will be assessed by GSA to determine if the magnitude of space involved in these transactions would warrant a revision to the definition of acquisition and disposal, to include outleases and permits for allowing credits for future computation of space reductions.

(iv) Standards, criteria, and procedures. For purposes of identifying the actions to be taken to improve utilization, agency heads shall develop standards, criteria, and procedures for work space utilization other than office space, and for related furnishings. Agencies should submit these to GSA with Section Two and an explanation of these standards, criteria, and procedures as these relate to specific categories of work space (see appendix C of this supplement.)

7. *Evaluation of plans.* To evaluate agency implementation of its plan, a baseline initial inventory of work space, will be developed by GSA. Reductions will be measured by calculating the difference between the March 31, 1983 inventory and the September 30, 1984 inventory. Agency planned reductions should reflect the target reduction objectives set forth in section 101–16.501 of FPMR Temp. Reg. D–70 and be reported on Table I.

a. *Baseline inventory data.* For GSA-assigned space, baseline work space inventory data will be drawn from agency FPMR Temp. Reg. D–68 plans which have been approved by GSA. For agency-controlled space, the baseline will be the world-wide inventory submission as of March 31, 1983.

b. *Consolidation of data.* For agencies occupying both GSA-assigned space and agency-controlled space, inventory data for both categories will be combined as of the baseline date and again as of September 30, 1984. GSA and executive agencies will consult to ensure that such data is adequate for the purposes of evaluating agencies' performance against reduction objectives. Agency heads should coordinate the planning of GSA-assigned space and agency-controlled space to reflect the overall reduction goals set forth in FPMR Temp. Reg. D–70.

c. *Review of FPMR Temp. Reg. D–68 plans.* Agency space plans for GSA-assigned space previously submitted in accordance with FPMR Temp. Reg. D–68 and FPMR Bulletin D–195 and approved by GSA should be sufficient to meet the office space planning objectives of FPMR Temp. Reg. D–70. Agency heads should, however, review FPMR Temp. Reg. D–68 plans regarding non-office space assigned by GSA for compliance with the overall objective of FPMR Temp. Reg. D–70 for a 10 percent reduction in total work space by September 30, 1984. If necessary, a similar review and adjustment should be made to the previously submitted GSA controlled office space reduction plans.

d. *Long-term office utilization goals.* Agencies shall also indicate when the office space utilization rate of 135 square feet per person (as measured in GSA controlled office space or its equivalent as measured by your agency) will be attained in all office space used by the agency. A statement in the narrative portion of Section Two, together with an explanation of any problem areas which may exist, will meet this requirement.

8. *Crediting of reductions.*

a. Disposals will be credited as work space reductions at the time the property in question is identified as excess.

b. "Identification for disposal," in the context of work space management plans, means that the agency is prepared to submit formal documentation (i.e. Standard Form 118, Report of Excess Real Property or its equivalent) within 60 calendar days from the date the space or property is indentified.

c. Properties reported excess before March 31, 1983, will not be credited as a space reduction for the purposes of objective III. The square footage of these properties should be deducted from the world-wide inventory of March 31, 1983. These deductions will be verified by GSA.

d. If property reported excess does not meet the reporting criteria of FPMR 101–47, appropriate adjustments will be made to the data for space reduction credit purposes.

9. *Utilization surveys.* FPMR Temp. Reg. D–70 requires agencies to have in place a survey program to identify unneeded or underutilized work space and related furnishings; to achieve maximum utilization of work space and related furnishings, in terms of economy and efficiency; and to identify unnecessary work space and related furnishings in order to make them available for other users. Surveys of GSA assigned space will be conducted in accordance with FPMR Temp. Reg. D–68, Section 101–17.2.

10. *Related furnishings.* For purposes of section 101–16.200 of FPMR Temp. Reg. D–70, Table IV, should be completed and submitted as part of Section Two of the work space management plans due February 29, 1984. Technical assistance in developing and compiling the required data will be provided to executive agencies upon request prior to February 29. An interagency working group will be convened to develop specifications for the goals to be achieved and the actions to be taken in order to improve the utilization of related furnishings in accordance with Executive Order 12411.

11. *Interagency working groups.* Interagency working groups will be convened by GSA to establish standards, criteria and procedures for:

a. The establishment of objectives for improved efficiency in the acquisition, use, and disposal of related furnishings;

b. The development and design of government-wide work space planning, information and reporting systems; and

c. The development of uniform methods of measuring, classifying, and accounting for work space.

12. *Subsequent Work Space Management Plans.* GSA will issue bulletins and/or regulations containing information or instructions for the preparation and submission of annual Work Space Management Plans. Such plans will set forth goals to be accomplished in the utilization of work space and plans to meet the office space utilization objective of 135 square feet per person. These plans will also include planned acquisitions and disposals of work space and related furnishings for the ensuing five years. Annual Work Space Management Plans will be submitted by December 31 of each year. Projections of vacant available space for temporary use will be included in the subsequent annual Work Space Management Plans.

13. *Special Automated Data Processing and telecommunications equipment reutilization provisions.* Table IV shall be used to identify excess ADPE amd telecommunications equipment as follows:

a. Special ADPE reutilization procedures.

(1) The following procedures apply to the removal of Government-owned or Government-leased automatic data processing equipment (ADPE) that agencies have decided to remove from Government-owned or Government-leased space as a result of the GSA World-wide Space Reduction Program as set forth in this regulation. For this purpose only, these procedures supersede the reutilization procedures in FPMR Subpart 101–36.3.

(2) Action to remove ADPE under these provisions must be initiated by the end of February 1984. Action documentation shall include a notation that the action is under the GSA World-Wide Space Reduction Program. ADPE

that is leased will not be subject to reporting or interagency screening through GSA as provided in FPMR Subpart 101–36.3 but shall be returned to the contractor in accordance with the terms of the lease contract.

(3) Government-owned ADPE must be reported to GSA at least 60 calendar days prior to the anticipated release date. The reports shall be submitted on SF 120, Report of Excess Personal Property, prepared in accordance with the provisions in FPMR Subpart 101–36.3.

(4) Excess ADPE that is Government-owned and was acquired prior to calender year 1974 is considerd obsolete and may be declared surplus. As surplus, the agency will process the SF 120 directly to the appropriate GSA regional office for donation, sale, or disposal. Government-owned ADPE that will be replaced using GSA exchange/sale authority will not use the procedures in this subparagraph (4).

(5) All other Government-owned ADPE acquired during or after calendar year 1974 which has been declared excess or is being offered for exchange/sale shall be reported to General Services Administration (KHEE), Washington, DC 20405, in accordance with Subpart 101–36.3 provisions. GSA will provide an expedited 15 calendar day interagency screening period on GSA's availability list. (Exchange/sale ADPE eligible for this expedited screening shall be limited to situations wherein a significant amount of space is expected to become available, e.g., replacing a mainframe configuration with a minicomputer of similar capacity.) The requesting agency shall provide shipping instructions to the holding agency no later than 15 calendar days after placing the hold on ADPE. If more than one agency requests the ADPE, it shall be transferred to the first requester. Subsequent requesters shall be notified that their requests will not be honored.

b. Special telecommunications reutilization provisions. The following procedures apply to the removal of Government-owned or Government-leased telecommunications equipment that agencies have decided to remove from Government-owned or Government-leased space as a result of the GSA World-Wide Space Reduction Program.

(1) Action to remove telecommunications equipment under these provisions must be intitiated by the end of February 1984. Action documentation shall include a notation that the action is under the GSA World-Wide Space Reduction Program.

(2) Telecommunications equipment that is leased shall be returned to the contractor in accordance with terms of the lease (or tariff) contract. In the event the equipment is a part of a GSA consolidated local telephone system, the action shall be accomplished in coordination with the GSA regional office serving the telephone system.

