

List of Subjects

5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

5 CFR Part 316

Government employees.

Office of Personnel Management,

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; section 213.101 also issued under 5 U.S.C. 2103; section 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

2. Section 213.3301 is revised and § 213.3301b is removed to read as follows:

§ 213.3301 Positions of a confidential or policy-determining nature.

(a) Upon specific authorization by OPM, agencies may make appointments under this section to positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under this authority are excepted from the competitive service and constitute Schedule C. Each position will be assigned a number from § 213.3302 to § 213.3999, or other appropriate number, to be used by the agency in recording appointments made under that authorization.

(b) When requesting Schedule C exception, agencies must submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

(c) The exception from the competitive service for each position listed in Schedule C by OPM is revoked immediately upon the position becoming vacant. An agency shall notify OPM within 3 working days after a Schedule C position has been vacated.

3. Section 213.3302 is revised to read as follows:

§ 213.3302 Temporary transitional Schedule C positions.

(a) An agency may establish temporary transitional Schedule C positions necessary to assist a department or agency head during the 1-

year period immediately following a change in presidential administration, when a new department or agency head has entered on duty, or when a new department or agency is created. These positions may be established only to meet legitimate needs of the agency in carrying out its mission during the period of transition associated with such changeovers. They must be of a confidential or policy-determining character and are subject to instructions issued by OPM.

(b) The number of temporary transitional Schedule C positions established by an agency cannot exceed either 50 percent of the highest number of permanent Schedule C positions filled by that agency at any time over the previous 5 years, or three positions, whichever is higher. In the event a new department or agency is created, the number of temporary transitional positions should be reasonable in light of the size and program responsibility of that department or agency. OPM may approve an increase in an agency's quota to meet a critical need or in unusual circumstances.

(c) Individual appointments under this authority may be made for 120 days, with one extension of an additional 120 days. They may be deemed provisional appointments for purposes of the regulations set out in parts 351, 831, 842, 870, and 890 of this chapter if they meet the criteria set out in §§ 316.401 and 316.403 of this chapter.

(d) An agency shall notify OPM within 5 working days after a temporary transitional Schedule C position has been encumbered and within 3 working days when it has been vacated. The agency must also submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p.218); section 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; section 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014 and E.O. 12362, as revised by E.O. 12585 and E.O. 12721.

5. In section 316.403, paragraph (b)(3) is revised to read as follows:

§ 316.403 Designation of provisional appointments.

* * * * *

(b) * * *

(3) Temporary transitional Schedule C appointments made under § 213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.

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[FR Doc. 95–16545 Filed 7–5–95; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–0872]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation Y to eliminate the need for a bank holding company to file a request with the Board for a determination under section 2(g)(3) of the Bank Holding Company Act that it no longer controls shares or assets that it has sold to a third party with financing if the purchaser is not an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder, and there are no officers, directors, trustees or beneficiaries of the acquiror in common with or subject to control by the divesting company. The Board believes that the elimination of the requirement for a determination of control for these types of divestitures will reduce the regulatory burden on bank holding companies without undermining the purposes of the Bank Holding Company Act. This proposal has been identified in connection with the Board's continuing effort to eliminate obsolete or unnecessary regulations or applications.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela G. Nardolilli, Senior Attorney (202/452–3289), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Under section 2(g)(3) of the Bank Holding Company Act (12 U.S.C. 1841(g)), shares

transferred by a bank holding company to any transferee where the transferee is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with the transferor, are deemed to be controlled by the transferor unless the Board, after an opportunity for a hearing, determines that the transferor is not capable of controlling the transferee. On March 28, 1995, the Board proposed to amend § 225.32 of the Board's Regulation Y (12 CFR 225.32) to exempt from the presumption of control those divestitures where a bank holding company is financing the sale of assets or shares that it acquired so long as (i) the property is not sold to an affiliate or principal shareholder of the divesting holding company, or a company controlled by such a principal shareholder; and (ii) there are no officers, directors, trustees, or beneficiaries of the acquirer in common with or subject to control by the divesting company (60 FR 15881) (March 28, 1995).

A review of the 2(g)(3) determinations over the past ten years indicates that almost all control determinations under that section have arisen from bank holding companies selling property they acquired in satisfaction of a debt previously contracted (dpc property) where the bank holding company was trying to recoup its losses on a loan from the sale of the collateral. In these cases, the record indicates that the divestitures and financing arrangements have been conducted on an arm's-length basis, and there is no evidence of divesting companies exercising control of the assets after the sale. In other cases where a bank holding company sold an asset or subsidiary that it had acquired in the normal course of business and financed the sale of the asset or subsidiary, the assets were sold because, in most cases, the bank holding company was no longer interested in engaging in that business.

The elimination of the requirement to obtain a control determination will reduce the regulatory burden on bank holding companies without eliminating the Board's ability to supervise any attempt to control the divested asset in the future. Although the Board would no longer require a bank holding company to obtain a control determination, the Board can take appropriate supervisory action if control of a divested asset is found to persist through the examination process or by other means. In addition, the Board would continue to require a divesting company to obtain a 2(g)(3) determination if: (1) the asset were transferred to an affiliate or principal

shareholder of the divesting holding company, or a company controlled by the principal shareholder; or (2) an interlock existed between the divesting company and the acquiring person. In these cases, the Board believes that there is a greater potential for continued control by the bank holding company that should be reviewed. The General Counsel will continue to review these divestitures on a case by case basis to determine if a control determination is appropriate. In addition, if a bank holding company needs a formal control determination for tax or other reasons, the Board will continue to process a request for a control determination even when the sale meets the regulation.

