Schenectady, NY, Schenectady County, NDB RWY 28, Amdt 10B
Schenectady, NY, Schenectady County, GPS RWY 22, Orig-B
Schenectady, NY, Schenectady County, GPS RWY 28, Orig-B
Syracuse, NY, Syracuse Hancock Intl, VOR OR TACAN RWY 33, Orig-D
Syracuse, NY, Syracuse Hancock Intl, NDB RWY 28, Amdt 28B
Syracuse, NY, Syracuse Hancock Intl, GPS RWY 10, Orig-B
Utica, NY, Oneida County, NDB OR GPS RWY 15, Amdt 9C
White Plains, NY, Westchester County, VOR/DME RNAV RWY 34, Admt 6A
Fayetteville, NC, Fayetteville Regional/Grannis Field, LOC BC RWY 22, Amdt 5B
Greensboro, NC, May, VOR/DME OR GPS–A, Admt 3, CANCELLED
Greensboro, NC, Piedmont Triad International, VOR OR GPS RWY 5, Amdt 12B
Greensboro, NC, Piedmont Triad International, NDB OR GPS RWY 14, Amdt 15C
Hatteras, NC, Billy Mitchell, GPS RWY 25, Amdt 2
Kingston, NC, Kingston Regional Jetport at Stallings Fld, VOR OR GPS RWY 23, Amdt 13
Kingston, NC, Kingston Regional Jetport at Stallings Fld, VOR/DME OR GPS RWY 5, Amdt 12, CANCELLED
Kingston, NC, Kingston Regional Jetport at Stallings Fld, MDB RWY 5, Amdt 11
Kingston, NC, Kingston Regional Jetport at Stallings Fld, ILS RWY 5, Amdt 10
Kingston, NC, Kingston Regional Jetport at Stallings Fld, RNAV RWY 5, Orig
Hazen, ND, Mercer County Regional, NDB RWY 32, Orig, CANCELLED
Toledo, OH, Toledo Express, VOR/DME RNAV OR GPS RWY 16, Amdt 5A
Toledo, OH, Toledo Express, NDB OR GPS RWY 7, Amdt 24A
Oklahoma City, OK, Will Rogers World, LOC BC RWY 35L, Amdt 10C
Tulsa, OK, Tulsa Intl, VOR/DME OR TACAN RWY 8, Amdt 3C
Allentown, PA, Lehigh Valley Intl. NDB OR GPS RWY 6, Amdt 17A
Altoona, PA, Altoona-Blair County, GPS RWY 2, Orig–A
Harrisburg, PA, Capital GPS RWY 26, Orig–A
Harrisburg, PA, Harrisburg International, ILS RWY 13, Amdt 1
Harrisburg, PA, Harrisburg International, ILS RWY 31, Amdt 1
Harrisburg, PA, Harrisburg International, COPTER ILS 128, Orig
Harrisburg, PA, Harrisburg International, COPTER ILS 308, Orig
Latrobe, PA, Arnold Palmer Regional, NDB RWY 23, Amdt 13A
Philadelphia, PA, Northeast Philadelphia, VOR OR GPS RWY 6, Amdt 10A
Reading, PA, Reading Regional/Carl A. Spaatz Field, NDB RWY 36, Amdt 24A
Reading, PA, Reading Regional/Carl A. Spaatz Field, GPS RWY 13, Orig–A
Reading, PA, Reading Regional/Carl A. Spaatz Field, GPS RWY 18, Orig–A
Reedsville, PA, Mifflin County, GPS RWY 24, Orig–A
Miller, SD, Miller Muni, NDB RWY 15, Orig, CANCELLED
Tretnon, TN, Gibson County, NDB or GPS RWY 19, Amdt 4
Abilene, TX, Abilene Regional, NDB RWY 35 R, Amdt 5B
Abilene, TX, Abilene Regional, GPS RWY 17L, Orig–A