(3) Government-owned telecommunications equipment to be removed shall be managed in accordance with the provisions of FPMR Part 101–43. Agencies have the responsibility to consider reutilization potential (in coordination with GSA regional offices as appropriate), particularly in view of the technological age of the equipment. Excess equipment shall be reported to GSA as provided by FPMR Part 101–43. In the event acquisition of a replacement system or equipment results from the space reduction program, exchange-sale provisions of FPMR Part 101–46 shall be considered prior to reporting under FPMR Part 101–43.

14. *Reporting vacant space for temporary use.*

a. *Initial report.* All vacant work space held by executive agencies, including that to be retained in an agency's inventory for known future mission requirements, must be reported to the General Services Administration as provided for in FPMR Temp. Reg. D–70 § 101–18.501(a), as part of the agency plans required by FPMR Temp. Reg. D–70. Thereafter, space is to be reported to GSA six months before it becomes vacant. From this information, GSA will compile and produce a quarterly publication entitled *Space Available for Temporary Federal Use.* This listing will enable agencies requiring additional work space to ensure that it is not available within the Federal inventory before acquiring space from the private sector or State and local governments. Each agency must designate an office to serve as a central collection point for vacant space listings to be submitted to GSA for publication. Listings of space available for temporary use should be in the format shown in Appendix B.

b. *Vacant space reports.* Federal agencies will be able to purchase their annual subscriptions for copies of *Space Available for Temporary Federal Use* in bulk from the U.S. Government Printing Office at cost. Specific instructions for purchase and agency internal distribution will be given each agency's designated space management executive at a later date.

c. *Certification of unsuitability for temporary use.* Where vacant space to be retained in an agency inventory is not suitable for temporary use by other Federal agencies (due to high renovation costs to make the space usable; or due to potential disruption of agency operations or other reasons) the head of the agency may so certify in the narrative portion of the vacant space report.

15. *Consultations and exemptions.*

a. *Request for exemptions.* Exemptions from the requirements of Executive Order 12411 and of FPMR Temp. Reg. D–70 are warranted under two circumstances:

(1) When application of FPMR Temp. Reg. D–70 provisions is "prohibited by existing law" (including considerations of national security) within the meaning of Executive Order 12411; and

(2) When application of FPMR Temp. Reg. D–70 provisions would, in the judgment of the agency head, impose excessive costs not contemplated by Executive Order 12411.

b. *Form and content of requests.*

(1) Requests for exemptions shall be submitted by letter to the Administrator of General Services and should be signed by the agency head. The request should indicate the grounds for the exemption, i.e., whether based on existing laws which prohibit applicability of the regulation, or based on considerations of cost or practicality.

(2) Broad generalized descriptions of property (such as "all rural facilities") are unacceptable; submissions should specify with particularity the types of properties for which exemptions are requested and the circumstances which, in the opinion of the agency head, justify the exemption.

(3) Agency heads have the burden of demonstrating compliance with the regulation would be impractical or excessively costly. Determinations regarding costs and benefits of the provisions of the Executive Order and implementing regulations will be made by consultation between agency heads and the Administrator.

(4) When agency heads determine that compliance is prohibited by existing law, the burden is on the agency head to cite the law and state the legal theory (with citation of case law, where relevant) under which applicability of Executive Order 12411 is prohibited.

c. *Qualified exemptions.* Circumstances may arise whereby exemptions from some, but not all, of the provisions of FPMR Temp. Reg. D–70 are merited. For example, it may be appropriate for certain types of space to be exempted from reduction objectives, but not exempted from reporting requirements. When such qualified exemptions are merited in the judgment

of the agency head, he or she should draft the request accordingly.

d. *Consultations with the Administrator of General Services.* FPMR Temp. Reg. D–70 provides that the Administrator of General Services will review and evaluate requests for exemptions. This review and evaluation is based on the principle that consultations between the Administrator and the heads of other executive agencies are the best means of ensuring that management objectives are achieved consistent with existing law and practical considerations of cost and feasibility. Consultations may be accomplished by exchanges of letters between the head of an agency and the Administrator.

16. *Quarterly Real Property Inventories.*

a. *General.* This supplement prescribes the procedures and forms for use by executive agencies in connection with the preparation of quarterly reports necessary for the maintenance and publication of real property inventories. This supplement includes certain revisions to FPMR Part 101–3, Annual Real Property Inventories; these revisions include changes to frequency or reports, certain data elements, and addition of new data elements, in order to comply with the objectives of Executive Order 12411.

b. *Coverage.* The quarterly inventory reports shall cover those categories of property specified in FPMR sections 101–3.202 and 101–3.302 Section 101–3.302(a), however, is hereby modified to exclude leases executed for land only when annual rentals are less than $500 unless otherwise deemed significant, and to exclude leases for buildings or other structures and facilities when annual rentals are less than $2,000 unless otherwise deemed significant. Inventory reports shall not include those categories of property specified in FPMR sections 101–3.203 and 101–3.303.

c. *New or modified data elements.* Changes and additions to data elements in real property inventory reporting requirements are as follows:

(1) Congressional Districts. A two digit numeric designation of the congressional district(s) in which the installation or portion being reported is located.

(2) Estimated Current Value. An estimate of the current value of the entire installation expressed in thousands of dollars. This figure may be a professional appraisal or any reasonable estimate. Leave blank if Public Domain, Trust or leased property.

(3) Highest and Best Use. Indication of highest and best use for the installation if held in private ownership. Valid codes are:

(i) Agricultural.
(ii) Residential—High Density.
(iii) Residential—Low Density
(iv) Commercial.
(v) Industrial.
(vi) Industrial—Heavy.
(vii) Multiple—(Used for large installation only).

(4) Historical Significance. Indication of property or portion thereof as listed on the National Register of Historic Places or has been acceptable as eligible for inclusion in the Register.

(5) Year of Last Survey. The last year the property was surveyed by GSA and/or the holding agency, pursuant to Executive Order 12348.

(6) Building Number. This field is used to identify a specific building within an installation. Each agency may use their own method assigning a building number as long as duplicates are avoided. In the absence of any other numbering scheme, buildings should be numbered sequentially, beginning with 0000000001.

(7) Total Assignable Space. Assignable space within a building includes assigned, vacant, outleased, and permitted space.

(8) Assignable Space—Office. Of the total assignable space above, that which is classified as office space. Do not include any outleased or permitted space.

(9) Total Assigned Space. Number of square feet assigned within the building. This figure includes space assigned as outleased or permitted.

(10) Assigned Space—Office. Of the total assigned space above, that which is classified as office space. Do not include any outleased or permitted space.

(11) Public Access and Support. Number of square feet in the building space being reported as space utilized for public access and support functions such as mechanical, toilet, custodial, etc., or unfinished basement areas unsuitable for use by personnel in the performance of an agency requirement.

(12) Outleased Space. Space that is leased to a non-Federal tenant under the provisions of the Outleasing Program or the Cooperative Use Act. This figure is included in Assignable and Assigned Space as noted above.

(13) Permitted Space. Space that is permitted to another Federal agency and used solely by that agency for the accomplishment of its mission and for which you are receiving the Fair Annual Rental. This figure is included in total assigned space and total assignable space as noted in Nos. 7 and 9 above.

(14) Personnel Housed—Office. The peak number of personnel housed or to be housed for whom a separate work station must be provided in assigned office space for the fiscal year for which the report is prepared.

