

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Ashland, WI [Revised]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the John F. Kennedy Memorial Airport (Lat. 46°32'55" N., Long. 90°55'08" W.) within 3 miles each side of the 204° bearing from the airport extending from the 5 mile radius to 8.5 miles southwest of the airport, within 3 miles each side of the 206° bearing from the airport extending from the 5 mile radius to 8.5 miles southwest of the airport, within 3 miles each side of the 124° bearing from the airport extending from the 5 mile radius to 8.5 miles southeast of the airport.

Issued in Des Plaines, Illinois, on February 27, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89-6275 Filed 3-16-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 88-AGL-30]

Establishment of Transition Area— Hawley, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Hawley, MN, transition area to accommodate a new VOR/DME-A Standard Instrument Approach Procedure (SIAP) to Hawley Municipal Airport, Hawley, MN. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating

under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 u.t.c., June 1, 1989.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 23, 1989, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area airspace near Hawley, MN (54 FR 3077). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a transition area airspace near Hawley, MN. The development of a new VOR/DME-A SIAP requires that the FAA designate airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

The FAA has determined that this proposed 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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Hawley, MN [New]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Hawley Municipal Airport (lat. 46°53'02"N., long. 96°21'02"W.) within 3.5 miles each side of the 246° bearing from the airport extending from the 5 mile radius to 6 miles southwest of the airport, excluding that portion which overlies the Fargo, ND, transition area.

Issued in Des Plaines, Illinois on February 27, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89-6274 Filed 3-16-89; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is granting an exemption to designated members of the Montreal Exchange ("Exchange") from the application of certain of the Commission's foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, 17 CFR 30.10 (1988), which permits

specified persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in Part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT:

Jane C. Kang, Esq. or Robert Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

United States of America Before the Commodity Futures Trading Commission

Order Under CFTC Rule 30.10 Exempting Firms Designated by the Montreal Exchange from the Application of Certain of the Foreign Futures and Option Rules the Later of Thirty Days after Publication of the Order Herein in the Federal Register or after Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein.

On July 23, 1987, the Commission adopted final rules governing the domestic offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which are codified in Part 30 of the Commission's regulations, generally extend the Commission's existing customer protection regulations for products offered or sold on contract markets in the United States to foreign futures and option products sold to United States customers by imposing requirements with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures that are generally comparable to those applicable to wholly domestic transactions.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to United States customers, among other things, the Commission considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the

Commission, as set forth in Commission Rule 30.10, determined to permit persons *located outside the United States* and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements imposed by the Part 30 rules based upon substituted compliance with the comparable regulatory requirements imposed by the foreign jurisdiction.

Appendix A to Part 30, "Interpretative Statement With Respect to the Commission's Exemptive Authority Under § 30.10 of Its Rules" ("Appendix A"), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Commission Rule 30.10, 52 FR 28980, 29001. These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons through whom customer orders are solicited and accepted; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an "as needed" basis to information essential to maintaining adequate standards of customer and market protection within the United States.

Moreover, the Commission specifically stated in adopting Commission Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) Consensually submit to jurisdiction in the United States by designating an agent for service of process in the United States with respect to transactions subject to Part 30 and filing a copy of the agency agreement with the National Futures Association ("NFA"); (2) agree to provide access to their books and records in the United States to Commission and Department of Justice representatives; and (3) notify the NFA of the commencement or termination of business in the United States.¹

¹ 52 FR 28980, 28981 and 29002.

By letter dated March 4, 1988, the Exchange petitioned the Commission on behalf of certain of its members for an exemption from the application of the Commission's foreign futures and option rules. In support of its petition, the Exchange states that granting such an exemption with respect to its members would not be contrary to the public interest or to the purposes of the provisions from which the exemption is sought because such firms and the Exchange are subject to a regulatory scheme under the Quebec Securities Act which is comparable to that imposed by the Commodity Exchange Act ("Act") and the regulations thereunder.

