(11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computations pursuant to § 1131.60 (d) and (f); and

(3) Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1131.76(a)(2).

(b) The market administrator shall deduct the same rate per hundredweight prescribed in paragraph (a) of this section from payments to associated producers pursuant to § 1131.72(b) to cover each such associated producer's pro rata share of the expense of administration of the order.

(Sec. 1–19, 48 Stat. 31 as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1983.

Signed at Washington, D.C. on November 14, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83–31129 Filed 11–17–83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 3

[AG Order No. 1035–83]

Forwarding of Record on Appeal

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: Under the present provisions of 8 CFR 3.5, if an appeal is taken to the Board of Immigration Appeals from a decision by an Immigration and Naturalization Service District Director, the record must be forwarded to the Board for adjudication of the appeal. This final rule permits District Directors to reopen and reconsider their decision subsequent to a party's filing of an appeal to the Board where, upon review of the matters submitted on appeal, it is concluded that the benefits sought by the appealing party should have been granted. Such reconsideration is only authorized where the District Director concludes that the benefit sought should have been granted and the new decision is served on the appealing party within 45 days of receipt of any briefs or the expiration of the time allowed for such submission. In any case in which a new decision granting relief is not served within 45 days or in which the appealing party does not agree that the new decision disposes of the matter, the record must be immediately forwarded to the Board. The final rule should permit a prompt disposition of cases to the benefit of all concerned where the District Director, subsequent to an appeal, concludes that favorable action is warranted. Additionally, unnecessary Board consideration of appeals in such cases can be eliminated.

EFFECTIVE DATE: November 18, 1983.

FOR FURTHER INFORMATION CONTACT: David B. Holmes, Chief Attorney Examiner, Board of Immigration Appeals (703/756–6170).

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 38847–38848 of the **Federal Register** of August 26, 1983, and initiated comments for 30 days ending September 25, 1983. The Board received two comments, both favorable. The American Immigration Lawyers Association endorsed both the concept and specific language of the proposed rule and urged its final promulgation. A private attorney supported the rule, but recommended various "clarifications." The rule has been revised to require the "immediate," rather than "prompt," forwarding of a record of proceeding to the Board if the District Director has not served a new decision within 45 days or if the appealing party does not agree the new decision disposes of the case. This latter circumstance should occur rarely, if at all, as a District Director may only enter a new decision if the decision will "grant the benefit which has been requested. . . ." However, if such a case arises, the record of proceedings would include the appealing party's statement or brief as to why the new decision does not dispose of the matter.

List of Subjects in 8 CFR Part 3

Administrative practice and procedure, Aliens.

PART 3—[AMENDED]

Accordingly, 8 CFR 3.5 is revised to read as follows:

§ 3.5 Forwarding of record on appeal.

If an appeal is taken from a decision, as provided in this chapter, the entire record of the proceeding shall be forwarded to the Board by the office having administrative jurisdiction over the case upon timely receipt of the briefs of the parties, or upon expiration of the time allowed for the submission of such briefs. A district director need not forward an appeal to the Board, but may reopen and reconsider any decision made by the director when an appeal to the Board has been filed, if the district director's new decision will grant the benefit which has been requested; *provided* that the district director's new decision is served on the appealing party within 45 days of receipt of any briefs or upon expiration of the time allowed for the submission of any briefs. If the district director's new decision is not served within these time limits or the appealing party will not agree that the new decision disposes of the matter, the record of proceeding shall be immediately forwarded to the Board.

(8 U.S.C. 1103, 1362)

Dated: November 3, 1983.

William French Smith,

Attorney General.

[FR Doc. 83–30994 Filed 11–17–83; 8:45 am]

BILLING CODE 4410-01-M

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8 CFR Part 214

Nonimmigration Classes; Temporary Alien Employees; Correction

Correction

In FR Doc. 83–30168 appearing on page 51283 in the issue of Tuesday, November 8, 1983, make the following correction:

Under **SUPPLEMENTARY INFORMATION**, the bold type caption now reading "**§ 204.2 [Corrected]**" should have read "**§ 214.2 [Corrected]**".

BILLING CODE 1505-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1983–28]

Nonpartisan Communications by Corporations and Labor Organizations

Correction

In FR Doc. 83–29643 beginning on page 50502 in the issue of Wednesday, November 2, 1983, make the following corrections.

On page 50507, first column, § 114.4, paragraph (b)(5)(i)(A), first line, "the" should read "The"; second column, first line, "voters" should read "voter"; third column, paragraph (c)(3), third line, remove the word "by" and "persons" should read "person".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release Nos. 33-6498; IC-13624 (S7-978)]

Registration of an Indefinite Number of Investment Company Securities

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rule.

SUMMARY: The Commission is today adopting two amendments to rule 24f-2 (§ 270.24f-2) under the Investment Company Act of 1940. Rule 24f-2 covers registration under the Securities Act of 1933 of an indefinite number of certain investment company securities. One amendment requires any issuer who has filed a declaration pursuant to rule 24f-2 to include a statement to that effect on the facing sheet of any post-effective amendment to its registration statement, and to include therein either the date upon which the issuer filed, or intends to file, the notice required by rule 24f-2, or a statement that the issuer need not file a notice for the prior fiscal year because it has not sold any securities in reliance on that declaration during that fiscal year. The other amendment modifies the consequences for failure to file on time the notice required by rule 24f-2 so that the declaration filed pursuant to the rule would be terminated if the notice was not filed on time, but the registration statement containing the declaration would remain in effect. These two amendments will improve the ability of the Commission issuers to monitor the timeliness of rule 24f-2 notices while making less harsh the consequences of failures to file such notices on time.

DATE: These amendments will be effective December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202) 272-2115, Office of Disclosure Legal Services, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting two amendments to rule 24f-2 [17 CFR 270.24f-2] under the Investment Company Act of 1940 (the "1940 Act") [15 U.S.C. 80a-1 *et seq.*]. The first requires any issuer who has filed a declaration pursuant to that rule to include on the facing sheet of any post-effective amendment to its registration statement a statement that the issuer has filed a declaration pursuant to rule 24f-2 and the date upon which the issuer filed, or intends to file, its notice as required by that rule (the "Notice"), or a statement that the filing of such a Notice is unnecessary because the issuer has not sold any securities pursuant to rule 24f-2 during the prior fiscal year.[1] The second amendment modifies the consequences for failure to file on time the Notice required by rule 24f-2 so that the declaration pursuant to that rule would be terminated if the Notice was not filed on time, but the registration statement containing the declaration would remain in effect. This change permits an issuer that failed to file a rule 24f-2 Notice on time and sold securities thereafter to use rule 24f-1 [17 CFR 270.24f-1] to register retroactively securities sold up to six months prior to the filing of its rule 24f-1 notification.

Background

Rule 24f-2 was promulgated by the Commission in 1977[2] pursuant to its authority under section 24(f) of the 1940 Act [15 U.S.C. 80a-24(f)] to allow certain types of registered investment companies to register an indefinite number or amount of securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the "1933 Act").[3] Rule 24f-2 permits face-amount certificate companies, open-end management companies, and unit investment trusts ("eligible companies") to register an indefinite number or amount of securities under the 1933 Act by including a declaration to that effect in either the eligible company's original registration statement or any post-effective amendment to its registration statement, and by paying a non-refundable fee of $500.00 to the Commission. An eligible company with an effective declaration pursuant to rule 24f-2 that has sold any securities pursuant to that declaration[4] must file the Notice prescribed by paragraph (b)(1) of rule 24f-2 within six months after the close of the company's fiscal year. The Notice must be accompanied by the appropriate registration fee pursuant to section 6(b) of the 1933 Act [15 U.S.C. 77f(b)].[5] If the issuer fails to file its required Notice on time paragraph (b)(2) of rule 24f-2 presently provides that the issuer's registration statement would then terminate and the issuer must discontinue all sales of securities pursuant to that registration statement.

On May 26, 1983, the Commission proposed for comment two amendments to rule 24f-2 [17 CFR 270.24f-2]. In the proposing release, the Commission expressed the belief that (i) the proposed amendment requiring additional disclosure on the cover page of any post-effective amendment to a registration statement subject to a declaration pursuant to Rule 24f-2 is necessary to help issuers avoid inadvertent failures to file the required Notices and to enable the staff of the Commission to monitor industry compliance in that respect; and (ii) the proposed amendment modifying the consequences for failing to file a rule 24f-2 Notice on time relieves a result which is too harsh, at least in cases where the delinquency is not unduly prolonged.

After considering the comment received, the Commission is adopting these amendments to rule 24f-2 as proposed.

Discussion of Comments Received

The Commission received seven comment letters in response to the release proposing these two amendments to rule 24f-2.[6] The majority of the commentators supported the proposed amendments. Several commentators also provided comment on issues concerning rule 24f-2 for which no amendment had been proposed. The latter comments will be discussed following our discussion of the comments received on the proposed amendments.

Additional Information on the Facing Sheet

The proposed amendment to paragraph (a)(1) of rule 24f-2 would require an issuer who has filed a declaration pursuant to rule 24f-2 to include a statement to that effect on the facing sheet of any post-effective amendment to its registration statement,

[1] Securities Act Release No. 6467 (May 26, 1983) [48 FR 25175 (June 6, 1983)].

[2] Securities Act Release No. 5881 (November 3, 1977) [42 FR 58400 (November 9, 1977)].

[3] For a further discussion of the legislative history surrounding section 24(f) [15 U.S.C. 80a-24(f)], see Securities Act Release No. 6468 (May 26, 1983) [48 FR 25220 (June 6, 1983)].

[4] Securities Act Release No. 6467 (May 26, 1983) [48 FR 25175 (June 6, 1983)] adopted at the same time these amendments were proposed made a technical amendment to paragraph (b)(2) of rule 24f-2 to provide that eligible companies that did not sell any securities pursuant to a rule 24f-2 declaration during any fiscal year need not file the Notice required by rule 24f-2 for that fiscal year.

[5] *See* Securities Act Release No. 6468 *supra* for a full discussion of the Notice requirements and the provisions of paragraph (c) of rule 24f-2 which permit eligible companies that file within two months after the end of their fiscal year to pay registration fees based on the net amount of securities sold during the prior fiscal year.

[6] These commentators can be divided into the following four categories: (i) Two commentators who represent trade associations; (ii) two commentators who are investment advisers or fund managers; (iii) two commentators from the securities bar; and (iv) one commentator representing a mutual fund.

and include therein either the date upon which the issuer has filed, or intends to file, the required Notice or a statement that the issuer need not file a Notice for the prior fiscal year because it has not sold any securities in reliance on that declaration during that fiscal year.

Only one commentator opposed the adoption of the proposed amendment to paragraph (a)(1) of rule 24f-2. That commentator argued that the "vast majority" of issuers relying on rule 24f-2 have no problem complying with the Notice requirements presently imposed by that rule. This commentator argued that requiring all of these issuers to state the date they filed, or intend to file, their Notices because of a few instances where an issuer inadvertently failed to file its Notice was "inappropriate" and of questionable value in preventing inadvertent failures to file such Notices. The remaining six commentators, however, generally supported the proposed amendment. Three commentators asserted that the statement to be included on the facing page of the registration statement would provide a good "safety mechanism" to avoid inadvertent failures to file the required Notices. Another commentator who supported the proposed amendment suggested a modification of the statement so that the date given would be the date "or before which" a Notice would be filed, apparently out of concern that the designated filing date would become a required filing date.

The Commission agrees with the majority of the commentators on this proposed amendment. As stated in the proposing release, the Commission believes that "this amendment is necessary to help issuers avoid inadvertent failures to file the required Notices and to enable its staff to monitor industry compliance in that respect."[7] The Commission further believes that this requirement will impose a minimal burden on eligible companies since it requires that such companies supply, in a filing required annually, information which is readily available to them. The Commission does not believe that there is any reason to change the requirement to one for stating the date "on or before which" Notices will be filed. The use of a specific date would not change the actual filing requirements for the Notices, which are clearly specified in the rule; but would have the advantage of focusing a registrant's attention on a realistic filing date rather than merely calling attention to the last possible filing date. Therefore, the Commission is adopting the amendment as proposed.