(15) Personnel Housed—Other. The peak number of personnel housed or to be housed for whom a separate work station must be provided in assigned space other than office space for the fiscal year for which the report prepared. This figure should not include personnel assigned to housing space.

d. *Reporting agencies.* Reports shall be submitted by the agency responsible for the maintenance of real property records and accounts as prescribed in FPMR section 101–3.201.

e. *Reports to be submitted.* Each agency shall prepare reports in accordance with FPMR §§ 101–3.204, 101–3.205, 101–3.304, and 101–3.305, as revised.

f. *Preparation and due dates.* FPMR §§ 101–3.206 and 101–3.306 are hereby modified to require submission as of the last day of December, March, June, and September of each fiscal year. An original and one copy of each report shall be submitted to GSA no later than 45 calendar days after the report date. It is only necessary to submit changes to data elements contained in the previous quarterly inventory report.

Note: Detailed lists of the revisions to inventory reports are filed with the Office of the Federal Register as part of this original document. Copies will be forwarded under separate cover to agencies reporting under this system, and additional copies are available from the General Services Administration (PR), Washington, DC 20405.

g. *New reporting forms.* Revised forms for input to reports by executive agencies are being designed and will be distributed prior to the reporting due date.

h. *Effective date.* The requirements of this revision are effective as of the December 31, 1983, reporting period. They will continue in effect during the remainder of fiscal year 1984, and will be used to evaluate performance of executive agencies against their initial work space management plans. These are interim requirements, designed for use in the first year of the work space management reform program.

i. *Identifying disposals.* For purposes of calculating agency space reduction efforts, the property (work space) will be identified for disposal through the use of an excessed indicator data element in the world-wide inventory. An "E" should be placed in this field if the property has been reported excess or if

the property will be reported excess within 60 calendar days of the date of entry. In the latter case, this constitutes a firm commitment to submit formal documentation (Standard Form 118, Report of Excess Real Property or equivalent). All data on property excessed or to be excessed will be subject to verification by GSA. In either case agencies will be credited with a reduction. Portions of installations may be reported excess in the manner indicated above; the reported portions should be given a new and separate major installation number and the original installation number retained for the property to be held. That portion of the installation reported excess must be severable from the remainder for either a realistic outright disposal or for temporary utilization of other executive agencies. Such property cannot consist of groups or individual buildings, structures, facilities or land with restricted access or disposability because of the physical location of such property within the major installation.

Patrica Q. Schoeni,

Acting Administrator of General Services.

Section One

1. Executive agencies which have experienced substantial reductions (i.e., significantly in excess of 10 percent) in office personnel since October 1980 may find that Objective I will be controlling. Agencies which have not had such reductions will probably find that Objective II will control. Both calculations must be made, and the initial work space management plan for September 1984 office space will reflect the lower of the two results. Sample calculations will be available from the desk officers and will be provided to agencies upon request.

2. *Personnel.* Table I–A will also include personnel data for purposes of computing office space utilization rates pursuant to FPMR Temp. Reg. D–70. "Office Personnel," for purposes of this supplement, is defined in FPMR § 101–16.003(1). The utilization rate objectives of FPMR Temp. Reg. D–70 apply to all office space occupied by an executive agency. For initial submissions, under circumstances when agency-controlled office space is used by another executive agency, the space and personnel in question should be reported by the agency permitting the space.

3. *Acquisitions and disposals.* Table II is designed to provide information on the total acquisitions and disposals by usage code that the agency expects to make by September 30, 1984. In the narrative of Section One of the work space management plan provide as much detail as is readily available; however, as a minimum provide the gross square feet and the number and type of facilities planned for disposal. Further details on these acquisition disposal actions can be provided in Section Two of the work space management plans due February 29, 1984, and should indicate the category of work space, location, square footage and estimated dollar value, personnel to be housed, and the date planned for each acquisition or disposal.

a. *Acquisitions.* For the purpose of the initial submission, an "acquisition" is the obtaining of any interest in property containing work space which is of a nature that is reported to the world-wide inventory (e.g., purchase, construction completions, transfer from excess and lease, including renewals of existing leases. See 41 CFR 101–3.202 and 101–3.303, as revised by section 17 of this supplement.

b. *Disposals.* For the purpose of the initial submission, a "disposal" means a permanent disposal as defined in FPMR § 101–47.202. These include both fee simple disposals, disposals of leasehold expirations or cancellations. Leased space excepted from reporting to GSA under FPMR § 101–47.202–4 can be a "disposal" for reduction purposes. In the narrative portion of Section One of the plan identify the number, gross square footage, and annual rental of this excepted space.

Agency _____
Date _____
Contact _____
Telephone Number _____

TABLE I.—INITIAL WORK SPACE MANAGEMENT PLAN—SECTION ONE IN SQ.FT.

Usage code [1] [2]	Beginning inventory [3] (as of Mar. 31, 1983)	Projected ending inventory [3] (as of Sept. 30, 1984)	Net change [4] plus or minus
10—Office			
40—Storage			
XX—Special purpose (detail by usage code) [5]			
Total special purpose			
Total work space per world wide inventory			
Exempted space:			
Office			
Nonoffice			
Total			

[1] See appendix G.
[2] See par. 6(a).
[3] See par. 6.
[4] Transfer this figure to column 4 on table II.
[5] Reference FPMR 101–3.49. Include only buildings per par.[6] Pg 363. Do not include Land per par.[7] Pg. 357 or Facilities and Structures per par.[8] Pg. 368.
[6] This figure includes exempted space.

Agency
Date
Contact
Telephone Number

TABLE I.-A—INITIAL REPORT ON COMBINED UTILIZATION RATE SECTION ONE

	As of Oct. 2, 1980	As of Mar. 31, 1983	Projected Sept. 30, 1984
Office personnel: [1]			
Personnel in GSA assigned space			
Personnel in agency controlled space			
Total personnel in office space			
Office space: [2]			
GSA assigned space (sq. ft.)			
Agency controlled space (sq. ft.)			
Total office space			
Utilization rate: [3]			
GSA assigned space			
Agency controlled space			
Combined utilization rate			
Personnel in exempted office space [4]			

[1] As defined in FPMR Temp. Reg. FPMR D-70, Sec. 101-16.003(1).
[2] Includes personnel reported in exempted space.
[3] Square footage divided by number of personnel.
[4] Number of personnel in exempted office space reported on table I.

TABLE II.—INITIAL WORK SPACE MANAGEMENT PLAN—SECTION ONE

[From Mar. 31, 1983 to Sept. 30, 1984]

	Acquisitions	(Disposals) [2]	Net acquisitions (Disposals) [2]
Usage Code: [1] [2]			
10—Office			
40—Storage			
XX—Special purpose (Detail by usage code) [2]			
Total special purpose			
Total work space per world-wide inventory.[2]			

See footnote on table I.

[1] Include square footage of all leases expiring during report period.
[2] These figures must match column 4 on table I.

Agency
Date
Contact
Telephone Number

TABLE III.—WORK SPACE MANAGEMENT PLAN—SECTION TWO PROJECTED WORK SPACE ACQUISITIONS AND DISPOSALS [1] (IN FISCAL YEARS)

Usage code	1985	1986	1987	1988
10—Office				
40—Storage				
XX—Special purpose (detail by usage code				
Total special purpose				
Total work space per worldwide inventory				
Year end office personnel				
Year end office work space				
Year end utilization rate				

[1] Report only those acquisitions or disposals which are not subject to exemption.

TABLE IV.—WORK SPACE MANAGEMENT PLAN—SECTION TWO RELATED FURNISHINGS

Usage code [1] [2]	Net acquisitions (disposals)	Effect on related furnishings [2]
10—Office		
40—Storage		
XX—Special purpose (detailed by usage code)		
Total special purpose		
Total work space pre world wide inventory		
Exempted spaces:		
Office		
Non-office		
Total		

See footnotes on table I.