Based upon a review of the petition, supporting materials filed by the Exchange, its regulatory authority, the Commission des valeurs Mobilières du Québec ("CVMQ"), and the recommendation of the staff, the Commission has concluded that the standards for relief set forth in Commission Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied and that compliance with applicable Canadian law and Exchange rules may be substituted for compliance with those sections of the Act more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission as eligible for the relief granted herein from:

- Registration with the Commission;
- The requirement in Commission Rule 30.6(d), 17 CFR 30.6(d) (1988), that firms provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7, 17 CFR 33.7 (1988);
- Those sections of Part 1 of the Commission's financial regulations that apply to foreign futures and options sold in the United States as set forth in Part 30; and
- Those sections of Part 1 of the Commission's regulations relating to books and records which apply to transactions subject to Part 30; based upon substituted compliance by such persons with the applicable statutes and regulations in effect in the province of Quebec.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing the persons in Quebec who would be exempted hereunder provides:

- (1) A system of licensing of firms and persons who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and

procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about licensees;

(2) Financial requirements for firms carrying customer accounts including, without limitation, a requirement that all firms immediately notify the Exchange if the firms' adjusted net capital falls below a specified level and daily market-to-market settlement;

(3) A system for the protection of customer funds which requires separate accounting for such funds, augmented by a compensation fund designed to compensate customers who have suffered a loss as a result of fraud and/or insolvency of a licensee;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, monthly customer account statements, accounting records for customer and proprietary trades and discretionary account documentation;

(5) Sales practice standards for licensees which include, for example, a requirement that firms licensed to do business know their customers, required disclosures to prospective customers and prohibitions on misleading advertising and improper trading activities;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, an affirmative surveillance program designed to detect trading activities which take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission, the Exchange and the CVMQ on an "as needed" basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures and option products subject to regulation in Quebec, position data and data on firms' standing to do business and financial condition.

This Order does not provide an exemption from any provision of the Act or regulations thereunder not specified herein, for example, without limitation, the antifraud provision in Commission Rule 30.9, 17 CFR 30.9 (1988), or the disclosure provision in Commission Rule 30.6(a), 17 CFR 30.6(a) (1988). Moreover, the relief granted is directed to brokerage activities on or subject to the rules of the Exchange undertaken by Exchange member firms authorized to do investment business in Quebec. The relief does not extend to rules or regulations relating to trading, directly

or indirectly, on United States exchanges. For example, such a firm trading in United States markets for its own account would be subject to the Commission's large trader reporting requirements. *See, e.g.*, 17 CFR Part 18 (1988). Similarly, if such a firm were carrying a position on a United States exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers. *See, e.g.*, 17 CFR Parts 17 and 21 (1988). The relief herein is inapplicable where the firm solicits United States customers for transactions on United States markets. In that case, the firm must comply with all applicable United States laws and regulations, including the requirement to register in the appropriate capacity.

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firm with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Quebec; such firm is engaged in business with customers located in Canada as well as in the United States; and such firm and its employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under section 8a(2) of the Act, 7 U.S.C. 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm which would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the United States;

(c) All transactions with respect to customers resident in the United States will be made on or subject to the rules of the Exchange and the Commission will receive prompt notice of all material changes in the Quebec Securities Act, Regulations thereunder and Exchange rules;

(d) Customers resident in the United States will be provided no less stringent regulatory protection than Canadian customers under all relevant provisions of Quebec law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information

specified in Appendix A to the Part 30 rules on an "as needed" basis and will use its best efforts to notify the Commission if it becomes aware of any information which in its judgment affects the financial or operational viability of a member firm doing business in the United States under the exemption granted by this Order.

(2) Each firm seeking relief hereunder must apply in writing whereby it:

(a) Consents to jurisdiction in the United States under the Act by filing a valid and binding appointment of an agent in the United States for service of process in accordance with the requirements set forth in Commission Rule 30.5, 17 CFR 30.5 (1988), unless a currently effective valid and binding agency agreement has previously been filed by or on behalf of such firm in connection with the interim relief granted by the Commission with respect to certain persons on January 29, 1988, 53 FR 3338 (February 5, 1988), as extended on April 4, 1988, 53 FR 11491 (April 7, 1988), and by letters dated July 5, 1988, November 2, 1988 and December 22, 1988;