Public Comment

The Board received sixteen comments on its proposed amendment to Regulation Y. The Board received eight comments from Reserve Banks, five comments from commercial banking organizations, two comments from trade associations and one comment from a law firm. All commenters supported the Board's effort to reduce regulatory burden. Two commenters suggested that the Board expand the scope of the regulation to include divestitures to companies with director interlocks. The Board receives few requests for divestitures involving interlocks and the Board does not believe that an exemption is needed at this time for these divestitures.

The comments also raise several administrative questions regarding the implementation of the regulation. In response to public comment, the Board has modified the proposed language to clarify the applicability of the proposed regulation. In another comment, one Reserve Bank questioned the status of pending 2(g)(3) requests and transactions. The Board believes that any pending 2(g)(3) request or transaction that meets the regulation's requirements should be covered by the new regulation and no further action is needed. Because a 2(g)(3) determination is a statutory requirement and some bank holding companies may need proof of the divestiture for tax or other reasons, one Reserve Bank recommended that the regulation state that if a bank holding company wants a 2(g)(3) determination, that the bank holding company can request a determination even if the regulation no longer requires it. As noted above, the preamble indicates that the Board will continue to provide 2(g)(3) determinations if a bank holding company requests such a determination.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the final rule will not have a significant adverse economic impact on a substantial number of small entities and that any impact on those entities should be positive. The amendments would reduce regulatory burdens imposed by Regulation Y, and the amendment would have no particular adverse effect on other entities.

Pursuant to 5 U.S.C. § 553(d), the amendment to Regulation Y will become effective immediately. The change grants an exemption to bank holding companies, and therefore the Board waives the 30 days general requirement for publication of a substantive rule. In addition, any transaction that is subject to section 2(g)(3) but meets the regulation's requirements is now exempt and no further action is required.

Paperwork Reduction Act Analysis

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is contained in the final rule.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331-3351, 3907, and 3909.

2. In § 225.32, paragraph (a)(2) is redesignated as paragraph (a)(3) and a new paragraph (a)(2) is added to read as follows:

§ 225.32 Divestiture proceedings.

(a) * * *

(2) Except in the case of a proceeding initiated under paragraph (f) of this section or § 225.31 of this subpart, the Board will regard the presumption of control in paragraph (a)(1)(i) of this section and section 2(g)(3) of the Bank Holding Company Act as inapplicable in the case of the sale or divestiture of assets or voting securities by a divesting company if:

(i) The acquiring person is not an affiliate or a principal shareholder of the divesting company, or a company controlled by such a principal shareholder; and

(ii) The acquiring person does not have any officer, director, trustee, or beneficiary in common with or subject to control by the divesting company.

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By order of the Board of Governors of the Federal Reserve System, June 29, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-16539 Filed 7-5-95; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 to 199

Title 19 Parts 141 to 199; Republication

CFR Correction

Title 19 parts 141 to 199, revised as of April 1, 1995, is being republished in its entirety. The earlier issuance inadvertently omitted text from the Appendix to part 181. The omitted text should begin on page 411 after the second entry in the first table.

Billing Code 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Xylazine Injection

AGENCY: Food and Drug Administration, HHS.

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 Lloyd, Inc. The supplemental NADA provides for intravenous, intramuscular, or subcutaneous use of xylazine injection in cats to produce sedation accompanied by a shorter period of analgesia.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center For Veterinary Medicine (HFV-112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-0614.

SUPPLEMENTARY INFORMATION: Lloyd, Inc., 604 W. Thomas Ave., Shenandoah, IA 51601, is sponsor of NADA 139-236, which provides for intravenous, intramuscular, or subcutaneous use of AnaSed® Xylazine Injection containing xylazine hydrochloride equivalent to 100 milligrams (mg) xylazine per milliliter (mL) in horses and 20 mg/mL in dogs to produce sedation accompanied by a shorter period of analgesia. The supplement provides for use of 20 mg/mL xylazine in cats for the same indications. The drug is limited to use by or on the order of a licensed veterinarian.

Supplemental NADA 139-236 is approved as a generic copy of Bayer's NADA 47-955 for Rompun® (xylazine 20 mg/mL) injectable. The supplemental NADA is approved as of May 16, 1995, and the regulations are amended by revising 21 CFR 522.2662(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also, the firm has changed the name of the NADA sponsor from Vet-A-Mix, Inc., to Lloyd, Inc. Because Lloyd, Inc., has not previously been listed in the animal drug regulations as the sponsor of an approved application, the agency is amending 21 CFR 510.600(c)(1) and (c)(2) to add entries for Lloyd, Inc.

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. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

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, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for Lloyd, Inc., and in the table in paragraph (c)(2) by numerically adding a new entry for "061690" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

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* * * * *
(c) * * *
(1) * * *
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Firm name and address	Drug labeler code
* * * * *	*
Lloyd, Inc., 604 W. Thomas Ave., Shenandoah, IA 51601.	061690
* * * * *	*
(2) * * *	

Drug labeler code	Firm name and address
* * * * *	
061690	Lloyd, Inc., 604 W. Thomas Ave., Shenandoah, IA 51601

PART 522—IMPLANTATION AND INJECTABLE DOSAGE FORM ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.2662 [Amended]

4. Section 522.2662 *Xylazine hydrochloride injection* is amended in paragraph (b) by revising the third sentence to read: "See 061690 in § 510.600(c) of this chapter for use in horses, dogs, and cats."