Modification of Consequences for Failure To File Notices on Time

The proposed amendment to paragraph (b)(2) of rule 24f-2 would modify the consequences for failure to file on time the Notice required by rule 24f-2 so that the declaration filed pursuant to the rule would be terminated if the Notice was not filed on time. The issuer's registration statement, however, would remain in effect.

All seven commentators supported this amendment to rule 24f-2. Five commentators supported the amendment as proposed, and three of them specifically stated that the proposed modification of the consequences for failure to file Notices on time was more appropriate or equitable than the present consequences for failure to file Notices on time.

Two commentators suggested certain modifications of rule 24f-2(b)(2) to clarify the relationship of that rule to rule 24f-1.[8] One commentator suggested that the Commission should explicitly provide in the rule that securities sold during: (1) The prior fiscal year as to which the required Notice was not filed on time; and (2) the period after the close of such fiscal year but prior to the termination of the fund's rule 24f-2 declaration would not be considered to be in excess of the number of shares included in the fund's registration statement for purposes of the retroactive registration provisions of rule 24f-1. In the Commission's view, such a result would obtain without any change in the proposed rule. Paragraph (b)(2) of rule 24f-2, as proposed, requires that an issuer who has failed to file the required Notice or Notices on time must file "as soon as practicable" a Notice for the prior fiscal year as to which the required Notice was not filed on time and a separate Notice for the six months after the close of such fiscal year but prior to the termination of the fund's rule 24f-2 declaration. The filing of Notices pursuant to rule 24f-2 must include, among other things, the appropriate fees as calculated under the 1933 Act. The filing of such Notices and the payment of registration fees pursuant to rule 24f-2 would make definite the registration of these securities, and they would not be deemed to be in excess of the number of shares included in the fund's registration statement for purposes of rule 24f-1. On the other hand, as specifically provided in rule 24f-2(b)(2), shares sold after the termination of the rule 24f-2 declaration would be deemed to be shares sold in excess of the number registered.

Another commentator suggested that the Commission modify rule 24f-2(b)(2) by specifying that shares sold "within six months" after the termination of a rule 24f-2 declaration would be deemed to be sold in excess of the number registered. The Commission has determined that this suggested modification would not be appropriate. Rule 24f-1 permits issuers to retroactively register securities sold within six months prior to the filing of the rule 24f-1 notification. Sales of securities within six months after termination of the rule 24f-2 declaration may or may not be within six months prior to the filing of the rule 24f-1 notification by the issuer. For securities sold more than six months before a rule 24f-1 notification is filed, retroactive registration pursuant to that rule is unavailable.

Modification of the "Net Sales" Provision

Paragraph (c) of rule 24f-2 currently provides that, if an issuer that has sold securities pursuant to a declaration under rule 24f-2 files the required Notice not later than two months after the close of the prior fiscal year, the issuer need only pay registration fees for the sales price of securities sold, less the price of all securities redeemed or repurchased during the prior fiscal year. Although the Commission did not propose an amendment to this net sales provision, two commentators suggested modifications to extend the period of time during which an issuer may file a Notice and take advantage of the savings provided by the net sales provision.

One commentator suggested that the time period during which an issuer may file a Notice and utilize the net sales provision should be increased to six months after the end of the issuer's fiscal year. That commentator argued that the practical result of the present time limit on a fund's ability to use the rule's net sales provision is to "require" issuers to file their Notices within two months after the close of the prior fiscal year even though the rule gives issuers six months after the end of the fiscal year to file their Notices on time.[9] The

[7] Securities Act Release No. 6468 *supra*.

[8] Rule 24f-1 under the 1940 Act permits eligible companies to register retroactively securities sold within six months before the filing of a notification of election under rule 24f-1 if the conditions of the rule are followed including the payment of a fee equal to three times the 1933 Act registration fee for those securities.