Abilene, TX, Abilene Regional, GPS RWY 35R, Orig–A
Amarillo, TX, Amarillo Intl, VOR/DME RWY 31, Orig–A
Amarillo, TX, Amarillo Intl, GPS RWY 13, Orig–A
Amarillo, TX, Amarillo Intl, GPS RWY 31, Orig–A
Amarillo, TX, Tradewind, VOR/DME RNAV RWY 35, Orig–A
Amarillo, TX, Tradewind, GPS RWY 35, Orig–A
Beaumont-Port Arthur, TX, Southeast Texas Regional, VOR/DME RWY 34, Amdt 7B
Beaumont-Port Arthur, TX, Southeast Texas Regional, LOC BC RWY 30, Amdt 19A
Beaumont-Port Arthur, TX, Southeast Texas Regional, GPS RWY 34, Orig–B
Brownsville, TX, Brownsville/South Padre Island Intl, LOC BC RWY 31L, Amdt 11A
College Station, TX, Easterwood Field, VOR OR TACAN RWY 10, Amdt 18C
College Station, TX, Easterwood Field, LOC BC RWY 16, Amdt 5B
El Paso, TX, El Paso Intl, LOC/DME RWY 4, Amdt 2A
El Paso, TX, El Paso Intl, VOR RWY 26L, Amdt 29C
El Paso, TX, El Paso Intl, NDB RWY 22, Amdt 28B
Greenville, TX, Majors, VOR/DME RWY 17, Orig–A
Greenville, TX, Majors, NDB OR GPS RWY 35, Amdt 1A
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV OR GPS RWY 17R, Amdt 3A
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV OR GPS RWY 35L, Amdt 3A
Houston, TX, Ellington Field, GPS RWY 4, Orig–A
Houston, TX, William P. Hobby, VOR/DME RWY 17, Amdt 1B
Houston, TX, William P. Hobby, VOR/DME RWY 22, Amdt 24A
Houston, TX, William P. Hobby, VOR/DME RWY 30L, Amdt 16A
Houston, TX, William P. Hobby, VOR/DME RWY 35, Amdt 2A
Houston, TX, William P. Hobby, LOC RWY 22, Orig
Longview, TX, Gregg County, VOR/DME RNAV RWY 22, Amdt 6A
Lubbock, TX, Lubbock Intl, VOR/DME RNAV RWY 8, Amdt 2A
Lubbock, TX, Lubbock Intl, NDB RWY 17R, Amdt 15A
Lubbock, TX, Lubbock Intl, NDB RWY 26, Amdt 2A
Lubbock, TX, Lubbock Intl, GPS RWY 8, Orig–A
Lubbock, TX, Lubbock Intl, GPS RWY 35L, Orig–A
McAllen, TX, McAllen Miller Intl, LOC BC RWY 31, Amdt 9B
McAllen, TX, McAllen Miller Intl, VOR RWY 31, Amdt 1A
McAllen, TX, McAllen Miller Intl, GPS RWY 31, Orig–A
Midland, TX, Midland Intl, VOR OR TACAN RWY 16R, Amdt 22B
Paris, TX, Cox Field, VOR OR GPS RWY 35, Amdt 1A
San Angelo, TX, San Angelo Regional/Mathis Field, NDB RWY 3, Amdt 14A
San Angelo, TX, San Angelo Regional/Mathis Field, VOR RWY 21, Amdt 16A
Victoria, TX, Victoria Regional, VOR/DME OR GPS RWY 30R, Amdt 5A
Waco, TX, Waco Regional, VOR OR GPS RWY 14, Amdt 22A
Rutland, VT, Rutland State, GPS RWY 19, Amdt 2A
Lewisburg, WV, Greenbrier Valley, GPS RWY 4, Amdt 1A
Petersburg, WV, Grant County, GPS RWY 31, Amdt 1
Petersburg, WV, Grant County, LDA/DME–B, Amdt 3
Petersburg, WV, Grant County, VOR/DME OR GPA–A, Amdt 2