[2] See Par. 10 in FPMR Temp. Reg. D-70—Describe for each category the related furnishings expected to be reported as excess to GSA. Include any stored furnishings which will be excessed.

Code	Classification
10	*Office.* Buildings used primarily for office space.
14	*Post Office.* (Leased only). Buildings or portion of buildings leased for use as Post Offices.
21	*Hospital.* Buildings used primarily for furnishing in-patient diagnosis and treatment under the supervision of physicians and which have 24-hour-a-day registered graduate nursing services. Include medical laboratories used in routine testing. Exclude buildings used directly in basic or applied research in medicine which should be reported as Research and Development.
22	*Prison.* Buildings under the jurisdiction of the Department of Justice used for the confinement of Federal prisoners.
23	*School.* Buildings used primarily for formally organized instruction; such as, school for dependent children of Federal employees, Indian schools, and military training buildings.
29	*Other Institutional Uses.* Buildings used for institutional purposes other than schools, hospitals, and prisons. Include libraries, chapels, museums, out-patient clinics, etc.
30	*Housing.* Buildings used primarily for dwelling purposes; such as, apartment houses, single or row houses, and barracks. Includes public housing, housing for military personnel, housing for personnel in various Federal agencies, and housing for institutional personnel.
40	*Storage.* Buildings used for storage purposes; such as, warehouse, ammunition storage, and cover sheds. Also include in this category, garages used primarily for storage of vehicles or materials. Do not include such facilities as water reservoirs and oil storage tanks, which are to be reported as Other Structures and Facilities.
50	*Industrial.* Buildings specifically designed and used primarily for production or manufacturing. Include buildings used for the production or manufacture of ammunition, aircraft, ships, vehicles, electronic equipment, chemicals, aluminum, and magnesium. Also include laboratories used for routine testing of industrial products.
60	*Service.* Buildings used in connection with service activities; such as, maintenance and repair shops, laundry and dry cleaning plants, post exchange stores, and airport hangars. Also include garages used primarily for vehicle maintenance and repair.
70	*Research and Development.* Buildings used directly in basic or applied research in the sciences (including medicine) and in engineering. Include buildings used in the design, development and testing of prototypes and processes such as chemistry, physics, and medical laboratories and observatories for meteorological research. Do not include medical or industrial laboratories used in routine testing which should be reported as Hospital and Industrial, respectively.
80	*All Other.* Buildings which cannot be classified elsewhere. Wherever this classification is utilized, give a brief description of use in Remarks block.
89	*Trust Buildings.* All buildings held in trust by the reporting agency. Whenever this classification is utilized, give a brief description of use in Remarks block.

[FR Doc. 83-26898 Filed 9-30-83; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the regulations implementing the Advance Nurse Training Grants Programs by deleting the designation of six nursing specialties as the only specialty areas requiring advanced training and by removing funding preferences for certain specialties.

When the regulations for the Advanced Nurse Training Grants Programs were published in 1978, categories identified as eligible for support were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened, it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs.

EFFECTIVE DATE: This rule is effective October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Gretchen A. Osgood, R.N., M.S., Deputy Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number 301 443-5786.

SUPPLEMENTARY INFORMATION: Section 821 of the Public Health Service Act authorizes the award of grants to public and nonprofit private collegiate schools of nursing to meet the cost of projects to (1) plan, develop and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training. Regulations implementing section 821 set forth in 42 CFR Part 57, Subpart Z, provide that the following six professional nursing specialties require advanced nurse training: (1) Geriatric nursing, (2) community health nursing, (3) maternal-child nursing, (4) acute care nursing, (5) medical-surgical nursing, and (6) adult nursing.

When the regulations for the Advanced Nurse Training Programs were published in 1978, categories identified as eligible for support were broad enough to allow many important advanced nurse training programs to apply for funds to develop needed programs. Since that time it has become evident that there are other areas of high priority to the Department that are not eligible for support, e.g., family oriented nursing programs and programs directed to the provision of care to individuals with chronic disease. As societal needs and Departmental interests have changed and broadened, it appears appropriate to eliminate the current restriction on eligibility so as to permit support of a wider range of advanced nursing programs. Consequently, this amendment deletes the designation of six nursing specialties from the definition of "advanced nurse training program" and removes the funding preferences for certain specialties. However, the Secretary is authorized to announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the **Federal Register.**

Notice of Proposed Rulemaking was published in the **Federal Register** on February 1, 1983, and provided a period of 30 days for public comment. Eight letters were received during the comment period, seven of which strongly supported the amendment. One dissenting letter expressed concern that removal of a preference for gerontological nursing might impact unfavorably on the preparation of nurses for this important specialty area. The Secretary agrees that the continued preparation of nurses to work with the aged is essential, but believes that, in view of the number and quality of applications submitted in this specialty area, significant funding will continue to be available in the foreseeable future.

Executive Order 12291, Federal Regulation and Regulatory Flexibility Act

The Department has determined that this is not a major rule for the purpose of Executive Order 12291, Federal Regulation because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amount of Federal grant funds allocated under section 821 of the Public Health Service Act will not be changed as a result of this amendment to the final regulation. Since this amendment merely removes eligibility restrictions from the existing rules, and will not adversely affect projects currently receiving support, the Secretary has determined that these regulations do not meet any criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. Further, the regulations will not have a significant economic impact on a substantial number of small entities and a Regulatory Flexibility Act of 1980 (Pub. L. 96-354) analysis is not required.

Paperwork Reduction Act

The recordkeeping and reporting requirements in revised § 57.2504 and the application forms and instructions for this grant program were submitted to the Office of Management and Budget (OMB) for review under section 3507 of the Paperwork Reduction Act of 1980. OMB approval numbers are 0915-0061 for the continuation application form and 0915-0060 for the competing application form. In addition, although this rule does not amend the provisions of § 57.2513, § 57.2513 is amended to include the OMB approval numbers 0915-0061 and 0915-0060 at the end of the section.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Grant programs—nursing, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Nursing advanced training, Scholarships and fellowships, Student aid.

Accordingly, 42 CFR Part 57, Subpart Z is made final as set forth below.

Dated: June 30, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.299, Grants to Advanced Nurse Training Programs)

PART 57—[AMENDED]

42 CFR Part 57 Subpart Z is amended as follows:

Subpart Z—Grants for Advanced Nurse Training Programs

1. The authority citation for Subpart Z is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by Pub. L 97-35, 95 Stat. 930 (42 U.S.C 296*l*).

2. Section 57.2502 is amended by revising the definition for "Advanced nurse training program" to read as follows:

§ 57.2502 Definitions.

* * * * *

"Advanced nurse training program" means a program of study in a collegiate school of nursing leading to a graduate degree in nursing which trains professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialities (including service as nurse clinicians) determined by the Secretary to require advanced training.

* * * * *

§ 57.2503 [Amended]

3. In § 57.2503 paragraph (b), footnote 1 is removed.

§ 57.2504 [Amended]

4. In § 75.2504 paragraph (a), footnote 2 is redesignated as footnote 1 and is revised to read as follows:

* * * * *

[1] Applications and instructions maybe obtained from the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services, Parklawn Building, Room 5C-26, 5600 Fishers Lane, Rockville, Maryland 20857.

* * * * *

Section 57.2504 is further amended by adding the following parenthetical sentence at the end of the section:

(Approved by the Office of Management and Budget under control numbers 0915-0060 and 0915-0061.)

* * * * *

5. In § 57.2506, paragraph (b) is revised to read as follows:

§ 57.2506 Evaluation and grant awards.

* * * * *

(b) *Funding preference.* The Secretary will announce special funding preferences should specific needs warrant such action. Preferences will be announced by publishing a notice in the **Federal Register.**

* * * * *

6. Section 57.2513 is amended by adding the following parenthetical sentence at the end of the section.

§ 57.2513 Applicability of 45 CFR Part 74.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0915-0060 and 0915-0061.)

* * * * *

[FR Doc. 83-28940 Filed 9-30-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 82-063b]

Revision of Staff Codes and Addresses; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an inadvertent error made to the final rule document issued on February 3, 1983 (48 FR 4780). That rule revised or updated the addresses and staff codes of the component divisions of the Office of Merchant Marine Safety, U.S. Coast Guard Headquarters, to reflect recent organizational changes.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Office of Merchant Marine Safety (G-MTH-3/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593 (202) 426-1577.

SUPPLEMENTARY INFORMATION:

List of Subjects in 46 CFR Part 160

Marine safety.

§§ 160.050-7, 162.050-7, and 162.050-15 [Corrected]

The following correction is made to FR Doc. 83-2945 appearing in the issue of February 3, 1983. On page 4783,

column one, change 52. is corrected to read as follows:

"52. In the following sections, ("G-MMT-3/83)" is changed to "(G-MVI)" except in § 160.050-7(a) where "(G-MVI)" is added to the address after the word "Commandant"; and the zip code "20590" is changed to "20593":

§ 160.050-7(a)

§ 162.050-7(a)

§ 162.050-15 (a), (e) and (h)

Authority: 14 U.S.C. 632; 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: September 28, 1983.

A. F. Bridgman, Jr.,

Chief, Regulations and Administrative Law Division.

[FR Doc. 83-26910 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81, 83, and 87

Editorial Amendment of the FCC's Rules Governing Stations on Land and on Shipboard in the Maritime Services, the Alaska Fixed Service, and the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document editorially amends various sections of the Commission's rules governing stations on land and on shipboard in the Maritime Services, the Alaska Fixed Service, and the Aviation Services. It deletes obsolete language, clarifies vague wording, corrects errors, combines two subparts, and makes other minor editorial changes. This action was undertaken by the Commission to improve upon the existing rules without making substantive changes. Actions such as this one are necessary on a regular basis to purge the rules of outdated provisions which no longer apply. This action is intended to simplify the remaining rules for the public, and to economize on the government's printing costs.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau, 202-632-7175.

List of Subjects

47 CFR Part 81

Coast stations, Communications equipment, Marine Safety, Telegraph, Radio, Telephone, Vessels.

47 CFR Part 83

Communications equipment, Radio, Reporting requirements, Ship stations, Vessels.

47 CFR Part 87

General Aviation, Radio.

Order

In the matter of editorial amendment of Parts 81, 83, and 87 of the FCC's Rules and Regulations.

Adopted: September 8, 1983.
Released: September 22, 1983.

1. We are editorially amending a number of sections of Parts 81, 83, and 87 of the Commission's rules to delete obsolete language, to clarify unclear language, to change certain minor provisions, to correct errors, and to combine some duplicate rules. These changes are intended to simplify the remaining rules for the public, and to economize on the government's printing costs. The affected sections are: 81.42, 81.136, 81.209, 81.372, 81.451, 81.452, 81.453, 81.454, 81.455, 81.456, 81.459, 81.460, 81.461, 81.471, 81.472, 81.473, 81.474, 81.475, 81.476, 81.601, 81.602, 81.603, 81.605, 81.607, 81.609, 81.611, 81.613, 81.615, 81.617, 81.619, 81.621, 81.623, 81.625, 83.144, 83.146, 83.339, 83.367, 87.22, 87.79, 87.183, 87.455, 87.521.

2. Authority for this action is contained in sections 4(i), and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matters covered in this document contact Maureen Cesaitis, telephone (202) 632-7175.

4. In view of the above, it is ordered, That the rule amendments set forth in the attached Appendix are adopted effective September 22, 1983.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Parts 81, 83, and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.42, paragraphs (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 81.42 Applications for consent to assignment of station license or for consent to transfer of control of corporation holding same.

(a) *Voluntary.* (1) Except for fixed stations using frequencies above 952 MHz, the holder of a station authorization desiring to assign to another person the privilege to use a radio station shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 503 prepared by and in the name of the person to whom the station is being assigned. Fixed stations using frequencies above 952 MHz shall use FCC Form 402, "Application for license in the Private Operational-Fixed Microwave Radio Service", for this purpose. In lieu of the letter the assignor may complete and sign an FCC Form 1046.

(2) Application for consent to voluntary transfer of control of a corporation holding a license covering a station subject to this part shall be filed on FCC Form 703, "Application for Consent to Transfer of Control of Corporation Holding Construction Permit on Station License". The applications specified herein shall be filed at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(b) *Involuntary.* In the event of the death or legal disability of a licensee, or a member of a partnership which is a licensee, or a person directly or indirectly in control of a corporation which is a licensee:

* * * * *

2. Section 81.136, including the heading, is revised in its entirety to read as follows:

§ 81.136 Type acceptance required.

(a) Transmitters shall be typed-accepted by the Commission pursuant to Subpart J of Part 2 of this chapter (§ 2.901 et seq.).

(1) Manufacturers of transmitters shall apply to the Commission for type-acceptance.

(2) Individuals may apply for individual transmitter type-acceptance.

(b) Type-accepted transmitters are listed in the Commission's "Radio Equipment List," which is available for inspection at the Commission in

Washington, D.C., and in its field offices. Type-accepted individual transmitters normally will not be included in this list, but only specified on the station authorization.

3. In § 81.209, paragraph (a), including the table, is revised to read as follows:

§ 81.209 Watch on ship calling frequencies.

(a) Coast stations shall maintain a continuous listening watch, subject to normal variations in radio propagation, during their working hours for calls from ship station on frequencies listed in the table below. A coast station shall monitor the ship station frequencies in the same band(s) in which the coast station is licensed to operate.

Coast station location	Kilohertz
East Coast	4181, 4181.8, 4182.2, 6271.5, 6272.7, 6273.3, 8362, 8363.6, 8364.4, 12543, 12545.4, 12546.6, 16724, 16727.2 16728.8, 22228, 22232, 22234, 25071, 25073.
Gulf Coast	4181.8, 4182.2, 4183.4, 6272.7, 6273.3, 6375.1, 8363.6, 8364.4, 8366.8, 12545.4, 12546.6, 12550.2, 16727.2, 16728.8, 16733.6, 22232, 22234, 22236, 25071, 25073.
West Coast	4181.8, 4182.2, 4185, 6272.7, 6273.3, 6277.5, 8363.6, 8364.4, 8370, 12545.4, 12546.61, 12555, 16727.2, 16728.8, 16740, 22232, 22234, 22240, 25073, 25075

* * * * *

4. In § 81.372, paragraph (a) is revised to read as follows:

§ 81.372 Station identification.

(a) Limited coast or marine utility stations shall identify transmissions by announcing in the English language the station's assigned call sign. In lieu of the identification of the station by voice, the official call sign may be clearly transmitted by tone-modulated telegraphy in the International Morse Code by a duly licensed radiotelegraph operator or by means of an automatic device approved by the Commission. Transmissions on the navigation frequency (156.65 MHz) by stations on drawbridges may be identified by use of the name of the bridge in lieu of the call sign. Identification shall be made:

(1) At the beginning and upon completion of each communication with any other station;

(2) At the beginning and upon conclusion of each transmission made for any other purpose;

(3) At intervals not exceeding 15 minutes whenever transmissions or communications are sustained for a period exceeding 15 minutes.

* * * * *

§§ 81.451 through 81.476 (Subpart L) [Removed]

5. Subpart L (§§ 81.451–81.476) is removed.

6. Subpart P is amended by revising the heading and adding new center headings; by redesignating § 81.603 as § 81.625 and adding a new § 81.603; adding new §§ 81.609–81.623; by revising §§ 81.601, 81.602, and 81.607; and adding a new 81.605 as follows:

Subpart P—Fixed Stations Associated With the Maritime Mobile Service

Marine Fixed Stations

§ 81.601 Scope.

Marine fixed stations shall be used primarily for safety communications. Other than safety communications may be carried on by these stations with discretion and to the extent required in behalf of that station's specific activities. Priority shall be given at all times to ship to shore transmissions using the assigned radio channel(s).

§ 81.603 Eligibility requirements.

Subject to the basic eligibility requirements set forth in § 81.23, the following persons are eligible for authorization for marine fixed stations:

(a) Persons engaged in prospecting for, producing, collecting, refining, or transporting petroleum or petroleum products in the immediate vicinity of the marine fixed station requested;

(b) Persons engaged in a construction project of a public nature, in the vicinity of the proposed marine fixed station;

(c) Any nonprofit corporation or association, organized for the purpose of furnishing a radiocommunication service solely to persons who are actually engaged, in the immediately vicinity of the proposed marine fixed station, in one or more of the activities described in this section. Such a corporation or association shall render service only on a nonprofit cost-sharing basis, said costs to be prorated on an equitable basis among all persons to whom service is rendered. Records which reflect the cost-sharing nonprofit basis shall be maintained and held available for inspection by Commission representatives.

* * * * *

§ 81.605 Showing of need.

Applicants for authority to establish and operate marine fixed stations must demonstrate that a need for the desired communication exists primarily in respect to the safety of life or property, and that the use of any communication facility to satisfy such need, other than a marine fixed station, is impossible or impracticable for the purpose involved.

§ 81.607 Points of communication.

Marine fixed stations are authorized to communicate with public regional telephony coast stations in the United States in order to render a communication service of telephony in direct connection with the general public service land-line telephone system. In each instance, the marine fixed station must be located not more than 300 statute miles from each coast station with which it communicates.

§ 81.609 Frequencies available.

(a) Marine fixed stations may be authorized to use carrier frequencies in the band 2000–2450 kHz. These frequencies may be used to transmit public correspondence to public coast stations (normally providing direct connection with land-line telephone systems). However, such use shall cause neither harmful interference nor intolerable delay to communications between coast stations and mobile stations.

(b) Marine fixed stations may transmit distress calls, distress traffic, urgency, and safety signals and messages on the carrier frequency 2182 kHz. Any other use of this frequency by marine fixed stations is prohibited.

Marine Receiver-Test Stations

§ 81.611 Scope.

A marine receiver-test station shall be used solely for brief transmissions intended for interception by the licensee's associated public coast station. The purpose of such transmissions shall be to test the technical performance of the public coast station's radiotelephone receiver. No other signals or communications shall be transmitted by marine receiver-test stations.

§ 81.613 Eligibility requirements.

An authorization for a marine receiver-test station may be granted to the licensee of a public coast station which uses telephony.

§ 81.615 Frequencies available.

Marine receiver-test stations may be authorized to transmit on the ship transmit frequencies of the marine channel assigned to the public coast station.

§ 81.617 Marine receiver-test station identification.

At the conclusion of each completed test transmission, the marine receiver-test station shall announce the official call sign.

§ 81.519 Marine receiver-test station limitations.

Marine receiver-test station licensees shall avoid interfering with calls from ship stations and with the exchange of public correspondence between ship and shore. In a region of heavy radio traffic on a particular channel, marine receiver-test stations shall limit their test time on that radio-channel to not exceed 24 minutes in each 24-hour period.

Operational Fixed Stations

§ 81.621 Scope.

Operational fixed stations in the Marine Services are authorized for control, repeater, relay or similar marine functions.

§ 81.623 Eligibility requirements.

(a) An applicant for an operational station using frequencies in the 72–76 MHz band must submit the following showings:

(1) Coast station license number;

(2) Need for the operational fixed station;

(3) Unavailability of other effective telecommunications facilities.

(b) Operational fixed stations may be assigned frequencies in the 10,550–10,680 MHz band, subject to Part 94.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.144, the section heading is revised to read as follows:

§ 83.144 Special requirements for emergency position indicating radiobeacon stations, Class B.

* * * * *

2. In § 83.146, the section heading is revised to read as follows:

§ 83.146 Special requirements for emergency position indicating radiobeacon stations, Class C.

* * * * *

§ 83.339 [Amended]

3. In § 83.339, paragraph (a)(6) is amended by removing the "Note".

§ 83.367 [Amended]

4. In § 83.367, paragraph (a)(5) is amended by removing the "Note".

PART 87—AVIATION SERVICES

1. Section 87.22 and its heading is revised to read as follows:

§ 87.22 Assignment of aeronautical or fixed stations in the Aviation Service.

When the holder of a station license desires to assign to another person the privilege to use a radio station, he shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station license for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 406 prepared by and in the name of the person to whom the station is being assigned. In lieu of the letter, the assignor may complete and sign an FCC Form 1046.

§ 87.79 [Amended]

2. In § 87.79, paragraph (d) is amended by revising the FAA address to read as follows:

(d) * * *

Federal Aviation Administration, Spectrum Engineering Division, AES–500, 800 Independence Avenue SW., Washington, D.C. 20591.

* * * * *

3. In § 87.183, paragraph (i), including the list of frequencies, is revised to read as follows:

* * * * *

§ 87.183 Frequencies available.

* * * * *

(i) Frequencies in the bands 118.000–121.400, 121.600–121.925, 123.600–128.800, and 132.025–135.975 MHz, inclusive, are available for air traffic control operations. Channel spacing is 25 kHz.

* * * * *

4. Section 87.455 is amended by revising the list of frequencies in paragraph (b)(2), and by adding a new paragraph (c), as follows:

§ 87.455 Assignment of frequencies.

* * * * *

(b) * * *

(2) * * *

Frequencies available:

kHz:

2648, 4645, 4947.5, 5122.5, 5310, 5887.5, 8015

(c) *Gulf of Mexico.* In addition to the provisions of paragraph (a), the following frequencies and emissions are available for aeronautical fixed use in the Gulf of Mexico.

Frequencies available:

kHz and Emission:

4550 6A3, 3A3A, 3A3H, 3A3J
5036 6A3, 3A3A, 3A3H, 3A3J

§ 87.521 [Amended]

5. In § 87.521, paragraph (d)(2) is amended by removing the last (second) sentence.

[FR Doc. 83-26843 Filed 9-30-83; 8:45 am]
BILLING CODE 8712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 192
Monday, October 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Temporary Revision of Pool Supply Plant Shipping and Diversion Limitation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to temporarily relax certain pooling provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would relax for October 1983 through March 1984 a portion of the pooling standards for supply plants and the limit on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due not later than October 11, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that any need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the shipping requirements for pool supply plants and the limits on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants for October 1983 would be modified. The initial request for the action was received on September 2, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of October 1983 through March 1984.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file two copies of such material with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the **Federal Register**. The period for filing views is limited because a longer period would not provide the time needed to complete the required procedures and include October 1983 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are (1) the shipping percentages for pool supply plants set forth in § 1065.7(b) and (2) the diversion limitation percentages set forth in § 1065.13(d). The revisions would be applicable for the months of October 1983 through March 1984. The specific revisions would (1) decrease the supply plant shipping percentages 10 percentage points, from the present 40 percent to 30 percent and (2) increase the diversion limitation percentages 10 percentage points, from the present 40 percent to 50 percent.

Sections 1065.7(b) and 1065.13(d) of the Nebraska-Western Iowa milk order allow the Director of the Dairy Division to increase or decrease the supply plant shipping percentage and the diversion limitation percentages by up to 20 percentage points during any month to encourage additional needed milk shipments to pool distributing plants or to prevent uneconomic shipments merely for the purpose of assuring that diary farmers will continue to have their milk priced under the order and thereby receive the benefits that accure from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of October 1983 through March 1984, the pool supply plant shipping percentage be reduced 10 percentage points. Also, the cooperative requested that for the same months the percentage of allowable diversions be increased 10 percentage points.

The cooperative states that beginning in October 1983 the pooling provisions in question will not accommodate the efficient pooling of the milk of some of its members who regularly are associated with the market. The cooperative indicates that it is requesting the revision because of the present buildup in the market's milk supplies due to a substantial increase in producer deliveries and a decline in Class I sales. In that regard, the cooperative noted that producer deliveries for the first seven months of 1983 were up 6.7 percent from the already high levels of the same period a year ago while Class I sales were down 1.8 percent. The cooperative believes that the temporary revision of both the supply plant shipping standard and the diversion limits will be necessary for the

months of October 1983 through March 1984. Because of the market's present supply situation, the cooperative contends that the temporarily relaxed pool supply plant shipping percentage and diversion limits will be adequate to supply the needs of the Class I market without causing unnecessary and uneconomic shipments to pool plants simply to meet order requirements.

Therefore, it may be appropriate to reduce the aforementioned pooling privisions for the months of October 1983 through March 1984 to prevent uneconomic shipments of milk.

List of Subjects In 7 CFR Part 1065

Milk marketing orders, Milk, Dairy Products.

Signed at Washington, D.C., on September 27, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-26892 Filed 9-30-83; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 317, 319, and 381

[Docket No. 78-733E]

Labeling for Meat and Poultry Products With Cheese Substitutes; Revised Pizza Standard; Extension of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 5, 1983, the Food Safety and Inspection Service (FSIS) published a proposal to amend the Federal meat and poultry products inspection regulations regarding the labeling of cheese substitutes used in meat and poultry products and regarding the standard for pizza. The FSIS has determined that it will extend the comment period until April 2, 1984.

DATE: Comments must be received on or before April 2, 1984.

ADDRESSES: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. Robert G. Hibbert, (202) 447-6042.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On August 5, 1983, the Food Safety and Inspection Service published a proposed rule in the **Federal Register** (48 FR 35654) to amend the Federal meat and poultry products inspection regulations regarding the labeling of cheese substitues used in meat and poultry products and regarding the standard for pizza. The FSIS has received several requests to allow additional time to study the proposal and submit comments, including one request for additional time to permit them to conduct consumer perception surveys. The FSIS is interested in receiving additional data on this proposal and has determined that there is sufficient justification for extending the comment period unitl April 2, 1984.

Done at Washington, DC, on: September 30, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-27092 Filed 9-30-83; 11:04 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASW-39]

Proposed Alteration of Transition Area; Falfurrias, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration propóses to alter the transition area at Falfurrias, TX. The intended effect of the proposed action is to realign controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Brooks County Airport. This action is necessary since the final approach segment of the SIAP is being altered to the east, thereby requiring the realignment of controlled airspace for the protection of aircraft.

DATES: Comments must be received on or before November 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Falfurrias, TX, will necessitate an amendment to this subpart. This amendment will be required at Falfurrias, TX, since there is a proposed change in IFR procedures to the Brooks County Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-ASW-39." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones Transition areas, aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Falfurrias, TX Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Brooks County Airport (latitude 27°12'27" N., longitude 98°07'20" W.), within 3.5 miles each side of the 164° bearing of the NDB (latitude 27°12'24" N., longitude 98°07'16" W.), extending from the 6.5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

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); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Forth Worth, TX, on September 15, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-26934 Filed 9-30-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20230; File No. S7-995]

Certain Sales by Block Positioners

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment and solicitation of public comments.

SUMMARY: The Commission is proposing for adoption an exemption from the "tick" provisions of the short sale rule, Rule 10a-1 under the Securities Exchange Act of 1934. The exemption is intended to facilitate the bolck positioning activities of broker-dealers who engage in both block positioning and arbitrage. Under the proposed exemption, a broker-dealer selling a security that it acquired while acting in the capacity of a block positioner could, in determining whether it was long or short for purposes of the "tick" provisions of the short sale rule, disregard a proprietary short position in that security if and to the extent that such short position was the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

DATE: Comments must be received on or before November 15, 1983.

ADDRESSES: Interested persons should submit three copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 6184, 450 Fifth Street, NW., Washington, D.C. 20549, and should refer to File No. S7-995. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: M. Blair Corkran, Jr. (202-272-2853); Joel M. Bludman (202-272-7491); or Deren E. Manasevit (202-272-7496), Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Rule 10a-1[1] under the Securities Exchange Act of 1934 (the "Act") regulates short sales of certain securities. Rule 10a-1 provides generally that short sales of reported securities (*i.e.*, securities as to which last sale information is reported in the consolidated system)[2] may be effected only at a price above the price at which the immediately preceding sale was effected ("plus tick"), or at a price equal to the last sale if the last preceding transaction at a different price was at a lower price ("zero-plus tick"), established by reference to the last sale price reported from any market in the consolidated system.[3] The general purpose of Rule 10a-1 is to prevent manipulative sales of a security for the purpose of accelerating a decline in the price of such security.

On June 1, 1982, the Commission granted, on a one year trial basis, an exemption from Rule 10a-1[4] that permits a broker-dealer who has acquired a security while acting in the capacity of a "block positioner"[5] to disregard a short stock position if and to the extent that such short position is and has been for at least five business days the subject of one or more offsetting positions creted in the course of "bona fide arbitrage," "risk arbitrage," or "bona fide hedge" activities.[6] Block positioning is an activity engaged in by certain broker-dealers whereby a broker-dealer acts as principal in taking all or part of a block order placed with him by a customer in order to facilitate a transaction that might otherwise be difficult to effect in the ordinary course of floor trading. The exemption enables a broker-dealer that estblishes an "arbitrage" or "hedge" position in an arbitrage account, with a

[1] 17 CFR 240.10a-1.

[2] Reported securities include (i) any common stock, long term warrant or preferred stock registered or admitted to unlisted trading privileges on either the New York Stock Exchange ("NYSE") or the American Stock Exchange ("Amex"); (ii) any common stock, long-term warrant, or preferred stock registered on any exchange or admitted to unlisted trading privileges thereon that substantially meets either NYSE or Amex original listing requirements and (iii) any right to acquire any of the securities described in (i) or (ii) that is traded on the same exchange as such security. *See* Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1.

[3] Rule 10a-1(a). Pursuant to Rule 10a-(a)[2], the permissibility of short sales effected on the NYSE and Amex is measured by reference to the last sale in those respective markets rather than by reference to the consolidated system. For listed securities that are not reported securities, the permissibility of short sales is measured by reference to the last sale on the exchange where the short sale is effected. Rule 10a-(b).

[4] Letter from the Commission to Joseph McLaughlin, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, dated June 1, 1982.

[5] *See* Part IIA of Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) ("Release No. 34-15533").

[6] *See* Part IIB of Release No. 34-15533.

short position fully hedged or coverd by an equivalent security, not to be handicapped by Rule 10a–1 in its block positioning activities in that security.

As originally granted, the exemption required that the short stock position in question must have existed at the time the block was acquired, and that both the short stock position and the offsetting hedge position must have been maintained for five business days before securities could be sold in reliance upon the exemption. The requirement that the short position must have existed at the time the block was acquired was subsequently deleted.[7] At the same time, the exemption was extended to June 30, 1983.[8] The exemption was subsequently extended to September 30, 1983.[9]

II. Discussion

The problem the exemption seeks to address concerns the interaction between Rule 10a–1 and Rule 3b–3 under the Act. Rule 3b–3 defines the term "short sale" for purposes of the Act. Under the definition, a short sale of a security is "any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the acount of, the seller." [10] Rule 3b–3 also provides that "a person shall be deemed to own securities only to the extent that he has a net long position in such securities." [11]

In order to determine whether a person has a "net long position" in a security, all accounts must be aggregated. Long positions in convertible securities, rights, warrants or call options, however, are not considered long positions in the underlying securities unless they have been converted or exercised.[12]

The aggregation provisions can affect the trading strategies of broker-dealers that engage in block positioning because most of those broker-dealers also engage inproprietary trading, including bona fide and risk arbitrage. For example, as part of its arbitrage activities, a broker-dealer will frequently engage in short sales of a common stock in an arbitrage account while simultaneously purchasing an "equivalent security," such as a stock purchase warrant or an exchange-traded call option that can be converted into, or exercised to purchase, an amount of the common stock equivalent to the shares that have been sold short. A short position in such an account is considered a short position under Rule 3b–3 notwithstanding that the position is fully hedged or covered by holdings in the same account of "equivalent secuities." Therefore, a broker-dealer must comply with the "tick" provisions of paragraphs (a) and (b) of Rule 10a–1 and mark as "short" any sales of securities where an economically neutral, but legally "short", position in an arbitrage or hedged account is equal to or greater than a long position acquired in the course of block positioning.[13] Broker-dealers are therefore sometime handicapped in their block positioning activities if they are conducting concurrent arbitrage or hedging activities in the same stocks that they are positioning as block traders.

The Commission has long recognized the important role of block positioning in the provision of liquidity for large securities transactions and the maintenance of fair and orderly markets. Moreover, where a separate short position held by a block positioning firm is fully hedged, there is no incentive to effect sales from a trading account in which it carries on its block positioning activities in a manner that would cause or accelerate a decline in the market.[14]

III. Proposed Exemption

The Commission proposes to amend Rule 10a–1 to allow a block positioner to disregard a short position in a security in calculating its net long position if such short position is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

The proposed exemption would be drawn to limit its use to circumstances where it would facilitate activity beneficial to the market and where manipulative incentives do not appear to exist. First, the proposed exemption would be limited to sales of a security acquired by a broker-dealer while acting in the capacity of a block positioner. Second, the exemption would be available only if the short position is created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedging activities. For purposes of the exemption, the terms "block positioner," "bona fide arbitrage," "risk arbitrage," and "bona fide hedge" are as defined in Part II of Securities Exchange Act Release No. 15533.

In order to facilitate block positioning, from and after the date of this release until the Commission takes final action on this proposal, the staff will not recommend that the Commission take enforcement action if a broker-dealer that has acquired a security while acting in the capacity of a block positioner does not comply with Rule 10a–1 (a) and (b) in connection with transactions in that security if and to the extent that such broker-dealer's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

IV. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act establishes procedural requirements applicable to agency rulemaking that has a "significant economic impact on a substantial number of small entities." [15] The Chairman of the Commission has certified pursuant to that Act that the proposed amendment to Rule 10a–1, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendment to Rule 10a–1 would free the sale of stock by a block positioner from the "tick" provisions under certain circumstances in which the block positioner has a short position in the same security as a result of bona fide hedge or arbitrage activity. Because of the large capital required for block positioning, it is highly unlikely that any small broker-dealers as defined by the Commission engage in that activity.

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[7] Letter from the Commission to Joseph McLaughlin, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, Dated June 24, 1982.

[8] *Id.*

[9] Letter from Jeffrey L. Steele, Associate Director, Division of Market Regulation to Saul S. Cohen, Esq., Chairman, Federal Regulation Committee, Securities Industry Association, Dated June 28, 1983.

[10] 17 CFR 240.3b–3.

[11] *Id.*

[12] Rule 3b–3 (3), (4) and (5).

[13] For example, a broker-dealer that owned 200 in the money but unexercised XYZ calls hedged by a short stock position of 20,000 XYZ shares would, pursuant to Rule 3b–3, be deemed to be short 20,000 XYZ shares for purposes of compliance with the short sale rule. Accordingly, if the broker-dealer purchased a block of 15,000 shares of XYZ stock in the course of block positioning, absent an exemption, it would only be able to sell the block on an "up-tick" or a "zero plus tick."

[14] The gain from the short stock would be offset by a loss in the equivalent security or securities making up the bona fide hedge or arbitrage position.

[15] Although Section 601(b) of the Regulatory Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to this proposed rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–19. *See* Securities Exchange Act Release No. 34–18452 (January 28, 1982). A broker or dealer generally is a "small business" or "small organization" if it had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a–5(d). *See* Rule 0–10(c).

V. Statutory Basis and Text of Rule Amendment

The proposed amendments to Rule 10a–1 would be adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

List of Subjects in 17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

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

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

By adding a new paragraph (e)(13) to § 240.10a–1 to read as follows:

§ 240.10a–1 Short sales.

* * * * *

(e) * * *

(13) A broker-dealer that has acquired a security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of Rule 3b–3 [§ 240.3b–3] and of this section notwithstanding that such broker-dealer may not have a net long position in such security if and to the extent that such broker-dealer's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

September 27, 1983.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 10a–1 set forth in Securities Exchange Act Release No. 20230, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendment to Rule 10a–1 would free the sale of stock by a block positioner from the tick provisions under certain circumstances in which the block positioner has a short position in the same security as a result of bona fide hedge or arbitrage activity. Because of the large capital required for block positioning, it is highly unlikely that any small broker/dealer as that term is defined in Rule 0–10(c) engages in block positioning.

Dated: September 27, 1983.

John S. R. Shad,

Chairman.

[FR Doc. 83–26887 Filed 9–30–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 83N–0153]

Linoleic Acid; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that linoleic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Written comments by December 2, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of linoleic acid has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency is proposing to affirm the GRAS status of this ingredient as a nutrient supplement for direct use in conventional food [1] and infant formula.

The GRAS status of the use of linoleic acid in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using this ingredient in dietary supplements. The use of this ingredient in dietary supplements will continue to be permitted under Subpart F of Part 182 (21 CFR Part 182).

The safety evaluations of coconut oil, peanut oil, oleic acid, and linoleic acid conducted by the Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology (FASEB) were contained in the same report. This proposal presents only FASEB's GRAS evaluation and FDA's conclusion on the safety of linoleic acid. Separate documents presenting FASEB's evaluation and FDA's conclusions on the safety of vegetable oils (i.e., coconut oil and peanut oil) and oleic acid will be published in a future issue of the **Federal Register.**

Most vegetable oils are composed of glycerides containing combinations of saturated and unsaturated fatty acids including linoleic acid (Z,Z)-9,12-octadecadienoic acid ($C_{17}H_{31}COOH$)). Linoleic acid is an essential fatty acid. It is an oil at room temperature, has a molecular weight of 280.5, and melts at −12° C. The refractive index of linoleic acid is 1.4669. The acid may be obtained from the saponification or hydrolysis of edible fats and vegetable oils at reduced pressures and temperatures. Various processes have achieved commercial significance in the separation of solid saturated fatty acids from liquid unsaturated fatty acids, including the panning and pressing method and solvent crystallization.

Linoleic acid was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, under a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837), the nutrient and dietary supplement category was divided into separate listings for GRAS dietary supplements and GRAS nutrients. As a consequence, linoleic acid is currently listed as GRAS in § 182.5065 (21 CFR 182.5065) as a dietary supplement and in § 182.8065 (21 CFR 182.8065) as a nutrient supplement.

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350a(g)) lists linoleate (the salt form of linoleic acid) among the

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).