(b) Agrees to provide access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in Quebec upon the request of any representative of the Commission or United States Department of Justice at the place in the United States designated by such representative, within 72 hours, or such lesser period of time as specified by that representative as may be reasonable under the circumstances after notice of the request;

(c) Represents that no principal of such firm would be disqualified from directly applying to do business in the United States under section 8a(2) of the Act, 7 U.S.C. 12a(2), and notifies the Commission promptly of any change in that representation based on a change in control as generally defined in Commission Rule 3.32, 17 CFR 3.32 (1988);

(d) Discloses the identity of each subsidiary or affiliate domiciled in the United States with a related business (e.g., banks and broker/dealer affiliates) and provides a brief description of such subsidiary's or affiliate's principal business in the United States;

(e) Consents to participate in any NFA arbitration program which offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30 and consents to notify

customers resident in the United States of the availability of such a program;

(f) Agrees to maintain, on behalf of customers located in the United States, funds equivalent to the "secured amount" described in Commission Rule 1.3(rr), 17 CFR 1.3(rr) (1988), in a separate account as set forth in Commission Rule 30.7, 17 CFR 30.7 (1988), and to treat those funds in the manner described by that rule;

(g) Consents to maintain as part of the firm's regulatory capital, an amount, which may not be satisfied by letters of credit, which is equal to four percent of the secured amount held in separate accounts on behalf of customers located in the United States;

(h) Consents to notify the Commission and NFA if transactions subject to Part 30 of the Commission's rules would constitute fifty percent or more of customer business undertaken by such firm; and

(i) Undertakes to comply with the applicable provisions of Quebec and Exchange rules which form the basis upon which this exemption from certain provisions of the Act is granted.

This Order will become effective as to any firm designated under the Commission's interim order or hereinafter designated the later of thirty days after publication of the Order in the *Federal Register* or after filing of the consents hereinabove required. Upon filing of the notice required under paragraph (1)(b) as to any firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and the Exchange.

This Order is issued pursuant to Commission Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firm required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Commission Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a

specific firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. For example, the relief granted to a specific firm may be suspended upon the firm's failure to provide access to its books and records. If necessary, provisions will be made for servicing existing client positions.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

List of Subjects in 17 CFR Part 30

Commodity futures.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 4, 6, 6c and 12a (1982).

2. Appendix C to Part 30 is amended by adding the following entry to read as follows:

APPENDIX C—FOREIGN PETITIONERS GRANTED RELIEF FROM THE APPLICATION OF CERTAIN OF THE PART 30 RULES PURSUANT TO § 30.10

* * * * *
Firms designated by the Montreal Exchange.

FR date and citation: March 17, 1989; 54 FR

Issued in Washington, DC, on March 14, 1989.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-6349 Filed 3-16-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Decoquinat

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 Rhone-Poulenc, Inc., providing for safe and effective use of a currently approved Type A medicated article containing decoquinat in

manufacturing a liquid Type B medicated feed. The feed will be used as a supplement to the total ration to prevent coccidiosis in ruminating calves and cattle.

EFFECTIVE DATE: March 17, 1989.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2871.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, is the sponsor of NADA 39-417 which provides for use of a Type A medicated article containing 6 percent decoquinat in manufacturing Type C medicated feeds intended for use as a coccidiostat in chickens, cattle, and goats. The firm also holds approval for use of the article in manufacturing dry Type B medicated cattle feeds. The firm has submitted a supplemental NADA providing for use of the article in manufacturing liquid Type B medicated cattle feeds. Based on the data submitted, the supplemental NADA is approved. The animal drug regulations are amended in 21 CFR 558.195 (c) and (d) to reflect the approval.

This supplemental NADA provides solely for use of the existing Type A article to manufacture an additional drug delivery system—the liquid Type B feed. The feed is to be used at previously approved feeding rates for the approved indications and limitations. Because approval of this application does not require additional safety or effectiveness data or information, a freedom of information (FOI) summary is not required.

The agency has determined under 21 CFR 25.24(d)(i)(vi) that this action is of a type that does not individually or cumulatively have a significant effect 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 and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 306b); 21 CFR 5.10 and 5.83.

2. Section 558.195 is amended by adding a new paragraph (c)(3) and in the