Effective June 15, 2000

Stigler, OK, Stigler Muni, GPS RWY 17, Orig
Stigler, OK, Stigler Muni, GPS RWY 35, Orig

[FR Doc. 00–4487 Filed 2–24–00; 8:45 am]
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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

[T.D. 99–67]

RIN 1515–AB60

Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correcting amendments and additions.

SUMMARY: This document makes certain corrections to the document published in the **Federal Register** that adopted as a final rule, with some changes, proposed amendments to the Customs Regulations relating to the commercial testing and gauging of imported merchandise. The regulations revised the general procedures for: Customs accreditation of commercial laboratories; the revocation or suspension of Customs-accredited laboratories; Customs approval of commercial gaugers; and the revocation or suspension of Customs-approved gaugers. The corrections in this document involve changes to the Customs Regulations pertaining to:

(1) The time frame within which the Executive Director will issue a decision if a laboratory or gauger does not file a response to a preliminary notice of nonselection or to a proposed

revocation or suspension of accreditation or approval;

(2) The starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended; and

(3) The starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court the decision made by the Assistant Commissioner, Office of Field Operations, regarding not being selected for accreditation or approval or having its accreditation or approval revoked or suspended.

These changes are made to clarify the procedures when Customs issues adverse decisions affecting the accreditation of laboratories and the approval of gaugers.

EFFECTIVE DATE: This correction is effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Ira Reese, Laboratories & Scientific Services, (202) 927–1060; or Marcelino Borges, Laboratories & Scientific Services, (202) 927–1137.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1999, Customs published in the **Federal Register** (64 FR 48528) T.D. 99–67 which adopted as a final rule, with some changes, proposed amendments to the Customs Regulations relating to the commercial testing and gauging of imported merchandise. The regulations revised the general procedures for: Customs accreditation of commercial laboratories; the revocation or suspension of Customs-accredited laboratories; Customs approval of commercial gaugers; and the revocation or suspension of Customs-approved gaugers.

The final rule document provides laboratories which apply for Customs accreditation, but are not selected, and gaugers which apply for Customs approval, but are not selected, with two-levels of administrative review before allowing reapplication for accreditation or approval or further appeal to the Court of International Trade. This same reapplication-appeal procedure is also provided for Customs-accredited laboratories and Customs-approved gauger facilities whose status is subsequently suspended or revoked or whose operations are subject to monetary penalties. The first-level of administrative review of such Customs decision is to the Executive Director, Laboratories & Scientific Services, and the second-level of administrative review is to the Assistant Commissioner, Office of Field Operations.

After the administrative review process is completed, the regulations provide that a laboratory or gauger receiving an adverse agency decision may either submit a new application for accreditation or approval after waiting a set time frame (90 days) from the date of the Executive Director's last decision, or file an action with the Court of International Trade within a certain time frame (60 days) after the issuance of the Executive Director's final decision.

It has come to Customs attention that the Customs Regulations are unclear pertaining to:

(1) The starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended; and

(2) The starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court the decision made by the Assistant Commissioner, Office of Field Operations, regarding not being selected for accreditation or approval or having its accreditation or approval revoked or suspended.

In addition, the regulations are unworkable regarding the time frame within which the Executive Director will issue a decision if a laboratory or gauger does not file a response to a preliminary notice of nonselection or to a proposed revocation or suspension of accreditation or approval.

Filing a New Application

It has come to Customs attention that the regulations are not clear regarding the starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received a final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended. This is because the regulations do not clearly set forth the procedures Customs contemplated.

One interpretation of the regulations as they appear in the **Federal Register** dated September 7, 1999, could be that a laboratory or gauger who is not selected or whose accreditation or approval is revoked or suspended is required to receive the adverse determination from the Assistant Commissioner, Office of Field Operations, before being given the option of submitting a new application for accreditation or approval. Customs did not intend this to be the case.

Customs contemplated that a laboratory or gauger who is not selected or whose accreditation or approval is being revoked or suspended may choose to accept the final notice of nonselection or notice of adverse determination issued by the Executive Director, not appeal to the Assistant Commissioner, and wait a set time frame from the Executive Director's decision to reapply for accreditation and approval.

Customs also contemplated that a laboratory or gauger that does appeal the nonselection, suspension, or revocation decision of the Executive Director to the Assistant Commissioner may accept an adverse decision issued by the Assistant Commissioner, wait a set time frame from that decision and then reapply for accreditation and approval rather than challenge the Assistant Commissioner's decision in the Court of International Trade. Unfortunately, while the language in the regulations clearly states that a laboratory or gauger that has received such an adverse determination by the Assistant Commissioner may reapply rather than challenge the decision in the Court of International Trade, the regulation states that the starting point of the waiting period for reapplying in this instance is the decision of the Executive Director, not the decision of the Assistant Commissioner. In this instance, the obvious starting point of the waiting period should be the Assistant Commissioner's decision.

In this document, Customs is clarifying that a laboratory or gauger receiving a final adverse determination from the Executive Director or an adverse determination from the Assistant Commissioner regarding accreditation or approval may choose to not further appeal the decision and then reapply. The laboratory or gauger may accept the Executive Director's final decision, not appeal the decision to the Assistant Commissioner, and reapply for accreditation or approval after a set time frame, with the date of the Executive Director's final decision being the starting point of that time frame. If the laboratory or gauger chooses to appeal the Executive Director's final decision to the Assistant Commissioner, the laboratory or gauger may choose to

accept the Assistant Commissioner's decision in the matter, not file an action with the Court of International Trade, and reapply for accreditation or approval after a set time frame, with the date of the Assistant Commissioner's decision being the starting point of that time frame.

Once the clarification is made regarding the option (of a non-selected laboratory or gauger or a Customs-accredited laboratory or Customs-approved gauger which is suspended or revoked) to submit a new application rather than appeal the Customs decision at either the Executive Director or Assistant Commissioner level, and the clarification is made regarding the starting point of the waiting periods before a new application can be submitted, it becomes obvious that the time frames set forth in the regulations for submitting a new application also need to be revised; it was not Customs intention to allow the time frame for submitting a new application to be shorter than the time frame for following the appeal process.

Accordingly, Customs is changing the time frames for submitting a new application to be as follows:

(1) If the laboratory or gauger accepts the final adverse decision of the Executive Director, the laboratory or gauger may submit a new application to the Executive Director 180 days after the date of the Executive Director's decision; and

(2) If the laboratory or gauger appeals the final adverse decision of the Executive Director to the Assistant Commissioner, but accepts an adverse appeal decision issued by the Assistant Commissioner, the laboratory or gauger may submit a new application to the Executive Director 120 days after the date of the Assistant Commissioner's decision.

Filing an Action With the Court of International Trade

It has also come to Customs attention that the regulations are not clear that Customs contemplated that a laboratory or gauger must exhaust its administrative remedies before it may file an action with the Court of International Trade regarding an adverse accreditation or approval determination. In other words, a laboratory or gauger may not file an action with the Court of International Trade until it has received an adverse determination issued by the Assistant Commissioner, Office of Field Operations. This correction seeks to clarify that point.

In addition, this correction also changes the starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court a decision made by the Assistant Commissioner regarding not being selected for accreditation or approval or regarding having its accreditation or approval revoked or suspended. As published, the regulations state that the starting point of the 60-day time frame begins with the issuance of the Executive Director's notice of final action or decision. This procedure is not workable since the laboratory or gauger must receive the adverse decision issued by the Assistant Commissioner before it can file an action with the court. The Executive Director's decision is made prior to the Assistant Commissioner's. Accordingly, the starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade is corrected to be the adverse decision issued by the Assistant Commissioner.

Issuance of a Final Decision by the Executive Director

The regulations provide that laboratories not expected to be selected for accreditation, gaugers not expected to be selected for approval, laboratories whose accreditation may be revoked or suspended, and gaugers whose approval may be revoked or suspended will be notified in writing by a preliminary notice of Customs proposed action in the matter and that the notice will state that the laboratory and gauger has the option of filing a response with the Executive Director within 30 calendar days.

The regulations further provide that if the laboratory or gauger does not respond to the preliminary notice, the Executive Director will issue after 30 calendar days of the laboratory or gauger's receipt of the preliminary notice a final notice of adverse determination in the case of a proposed suspension or revocation, or a final notice of nonselection in the case of a nonselection.

Clearly, this is administratively infeasible. If Customs must wait 30 days to receive a response, Customs cannot within the same time frame send out a notice based on a nonresponse informing the laboratory or gauger of its decision. Customs must provide the full 30 days for a laboratory or gauger to send in a response, and then if no response is received, have time to prepare the final notice of adverse determination or final notice of nonselection.

Customs believes that it should have 30 additional days to send a final notice of adverse determination or final notice of nonselection to a laboratory or gauger after the laboratory or gauger's 30-day response period has expired. This 60-day time frame for Customs to send out a final notice of adverse determination or final notice of nonselection is consistent with the 60-day time frame that Customs has to issue these notices if a laboratory or gauger does respond to the preliminary notice.

The regulations are changed accordingly to reflect that the Executive Director has 60 days from the date the preliminary notice was received by the laboratory or gauger to issue a final notice of nonselection or final notice of adverse determination if the laboratory or gauger does not respond to a preliminary notice.

Corrected Paragraphs

The corrections made to the laboratory regulations are in paragraphs (g) and (k) of § 151.12. The corrections made to the gauger regulations are in paragraphs (e) and (i) of § 151.13. Because of the breadth of these corrections and to make their application clear, the affected sections identified above are republished below.

Correction of Publication

In the document published in the **Federal Register** as T.D. 99–67 on September 7, 1999 (64 FR 48528):

1. On pages 48536 and 48537, in § 151.12, paragraphs (g)(1) and (g)(3) are corrected to read as follows:

§ 151.12 Accreditation of commercial laboratories.

* * * * *

(g) *How will an applicant be notified concerning accreditation?*

(1) *Notice of accreditation or nonselection.* When Customs evaluation of a laboratory's credentials is completed, the Executive Director will notify the laboratory in writing of its preliminary accreditation or nonselection. (Final accreditation determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable accreditation fee). All final notices of accreditation, reaccreditation, or extension of existing Customs accreditation will be published in the **Federal Register** and Customs Bulletin.

(2) * * *

(3) *Adverse accreditation decisions; appeal procedures.*

(i) *Preliminary notice.* A laboratory which is not selected for accreditation will be sent a preliminary notice of

nonselection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the laboratory.

(ii) *Final notice.* (A) *Based on nonresponse.* If the laboratory does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the laboratory applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the laboratory that it may choose to pursue one of the following two options:

(*1*) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 180 days after the date of the final notice of nonselection; or

(*2*) Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

(B) *Based on response.* If the laboratory files a timely response, the Executive Director will issue a final determination regarding the laboratory's accreditation within 30 calendar days of the date the applicant's response is received by the Executive Director. If this final determination is adverse to the laboratory, then the final notice of nonselection will state the specific grounds for nonselection and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (g)(3)(ii)(A)(1) and (2) of this section.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the laboratory, then the decision notice will advise the laboratory that it may choose to pursue one of the following two options:

(A) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 120 days after the date of the appeal decision; or

(B) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

2. On pages 48538 and 48539, in § 151.12, paragraphs (k)(2) and (k)(3) are corrected and paragraph (k)(4) is added to read as follows:

§ 151.12 Accreditation of commercial laboratories.

* * * * *

(k) *How can a laboratory have its accreditation suspended or revoked or be required to pay a monetary penalty?*

(1) * * *

(2) *Notice of adverse action.* When a decision to suspend or revoke accreditation, and/or assess a monetary penalty is made, the Executive Director will immediately notify the laboratory in writing, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of accreditation is immediate, the Executive Director will issue a final notice of adverse determination. The final notice of adverse determination will state the specific grounds for the immediate suspension or revocation, direct the laboratory to cease performing any Customs-accredited functions, and advise the laboratory that it may choose to pursue one of the following two options:

(A) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 180 days after the date of the final notice of adverse determination; or

(B) Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.*

(A) *Preliminary notice.* Where the suspension or revocation of accreditation, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of proposed action. The preliminary notice of proposed action will state the specific grounds for the proposed action, inform the laboratory that it may continue to perform those functions requiring Customs-accreditation until the Executive Director's final notice is issued, and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of proposed action was received by the laboratory. The laboratory may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The laboratory also may ask for a meeting with the Executive Director or his designee to discuss the proposed action.

(B) *Final notice.*

(*1*) *Based on nonresponse.* If the laboratory does not respond to the preliminary notice of proposed action, the Executive Director will issue a final notice of adverse determination within 60 calendar days of the date the preliminary notice of proposed action was received by the laboratory. The final notice of adverse determination will state the specific grounds for the adverse determination, direct the laboratory to cease performing any Customs-accredited functions, and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (k)(2)(i)(A) and (B) of this section.

(2) *Based on response.* If the laboratory files a timely response, the Executive Director will issue a final determination regarding the status of the laboratory's accreditation within 30 calendar days of the date the laboratory's response is received by the Executive Director. If this final determination is adverse to the laboratory, then the final notice of adverse determination will state the specific grounds for the adverse action, advise the laboratory to cease performing any functions requiring Customs accreditation, and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (k)(2)(i)(A) and (B) of this section.

(3) *Publication of final notices of adverse determination.* Any final notices of adverse determination issued by the Executive Director resulting in a laboratory being directed to cease performing Customs-accredited functions will be published in the **Federal Register** and Customs Bulletin and the notice published will include the effective date, duration, and scope of the determination.

(4) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the laboratory, then the decision notice will advise the laboratory that it may choose to pursue one of the following two options:

(i) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 120 days after the date of the appeal decision; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

3. On pages 48540 and 48541, in § 151.13, paragraphs (e)(1) and (e)(3) are corrected to read as follows:

§ 151.13 Approval of commercial gaugers.

* * * * *

(e) *How will an applicant be notified concerning approval?*

(1) *Notice of approval or nonselection.* When Customs evaluation of a gauger's credentials is completed, the Executive Director will notify the gauger in writing of its preliminary approval or nonselection. (Final approval determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable approval fee). All final notices of approval, reapproval, or extension of existing Customs approval will be published in the **Federal Register** and Customs Bulletin.

(2) * * *

(3) *Adverse approval decisions; appeal procedures.*

(i) *Preliminary notice.* A gauger which is not selected for approval will be sent a preliminary notice of nonselection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the gauger that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the gauger.

(ii) *Final notice.* (A) *Based on nonresponse.* If the gauger does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the gauger applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the gauger that it may choose to pursue one of the following two options:

(*1*) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 180 days after the date of the final notice of nonselection; or

(*2*) Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

(B) *Based on response.* If the gauger files a timely response, the Executive Director will issue a final determination regarding the gauger's approval within 30 calendar days of the date the applicant's response is received by the Executive Director. If this final determination is adverse to the gauger, then the final notice of nonselection will state the specific grounds for nonselection and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (e)(3)(ii)(A)(1) and (2) of this section.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the gauger, then the decision notice will advise the gauger that it may choose to pursue one of the following two options:

(A) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 120 days after the date of the appeal decision; or

(B) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

4. On pages 48542 and 48543, in § 151.13, paragraphs (i)(2) and (i)(3) are corrected and paragraph (i)(4) is added to read as follows:

§ 151.13 Approval of commercial gaugers.

* * * * *

(i) *How can a gauger have its approval suspended or revoked or be required to pay a monetary penalty?*

(1) * * *

(2) *Notice of adverse action.* When a decision to suspend or revoke approval, and/or assess a monetary penalty is made, the Executive Director will immediately notify the gauger in writing, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of approval is immediate, the Executive Director will issue a final notice of adverse determination. The final notice of adverse determination will state the specific grounds for the immediate suspension or revocation, direct the gauger to cease performing any Customs-approved functions, and advise the gauger that it may choose to pursue one of the following two options:

(A) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 180 days after the date of the final notice of nonselection; or

(B) Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.*

(A) *Preliminary notice.* Where the suspension or revocation of approval, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of proposed action. The preliminary notice of proposed action will state the specific grounds for the proposed action, inform the gauger that it may continue to perform those functions requiring Customs-approval until the Executive Director's final notice is issued, and advise the gauger that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of proposed action was received by the gauger. The gauger may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The gauger also may ask for a meeting with the Executive Director or his designee to discuss the proposed action.

(B) *Final notice.*

(*1*) *Based on nonresponse.* If the gauger does not respond to the preliminary notice of proposed action, the Executive Director will issue a final notice of adverse determination within 60 calendar days of the date the preliminary notice of proposed action was received by the gauger. The final notice of adverse determination will state the specific grounds for the adverse determination, direct the gauger to cease performing any Customs-approved functions, and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (i)(2)(i)(A) and (B) of this section.

