

(Lat. 33°52'30"N, long. 84°18'08"W)

Within a 4-mile radius of the Dekalb-Peachtree Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will therefore be continuously published in the Airport/Facility Directory.

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Issued in College Park, Georgia, on November 25, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division Southern Region.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 121

General Operating and Flight Rules

CFR Correction

In Title 14 of the Code of Federal Regulations, parts 60 to 139, revised as of Jan. 1, 1998, make the following corrections:

1. On page 173, left column, the date in Sec. 9 of the effective date note for SFAR No. 50-2 is corrected to read "January 31, 1999".

2. On page 261, in Appendix G to part 91, right column, under *Section 2. Aircraft Approval*, in paragraphs (c) (2)(i), (ii), (3)(i) and (ii) the symbol "#" is corrected to read "±".

3. On page 452, § 121.402, paragraph (a), add the word "flight" between the words "provide" and "training" in the sixth line.

4. On page 520, § 121.713, paragraph (b)(2), "§ 119.35" is corrected to read "§ 119.36".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 141

Pilot Schools

CFR Correction

In Title 14 of the Code of Federal Regulations, parts 140 to 199, revised as of Jan. 1, 1998, page 22, Appendix A to part 141, paragraph 4(a) is corrected by removing the words "as provided in section No. 5 of this appendix" beginning in the third line, and moving them to line 6 after the word "training".

BILLING CODE 1505-01-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Requests for Exemptive, No-Action and Interpretative Letters

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is adopting Rule 140.99, which establishes procedures for the filing of requests for the issuance of exemptive, no-action and interpretative letters from the Commission's staff. The Commission believes that implementation of these procedures will significantly assist the Commission, its staff and requesters by assuring a focused presentation of the guidance sought, the issues raised thereby, and the relevant legal authorities.

DATES: Effective January 11, 1999.

FOR FURTHER INFORMATION CONTACT:

David M. Battan, Chief Counsel, Christopher W. Cummings, Special Counsel, or Helene D. Schroeder, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5450.

SUPPLEMENTARY INFORMATION:

I. Requests for Exemptive, No-Action and Interpretative Letters

In the course of administering the Commodity Exchange Act ("Act")¹ and the rules, regulations and orders promulgated thereunder by the Commission,² Commission staff receives written requests for advice on, or interpretation of, particular provisions of the Act or Commission rules and the application of those provisions to proposed transactions or activities. Where appropriate, Commission staff provides the relief, advice or guidance sought through the issuance of exemptive, no-action or interpretative letters ("Letters"), respectively.³

On January 22, 1998, the Commission published for comment Proposed Rule 140.99 (the "Proposal")⁴ to establish procedures for requesting Letters. As stated in the Proposal, although a

¹ 7 U.S.C. 1 *et seq.* (1994).

² Commission regulations are found at 17 CFR Ch. I. *et seq.* (1998).

³ These types of letters are proposed to be defined in Rules 140.99(a)(1), (a)(2) and (a)(3), respectively, and each is discussed in Part II, below.

⁴ *Requests for Exemptive, No-Action and Interpretative Letters*, 63 FR 3285.

procedural rule such as Rule 140.99 is not required to be published for comment, the Commission decided to seek comment in the belief that input from interested persons would assist it in fashioning a final rule.⁵ The comment period on the Proposal originally was due to expire on March 22, 1998. To maximize public participation in this rulemaking process, the Commission extended the comment period for an additional thirty days,⁶ and the comment period closed on April 22, 1998. The input received was very helpful, and a number of changes were made to the Proposal following consideration of the comments.⁷

While the commenters generally were supportive of the Commission's intention to establish uniform procedures for persons requesting Letters, they expressed various concerns of which the most significant are discussed below. Before addressing the comments received and the final rules the Commission is issuing hereby, the Commission wishes to emphasize that under the new rules Commission staff will continue to be receptive to informal inquiries and to engage in discussions with industry participants, counsel, members of the public, and others, by telephone, in face-to-face meetings or otherwise, regarding the application of the provisions of the Act and the Commission's rules, with the caveat that any advice given in the context of those discussions does not bind the Commission or its staff.⁸ The Commission's goal in adopting new Rule 140.99 is to ensure that, where an issue has been framed and defined sufficiently that a request for a Letter is appropriate, proper procedures exist for submitting that request.

II. Section-By-Section Analysis

A. Definitions—Section 140.99(a)

The Proposal defined "exemptive letter," "no-action letter," and "interpretative letter" for purposes of Rule 140.99. Briefly stated, the Proposal defined: (1) an exemptive letter as involving a grant of exemptive relief by the staff of the Division of Trading and Markets or the Division of Economic

⁵ See 63 FR 3287.

⁶ *Requests for Exemptive, No-Action and Interpretative Letters*, 63 FR 14866 (March 27, 1998).

⁷ The Commission received eight comment letters in response to the Proposal: two from registered futures commission merchants; two from commodity industry associations; one from a securities industry association; two from bar associations; and one from a law firm.

⁸ See Rule 140.99(e), which provides that no response to a request for a Letter is effective unless it is in writing, signed by appropriate Commission staff and transmitted in final form to the requester.