[9] One commentator suggested that the rule be modified to lengthen this period of time from six to twelve months for filing the Notice on time. The Commission believes that six months is sufficient time to collect accurate information for the filing and has not adopted the twelve and month period.

other commentator suggested that the time period be increased to four months after the end of the issuer's fiscal year. That commentator argued that this deadline would correspond to the "normal" deadline for funds filing post-effective amendments to their registration statements under the 1933 Act. In addition, that commentator asserted that increasing the time period to four months "would remove one more area where inadvertent and harmless human failure creates an overly heavy penalty for the registrant."

The Commission continues to believe, as stated in the release initially adopting rule 24f-2,[10] that only those companies filing their notices within two months should be permitted to take advantage of a reduced registration fee. The two month period will allow issuers to have sufficient time in which to receive the results of the fund's audit prior to filing their required Notices. Moreover, the Commission's experience with this rule shows that effective operation of the rule is best served if funds give prompt attention to their requirements. Accordingly, the Commission has not modified the filing requirement relating to the net sales provision.

Summary of Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the amendments to rule 24f-2 adopted herein. The analysis notes that the first amendment requires certain registered investment companies to indicate on the facing sheet of any post-effective amendment to their registration statements the fact that they have registered an indefinite number of securities under the Securities Act of 1933 and the date they filed or intend to file the notice required by rule 24f-2. The second amendment modifies rule 24f-2 so that only an issuer's declaration pursuant to the rule would terminate if the issuer failed to file on time the notice required by the rule. The object of the amendments is to monitor compliance with the filing requirements of rule 24f-2 and to modify a harsh remedy.

A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Gregory K. Todd, Esq., Office of Disclosure Legal Services, Securities and Exchange Commission, (202) 272-3014, Room 5128, 450 Fifth Street, NW, Washington, D.C. 20549.

Statutory Authority

The Commission adopts these amendments to rule 24f-2 pursuant to section 24(f) of the 1940 Act [15 U.S.C. 80a-24(f)].

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[10] Securities Act Release No 5881, *supra*.

Conclusion

Based on the foregoing, the Commission has determined to adopt the two amendments as proposed.

List of Subjects in 17 CFR 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Amendments to Part 270

The Commission is adopting amendments to Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

By revising paragraphs (a)(1) and(b)(2) of § 270.24f-2 to read as follows:

§ 270.24f-2 Registration under the Securities Act of 1933 of an indefinite number of certain investment company securities.

(a)(1) A face amount certificate company or an open-end management company or unit investment trust may, subject to the provisions of this section, elect to register an indefinite number or amount of securities under the Securities Act of 1933 by including on the facing sheet of its registration statement a declaration that an indefinite number or amount of its securities is being registered by such registration statement, or if a registration statement under the Securities Act of 1933 is in effect as to such securities by amending such registration statement on the facing sheet to declare that to the number or amount of securities of the same class or series presently registered is added an indefinite number or amount of such securities. Such declaration shall take effect when the registration statement or post-effective amendment in which it is included becomes effective. The issuer shall place on the facing sheet of any post-effective amendment to the registration statement filed after the issuer has made a declaration pursuant to this paragraph (a)(1) a statement to the effect that the issuer has registered an indefinite number or amount of securities under the Securities Act of 1933 pursuant to this section, and the date on which the Rule 24f-2 Notice for the issuer's most recent fiscal year was filed or will be filed, or a statement that pursuant to paragraph (b)(2) the issuer need not file a Rule 24f-2 Notice because it did not sell any securities pursuant to such declaration during the most recent fiscal year.

* * * * *

(b) * * *

(2) If the Rule 24f-2 Notice is not filed within the time specified in paragraph (b)(1), the declaration filed pursuant to paragraph (a)(1) of this section shall be deemed to be terminated on the next business day, and the registrant shall discontinue all sales of securities pursuant to such declaration. Separate notices as described in paragraph (b)(1) shall be filed as soon as practicable after such termination with respect to sales of securities made pursuant to the declaration during (i) the fiscal year as to which such notice was not timely filed, and (ii) the period after the close of such fiscal year but before such declaration was terminated. Securities sold after termination of such declaration shall, for purposes of Rule 24f-1, be deemed to have been sold in an amount in excess of the number of shares of securities of the same class or series included in a registration statement of such issuer under the Securities Act of 1933 in effect at the time of sale. Nothing in this paragraph (b)(2) shall require an issuer to file a Rule 24f-2 Notice for any fiscal year in which the issuer has not sold any securities in reliance on a declaration authorized by paragraph (a)(1) of this section.

* * * * *

Dated: November 14, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-31142 Filed 11-17-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 83-235]

Imported Electronic Products: Entry and Release

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to requirements for the entry and release of imported electronic products. The changes update and conform the regulations to current procedures and the statutory and regulatory requirements administered by Customs for the National Center for Devices and Radiological Health of the Food and Drug Administration. Specifically, the document provides that:

1. Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed in the Public Health Service Act, as amended, and not the Radiation Control for Health and Safety Act of 1968. This corrects an erroneous statutory reference in the Customs Regulations.

2. An electronic product offered for importation into the customs territory of the United States may be excepted from conforming to the standards of the Public Health Safety Act, as amended, if the importer by declaration affirms that the product either was manufactured before the date the standards became effective, or is being imported for the purpose of research, investigations, studies, demonstrations or training.

EFFECTIVE DATE: This document is effective on December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Darrell D. Kast, Entry Procedures and Penalties Division (202-566-5765); Operational Aspects: Harrison C. Feese, Duty Assessment Division (202-566-8651), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Sections 12.90 and 12.91, Customs Regulations (19 CFR 12.90, 12.91), set forth the requirements for entry and release of electronic products offered for importation into the United States. The requirements are based on standards prescribed by the Food and Drug Administration (FDA) under section 358 of the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*).

Section 12.90 presently provides that "the Act" as referred to in § 12.91, means the Radiation Control for Health and Safety Act of 1968.

In addition, § 12.91 now requires that the importer or consignee of electronic products by declaration assert that the products either: (1) Conform to the standards of section 358 of the Public Health Service Act, as amended (42 U.S.C. 263(f)), or (2) will be brought into compliance with the standards unless intended solely for export.

In order to update the regulations and bring them into conformity with current Customs procedures as well as FDA requirements, a notice proposing to amend §§ 12.90 and 12.91 was published in the **Federal Register** on May 5, 1983 (48 FR 20243).

The proposed amendment to § 12.90 provided that "the Act" as referred to in § 12.91 refers to the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*), and not the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b-263n). The notice also proposed to correct the statutory reference in § 12.90 to the Radiation Control for Health and Safety Act of 1968.

The proposed amendment to § 12.91 would modify the language of the two existing declarations in that section. It also proposed to add two alternative declarations whereby the importer of record may affirm that the products either: (1) Were manufactured before the date the standards became effective, or (2) are being imported for the purpose of research, investigations, studies, demonstrations, or training. Current citation of authority for § 12.91 was set forth as well in the proposal.

No comments were received in response to the notice of proposed rulemaking. However, based upon Customs review one minor change has been made to the document. The last sentence of § 12.91(e) has been revised to read:

> If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the Secretary of Health and Human Services shall be deemed to have been satisfied.

This revision was necessary because the original language of paragraph (e) which was incorporated without change into the Notice of Proposed Rulemaking, called for return of the bond upon the granting of a special exemption. Since the bond is posted to satisfy Customs requirements as well as those of the Department of Health and Human Services, and, in the case of a CF 7551, becomes a permanent part of the entry file, its return to the importer would be inappropriate.

After a review of the matter, other than for the change discussed above, Customs has determined to adopt the proposal as described in that notice.

E.O. 12291

It has been determined that the amendments in this document are not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. The amendments are technical conforming amendments which clarify existing regulatory and statutory requirements without making any substantive change.

Accordingly, the document contains a certification pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendments will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The declaration requirements are subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, Form FD 2877 was submitted to the Office of Management and Budget for approval. Form FD 2877 was approved and its OMB approval number is 57-R0120.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Imports, Importers.

Amendments to the Regulations

Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: October 25, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 12—SPECIAL CLASSES OF MERCHANDISE

Sections 12.90 and 12.91, Customs Regulations, are revised to read as follows:

§ 12.90 Definitions

As used in §§ 12.90 and 12.91, the term "the Act" shall mean the Public Health Service Act (42 U.S.C. 201 *et seq.*), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b *et seq.*), and as further amended from time to time.

§ 12.91 Electronic products offered for importation under the Act.

(a) *Standards prescribed by the Department of Health and Human Services.* Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f) unless intended solely for export. Prescribed standards shall not apply to any electronic product intended solely for export if:

(1) Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that it is intended for export, and

(2) Such product meets all the applicable requirements of the country to which it is intended for export.

(See 21 CFR, Chapter I, Subchapter J.)

(b) *Requirements for entry and release.* Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f), when offered for importation into the customs territory of the United States, shall be refused entry unless there is filed with the entry, in duplicate, a declaration (FDA Form FD 2877) verified by the importer of record which identifies the products and affirms:

(1) That the electronic products were manufactured before the date of any applicable electronic product performance standard (the date of manufacture shall be specified); or

(2) That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag is attached to the product; or

(3)(i) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and Chapter I, Subchapter J, title 21, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but are being imported for the purpose of research, investigations, studied, demonstrations, or training, (ii) that the products will not be introduced into commerce and when the use for which they were imported is completed they will be destroyed or exported under Customs supervision, and (iii) that an exemption for these products has been or will be requested from the National Center for Devices and Radiological Health, Food and Drug Administration, in accordance with section 360B(b) of the Act (42 U.S.C. 263j); or

(4) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and Chapter I, Subchapter J, Code of Federal Regulations (21 CFR, Chapter I, Subchapter J), but that a timely and adequate petition for permission to bring the products into compliance with applicable standards has been or will be filed with the Secretary of Health and Human Services in accordance with section 360 of the Public Health Service Act, as amended, and as implemented by 21 CFR 1005.21.

(c) *Notice of sampling.* When a sampling of a product offered for importation has been requested by the Secretary of Health and Human Services, as provided for in 21 CFR 1005.10, the district director of Customs having jurisdiction over the shipment from which the sample is procured shall give to its owner or importer of record prompt notice of delivery of, or intention to deliver, the sample. If the notice so requires, the owner or importer of record shall hold the shipment of which the sample is typical and not release the shipment until notice of the results of the tests of the sample from the Secretary of Health and Human Services stating the product fulfills the requirements of the Act.

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry shall be accepted only if the owner or importer of record gives a bond on Customs Form 7551, 7553, or 7595 for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond shall be in the amount required under § 113.14 of this chapter. Within 180 days after the entry of such additional period as the district director may allow for good cause shown, the importer of record shall take any action necessary to insure delivery to the district director of the notification described in this paragraph. If the notification is not delivered to the district director for the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the district director, for good cause shown, the importer of record shall deliver or cause to be delivered to the district director those electronic products which were released. In the event that any electronic products are not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery (Customs Form 4647), liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. When the transaction has been charged against a bond given on Customs Form 7553, or 7595, liquidated damages shall be assessed in the amount that would have been demanded if the merchandise had been released under a bond given on Customs Form 7551.

(e) *Release without bond—special exemptions.* For certain electronic products the Director, National Center for Devices and Radiological Health, has granted special exemptions from the otherwise applicable standards under the Act. Such exempted products may be imported and released without bond if they meet all the criteria of the special exemption. If a special exemption is granted after the product has been imported under bond in accordance with paragraph (d) of this section, the bond conditions pertaining to the notification of compliance from the Secretary of Health and Human Services shall be deemed to have been satisfied.

(f) *Merchandise refused entry.* If electronic products are denied entry under any provision of this section, the district director shall refuse to release the merchandise for entry into the United States.

(g) *Disposition of merchandise refused entry into the United States; redelivered merchandise.* Electronic products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (d) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of an electronic product in violation of the Act (42 U.S.C. 263f, 263h).

(R.S. 251, as amended, sec. 464, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759, (19 U.S.C. 66, 1484, 1498, 1624))

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 626

Introduction to the Regulations Under the Job Training Partnership Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends the consolidated table of contents to the regulations under the Job Training Partnership Act (JTPA). For technical reasons, this amendment could not be made in the October 20, 1983,