(*2*) *Based on response.* If the gauger files a timely response, the Executive Director will issue a final determination regarding the status of the gauger's approval within 30 calendar days of the date the gauger's response is received by the Executive Director. If this final determination is adverse to the gauger, then the final notice of adverse determination will state the specific grounds for the adverse action, advise the gauger to cease performing any functions requiring Customs approval, and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (i)(2)(i))(A) and (B) of this section.

(3) *Publication of final notices of adverse determination.*

Any final notices of adverse determination issued by the Executive Director resulting in a gauger being directed to cease performing Customs-approved functions will be published in the **Federal Register** and Customs Bulletin and the notice published will include the effective date, duration, and scope of the determination.

(4) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the gauger, then the decision notice will advise the gauger that it may choose to pursue one of the following two options:

(i) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 120 days after the date of the appeal decision; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 calendar days of the date of the appeal decision.

Dated: February 18, 2000.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 00–4438 Filed 2–24–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 99N–2550]

Medical Devices; Hearing Aids; Technical Data Amendments; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of March 17, 2000, for the final rule that appeared in the **Federal Register** of November 3, 1999 (64 FR 59618). The direct final rule amends regulations governing hearing aid labeling to reference the most recent version of the consensus standard used to determine technical data to be included in labeling for hearing aids. This amendment allows manufacturers to use state-of-the-art methods to address technical data in labeling for hearing aids. This document confirms the effective date of the direct final rule.

DATES: Effective date confirmed: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 3, 1999 (64 FR 59618), FDA solicited comments concerning the direct final rule for a 75-day period ending January 17, 2000. FDA stated that the effective date of the direct final rule would be on March 17, 2000, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that no objections or requests for a hearing were filed in response to the November 3, 1999, direct final rule. Accordingly, the amendments issued thereby are effective.

Dated: February 17, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–4404 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–01–F

POSTAL RATE COMMISSION

39 CFR Part 3001

[Order No. 1285; Docket No. RM2000–1]

Practice and Procedure; Cost, Revenue and Volume Data Generated by International Mail Services

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This document adopts permanent rules for the analysis of cost, revenue and volume data generated by the Postal Service's international mail services. These rules will assist the Commission in preparing annual reports to Congress, as required by law.

DATES: Effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 26, 1999, Commission order no. 1226 in docket no. IM99–1 was published in the **Federal Register** (64 FR 3991). On November 26, 1999, the Commission issued order no. 1270 in docket no. RM2000–1(64 FR 66436). On February 15, the Commission issued this order [no. 1285] in docket no. RM200–1 and directed that it be published in the **Federal Register**.

Background

On October 21, 1998, Public Law 105–277 was signed into law, adding section 3663 to the Postal Reorganization Act (PRA) (39 U.S.C. 3663). It requires that by July 1 of each year, the Commission ''transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes'' accrued by the Postal Service ''in connection with mail matter conveyed between the United States and other countries'' for the prior fiscal year. To enable the Commission to carry out that directive, section 3663 requires the Postal Service to provide, by March 15, ''such data as the Commission may require'' to prepare that report. It states that the data provided

> shall be in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for analysis of rates for domestic mail.

Initial Notice of Proposed Rulemaking

On June 30, 1999, the Commission transmitted its first annual report on international mail to Congress. On November 18, 1999, the Commission issued a notice of proposed rulemaking (NPRM) inviting interested persons to comment on the Commission's initial effort to satisfy the requirements of 39 U.S.C. 3663. The NPRM invited comments on what data the Postal Service should provide to the Commission each year to enable the Commission to prepare its report. In particular, the Commission invited comment on its proposed rule 103, which appeared as appendix A to the NPRM. Proposed rule 103 would add to the Commission's periodic reporting rules, a list of items to be included in the Postal Service's data submission that must be filed by March 15 of each year under section 3663(b). The NPRM also invited comments on the appropriate scope and detail of the Commission's annual international mail report, including the analytical methods that should be applied to calculate the costs, revenues, and volumes of international mail services.

The NPRM described the efforts of several of the Postal Service's competitors to obtain the information that the Postal Service provided to the Commission to enable it to prepare its initial report on international mail. The NPRM invited comments on the procedures that should be employed to determine which portions of the report or supporting documents should not be publicly disclosed, what criteria or standards should govern that determination, what categories of