

a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Badami Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, *Airspace Designations and Reporting Points*, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

*Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AAL AK E5 Badami, AK [Revised]

Badami, Badami Airport, AK  
(Lat. 70°08'15" N., long. 147°01'49" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Badami Airport, AK; and that airspace extending upward from 1,200 feet

above the surface within a 73-mile radius of the Badami Airport, AK.

\* \* \* \* \*

Issued in Anchorage, AK, on November 7, 2008.

**Anthony M. Wylie,**

*Manager, Alaska Flight Services Information Area Group.*

[FR Doc. E8–27535 Filed 11–19–08; 8:45 am]

**BILLING CODE 4910–13–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 12

**RIN 3038–AC59**

#### Rules Relating to Reparation Proceedings

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (“Commission” or “CFTC”) is amending its regulations to clarify that post-judgment interest shall run on reparation awards in voluntary decisional proceedings and to provide that in all reparation proceedings resulting in a judgment for complainant post-judgment interest shall run whether or not expressly awarded.

**DATES:** December 22, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Laura Richards, Office of General Counsel, U.S. Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5126. E-mail: [lrichards@cftc.gov](mailto:lrichards@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background Information

Currently, 17 CFR part 12 provides the following guidance regarding the award of interest to the prevailing party in reparation proceedings. Prejudgment interest “may” be awarded in summary decisional proceedings as part of a reparation order under Rule 12.210(c), and in formal decisional proceedings under Rule 12.314(c), “if warranted as a matter of law under the circumstances of a particular case.”<sup>1</sup> Judgment Officers and Administrative Law Judges routinely have awarded prejudgment interest. Prejudgment interest is

<sup>1</sup> See *Ruddy v. FCCB*, 1981 WL 21010 at \*5 n.18 (CFTC Mar. 31, 1981) (“regarding the award of prejudgment interest[,] [w]here such awards are clearly compensatory and \* \* \* involve the breach of a fiduciary duty, prejudgment interest, while a matter of discretion, should hereafter be the rule, rather than the exception”).

prohibited, however, in voluntary decisional proceedings under Rule 12.106(c).

Rule 12.407(d), which governs post-judgment interest, applies to all forms of reparation proceedings. It provides that interest shall run on an unpaid reparation award “at the prevailing rate computed in accordance with 28 U.S.C. 1961 from the date directed in the final order to the date of payment, compounded annually.” See Section 14(f) of the Commodity Exchange Act, 7 U.S.C. 18(f) (statutory authority for Rule 12.407(d)).

To clarify existing authority, and to further just and equitable decision proceedings, the Commission hereby amends Rule 12.106(c) to state that post-judgment interest shall run on awards in voluntary proceedings. The Commission believes such a clarifying rule is appropriate to make clear that the Act intends to compensate a prevailing party for the loss of use of the party's money when a reparation judgment is not satisfied within the mandated deadline (for voluntary proceedings, within 45 days after service of the final decision, see Rule 12.106(e)).

Amended Rule 12.407(d) provides that if an initial decision inadvertently omits an award of post-judgment interest such interest shall run at the applicable rate from the date that satisfaction of the reparation judgment is due.

In furtherance of the Commission's efforts to fully inform parties and the public of practices regarding interest on reparation judgments, the Commission also is amending Form 30 (which is not included in the Code of Federal Regulations) to include details of which types of interest may be awarded in voluntary, summary and formal decisional proceedings.

##### II. Related Matters

###### A. No Notice Required Under 5 U.S.C. 553

The Commission has determined that these amendments are exempt from the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally requires notice of proposed rulemaking and provides other opportunities for public participation. According to the exemptive language of 5 U.S.C. 553, these amendments pertain to “rules of agency organization, procedure or practice,” as to which there exists agency discretion not to provide notice. In addition, notice and public comment are unnecessary in this case because the amendments are self-explanatory. If made effective immediately, they will promote

efficiency and facilitate the Commission's core mission without imposing a new burden. For the above reasons, the notice requirements under 5 U.S.C. 553 are inapplicable.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies with rulemaking authority to consider the impact those rules will have on small businesses. With respect to persons involved in reparation proceedings, the amendments impose no additional burden and in fact provide greater certainty and increased predictability concerning awards of post-judgment interest. Thus, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the amendments will not have a significant economic impact on a substantial number of small businesses.

*C. Paperwork Reduction Act*

The amendments to Part 12 do not impose a burden within the meaning and intent of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

*D. Cost-Benefit Analysis*

Section 15(a) of the Act, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its action before issuing a new regulation. The Commission understands that, by its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh its costs. Nor does it require that each rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission can, in its discretion, give greater weight to any one of the five enumerated areas of concern and can, in its discretion, determine that notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions, or accomplish any of the purposes, of the Commodity Exchange Act.

The amendments to Parts 12 will not create any significant change in the Commission's reparation proceedings. The amendments will enhance the protection of market participants and the public by taking uncertainty out of the awarding of post-judgment interest in certain instances and helping to ensure that reparation awards are satisfied in a timely manner. The cost-benefit factors are not influenced by the amendments, which simply articulate and clarify applicable law and precedent in reparation proceedings.

**List of Subjects in 17 CFR Part 12**

Administrative practice and procedure, Commodity exchange, Commodity futures, Reparations.  
 ■ After considering these factors, the Commission has determined to amend Part 12 as set forth below:

**PART 12—RULES PERTAINING TO REPARATION PROCEEDINGS**

■ 1. The authority citation for part 12 continues read as follows:

**Authority:** 7 U.S.C. 2a(12), 12a(5) and 18.

■ 2. In § 12.106, revise paragraph (c) to read as follows:

**§ 12.106 Final decision and order.**

(c) *No assessment of prejudgment interest or costs; assessment of post-judgment interest.* A party found liable for damages in a voluntary decisional proceeding shall not be assessed prejudgment interest, attorney's fees, or costs (other than the filing fee and costs assessed as a sanction for abuse of discovery). Post-judgment interest shall be awarded at a rate determined in accordance with 28 U.S.C. 1961(a).

■ 3. In § 12.407, revise paragraph (d) to read as follows:

**§ 12.407 Satisfaction of reparation award; enforcement; sanctions.**

(d) *Reinstatement.* The sanctions imposed in accordance with paragraph (c) of this section shall remain in effect until the person required to pay the reparation award demonstrates to the satisfaction of the Commission that he has paid the amount required in full including prejudgment interest if awarded and post-judgment interest at the prevailing rate computed in accordance with 28 U.S.C. 1961 from the date directed in the final order to the date of payment, compounded annually. In the event an award of post-judgment interest is inadvertently omitted, such interest nevertheless shall run as

calculated in accordance with 28 U.S.C. 1961 and the Part 12 Rules.

**Note:** The following text will not appear in the Code of Federal Regulations.

**Reparations Complaint Form (Form 30)**

Portions of the Commission's Reparations Complaint Form, available on the Commission's Web site at <http://www.cftc.gov>, are revised to read as follows:

\_\_\_\_ \$50 Voluntary Decisional Procedure. This procedure enables you, if the respondents agree, to present your case in written form before a CFTC judgment officer. A final decision will be issued without explanation of the reasons. By electing the voluntary procedure, you will waive your right to appeal as well as prejudgment interest and costs. *You do not waive your right to post-judgment interest in the event that reparation awards, if any, are not satisfied within the timeframe provided in the final decision.* In the event an award of post-judgment interest is inadvertently omitted, such interest nevertheless shall run according to the term of 28 U.S.C. 1961 and the Part 12 Rules.

\_\_\_\_ \$125 Summary Decisional Procedure. If your claim is \$30,000 or less, it can be heard by a CFTC Judgment Officer. You may present your case in written form, and if deemed necessary by the judgment officer, orally, in Washington, or by telephone under this procedure. The judgment officer will issue brief statements of factual findings and conclusions based on law, and may order a reparation award including prejudgment interest pursuant to Rule 12.210(c) and post-judgment interest. The judgment officer's decision is appealable first to the Commission and from there to a U.S. Court of appeals. In the event an award of post-judgment interest is inadvertently omitted, such interest nevertheless shall run according to the terms of 28 U.S.C. 1961 and the Part 12 Rules.

\_\_\_\_ \$250 Formal Decisional Procedure. If your claim is over \$30,000, it can be assigned to an Administrative Law Judge (ALJ) for a formal hearing. You may present your case in written form. If oral testimony is deemed necessary by the ALJ, you may be required to travel up to 300 miles to attend the hearing. The ALJ will issue findings of fact and conclusions of law, and may order a reparation award including prejudgment interest pursuant to Rule 12.314(c) and post-judgment interest. The Administrative Law

Judge's decision is appealable first to the Commission and from there to a U.S. Court of appeals. In the event an award of post-judgment interest is inadvertently omitted, such interest nevertheless shall run according to the terms of 28 U.S.C. 1961 and the Part 12 Rules.

\* \* \* \* \*

Issued in Washington, DC, on October 20, 2008 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E8-27177 Filed 11-19-08; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 520

[Docket No. FDA-2008-N-0039]

#### Oral Dosage Form New Animal Drugs; Amprolium; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Correcting amendments.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a document amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) that appeared in the **Federal Register** of August 6, 2008 (73 FR 45610). FDA is correcting a paragraph designating the sponsors of approved applications for oral dosage forms of amprolium. This correction is being made to improve the accuracy of the animal drug regulations.

**DATES:** This rule is effective November 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** George K. Haibel, Center for Veterinary Medicine (HFV-6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9019, e-mail: [george.haibel@fda.hhs.gov](mailto:george.haibel@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** For reasons set forth in this preamble, FDA is correcting 21 CFR part 520 as follows:

#### List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is corrected by making the following amendment:

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

#### § 520.100 [Corrected]

■ 2. In § 520.100(b)(2), remove “Nos. 051311 and 066104” and add in its place “No. 66104”.

Dated: October 17, 2008.

**Bernadette Dunham,**

Director, Center for Veterinary Medicine.

[FR Doc. E8-27646 Filed 11-19-08; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF JUSTICE

### 28 CFR Part 14

#### Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This Directive delegates authority to the Postmaster General to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed \$300,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the Code of Federal Regulations to provide a permanent record of this delegation.

**DATES:** *Effective Date:* November 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Phyllis J. Pyles, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Washington, DC 20044, (202) 616-4400.

**SUPPLEMENTARY INFORMATION:** This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the United States Postal Service. As such, this rule is a rule of agency organization, procedure, and practice that is limited to matters of agency management and personnel. Accordingly: (1) This rule is exempt from the notice requirement of 5 U.S.C. 553(b) and is made effective upon issuance; (2) the Department certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities and further that no Regulatory Flexibility Analysis was required to be

prepared for this final rule since the Department was not required to publish a general notice of proposed rulemaking; (3) this action is not a “regulation” or “rule” as defined by Executive Order 12866, “Regulatory Planning and Review,” § 3(d)(3) and, therefore, this action has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, “Federalism,” it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.” This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Finally, this action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Claims.

■ By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

## PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

■ 1. The authority citation for part 14 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, and 2672.

■ 2. The appendix to part 14 is amended by revising the heading and text for the “Delegation of Authority to the Postmaster General” to read as follows: