provides advance notification that the United States Drug Enforcement Administration (DEA) is considering the possible control of red phosphorus as a listed chemical.

Red phosphorus has been identified as being an important chemical used in the illicit production of methamphetamine. DEA is considering whether CSA chemical regulatory controls (such as registration, recordkeeping, reporting, and import/export requirements) are necessary to prevent the diversion of red phosphorus to clandestine drug laboratories.

Prior to deciding whether to control red phosphorus as a listed chemical, the DEA is seeking information on red phosphorus trade so that diversion of red phosphorous may be prevented with minimal impact on legitimate trade. The DEA is soliciting information on the manufacturing, distribution, consumption, storage, disposal, and uses of red phosphorus.

DATES: Written comments must be received on or before April 3, 2000.

ADDRESSES: Comments should be submitted in quintuplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Notice?

The Controlled Substances Act (CSA), specifically 21 U.S.C. sections 802(34) and (35); 21 CFR 1310.02(c), provides the Attorney General with the authority to specify, by regulation, additional precursor and essential chemicals as ''listed chemicals'' if they are used in the manufacture of controlled substances in violation of the CSA. This authority has been delegated to the Administrator of DEA by 28 CFR 0.100 and redelegated to the Deputy Administrator under 28 CFR 0.104 (Subpart R) Appendix Sec. 12.

This notice provides advance notification that the U.S. Drug Enforcement Administration is considering the control of red phosphorus as a listed chemical. Red phosphorus has been identified as being an important chemical used in the illicit production of methamphetamine. The public health consequences of the manufacture, trafficking, and abuse of methamphetamine are well known and documented.

What Regulatory Controls Currently exist on Red Phosphorus?

Since red phosphorus is a common chemical used in methamphetamine production, it has already been placed on the Attorney General's ''special surveillance list'' of ''laboratory supplies''. The Comprehensive Methamphetamine Control Act of 1996 (MCA) amended the CSA via the addition of 21 U.S.C. 842(a)(11), which makes it unlawful for any person to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, with reckless disregard for the illegal uses to which such laboratory supply will be put.

The MCA defines ''laboratory supply'' as a ''listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals.'' This special surveillance list was published by DEA on May 13, 1999 (64 FR 25910) and includes red phosphorus.

What Additional Action is DEA Considering?

Due to the continued use of red phosphorus in illicit methamphetamine synthesis, the DEA is considering whether to place additional controls on red phosphorus, by adding red phosphorus as a listed chemical. As such, red phosphorus would be subject to additional CSA regulatory controls such as registration, recordkeeping, reporting, and import/export requirements as specified in 21 CFR part 1300. DEA is considering whether these additional regulatory controls are needed to prevent the diversion of red phosphorus to clandestine laboratories.

Why Is DEA Seeking Information?

DEA is seeking information on red phosphorus trade so that diversion of red phosphorus may be prevented with minimal impact on legitimate trade. DEA is aware that the industrial uses of red phosphorus include the manufacture of pyrotechnics, safety matches, phosphoric acid and other phosphorus compounds, fertilizers, incendiary shells, smoke bombs, tracer bullets, and pesticides. DEA recognizes that regulation of red phosphorus may have some effect upon these, and other, industrial activities. However, DEA is not aware of the entire scope of use of red phosphorus by industry and consumers.

What Information Does This Notice Seek?

The DEA is soliciting input from the potentially affected parties regarding (1) the nature of the legitimate phosphorus industry, (2) the legitimate uses of red phosphorus at all levels of distribution (including industrial uses and use by individual end-users at the retail level of distribution), (3) the potential burden such regulatory controls may have on legitimate industry (particularly with respect to the impact on small businesses), (4) the potential number of individuals/firms which may be adversely affected by increased regulatory requirements, and (5) any other information on the manner of manufacturing, distribution, consumption, storage, disposal, and uses of red phosphorus by industry and others. Both quantitative and qualitative data are sought.

Such information may be submitted to the Drug and Chemical Evaluation Section and is requested by April 3, 2000. Information designated as confidential or proprietary will be treated accordingly. The release of confidential business information that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4) (FOIA), is governed by section 310(c) of the CSA (21 U.S.C. 830(c) and the Department of Justice procedures set forth in 28 CFR 16.7.

Dated: January 11, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 00–2151 Filed 2–1–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR PART 21

RIN 2900–AI67

New Criteria for Approving Courses for VA Educational Assistance Programs

AGENCIES: Department of Defense, Department of Transportation, Coast Guard, and Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) educational assistance and educational benefit regulations by adding new criteria for VA to use in approving enrollments in courses under the educational programs VA administers. The intended effect of these proposed changes is to implement provisions of the Veterans' Benefits Improvements Act of 1996 and the Veterans' Benefits Act of 1997. This document also would amend the regulations to conform to statutory provisions and would make changes for the purpose of clarification.

DATES: Comments must be received on or before April 3, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI67.'' All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service, Veterans Benefits Administration, 202–273–7187.

SUPPLEMENTARY INFORMATION: This document proposes to amend the VA educational assistance and educational benefit regulations in 38 CFR part 21, subparts D, K, and L to conform with the Veterans' Benefits Improvement Act of 1996 (Pub. L. 104–275).

The provisions of the 1996 Act, with certain exceptions noted below, mandate that VA cannot approve an enrollment for VA training in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if (1) the institution has been operating for less than two years, (2) the institution offers the course at a branch or extension and the branch or extension has been operating for less than two years, or (3) the institution offering the course completely moved outside its original general locality or has changed ownership and, in either event, does not retain substantially the same faculty, student body, and courses as before the change in ownership or move, unless the institution has operated for two years following the change in ownership or move. However, if the course were offered under a contract with the Department of Defense (DOD) or the Department of Transportation (Coast Guard) and were given on or immediately adjacent to a military base, Coast Guard station, National Guard facility or facility of the Selected Reserve, these restrictions do not apply. The regulations would be amended to reflect these statutory changes.

VA proposes to define ''proprietary educational institution'' (including a proprietary profit or proprietary nonprofit educational institution) as an educational institution that: (1) Is not a public educational institution, (2) is in a State, and (3) is legally authorized to offer a program of education in the State where the educational institution is physically located. VA believes that this definition accords with the common understanding of ''proprietary educational institution.''

VA proposes to recognize that a proprietary educational institution has been ''in operation'' for at least two years if it has been offering courses for 24 consecutive months, inclusive of normal vacation periods or holidays or periods when the educational institution is closed due to a natural disaster. VA believes that this interpretation of the two-year operation requirement is in accordance with the common meaning of the term ''in operation'' as it relates to educational institutions, and, in our view, reflects the statutory intent.

VA proposes to provide that a move by a proprietary educational institution outside the same general locality is a move beyond normal commuting distance which VA regulations have long recognized as being more than 55 miles (see 38 CFR 21.4200). This seems to be an appropriate interpretation of the statutory language.

As noted above, VA cannot approve an enrollment for VA training in a course not leading to a standard college degree offered by a proprietary profit or nonprofit educational institution if the institution offering the course completely moved outside its original general locality or has changed ownership and, in either event, does not retain substantially the same faculty, student body, and courses as before the change in ownership or move, unless the institution has operated for two years following the change in ownership or move. In this regard, it is proposed to set forth provisions indicating what VA considers to constitute ''change in ownership.''

A ''change in ownership'' would occur when a person acquires, or ceases to have, operational management and/or control of the proprietary institution and its educational activities. ''Control'' is proposed to be defined as the possession, direct or indirect, by a ''person'' or ''persons'', of the power to direct or cause the direction of the management and policies of the institution whether through the ownership of voting securities, by contract or otherwise. ''Person'' is proposed to be defined as a legal person (corporation) or an individual or individuals. Transactions causing a change of ownership would include, but not be limited to, the following: (1) The sale of the educational institution; (2) the transfer of the controlling interest of stock of the educational institution or its parent corporation; (3) the merger of two or more educational institutions; or (4) the division of one educational institution into two or more educational institutions. A ''change of ownership'' would not include transfer of ownership or control of the institution, upon the retirement or death of the owner, (1) to the owner's parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse or (2) to an individual with an ownership interest in the institution who has been involved in management of the institution for at least two years preceding the transfer.

These provisions appear to reflect adequately the kinds of institutional changes that could constitute a ''change in ownership.''

As regards the requirement that the educational institution ''retain substantially the same faculty, student body, and courses'' following change in ownership or move outside the same general locality, it is proposed that VA will consider that a proprietary educational institution has ''substantially the same faculty, student body, and courses'' both before and after the move or ownership change when:

- Faculty members who teach a majority of the courses after the move or change in ownership were employed by the educational institution before the move or change in ownership.
- Faculty use the same instructional methods after the move or change in ownership as were used before the move or change in ownership,
- The courses offered after the move or change in ownership lead to the same educational objectives as did the courses offered before the move or change in ownership, and
- Except for those who graduate, all, or a majority of the students enrolled in the educational institution on the last day of classes before the move or change in ownership are also enrolled in the educational institution immediately after the move or change in ownership.

The preceding criteria appear to assure adequately the institutional

continuity contemplated by the statutory scheme.

It also is proposed to amend § 21.4233 by adding new paragraphs (d)(6), (d)(7), and (d)(8) to reflect statutory provisions set forth in 38 U.S.C. 3675(b)(3) regarding criteria for determining whether accredited courses should be approved for VA training.

Further, it is proposed to amend 38 CFR 21.4252 by adding new paragraph (m) to reflect amendments made by the Veterans' Benefits Act of 1997 (Pub. Law 105–114) and set forth in 38 U.S.C. 3680A(f) and (g) regarding approval of courses under contract.

Other nonsubstantive changes are made to conform the regulations to the statutory changes.

The Department of Defense (DOD), the Department of Transportation (Coast Guard), and VA are jointly issuing this final rule insofar as it relates to the Montgomery GI Bill—Selected Reserve. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this final rule is issued solely by VA.

Executive Order 12866

This proposed rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Secretary of Defense, Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would not cause educational institutions to make changes in their activities and would have minuscule monetary effects, if any. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the programs affected by this proposed rule are 64.117, 64.120, and 64.124. This proposed rule will affect the Montgomery GI Bill—Selected Reserve which has no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Educational institutions, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 10, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

Approved: April 29, 1999.

Curtis B. Taylor,

Colonel, U.S. Army, Principal Director (Military Personnel Policy), Department of Defense.

Approved: October 18, 1999.

F.L. Ames,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set forth in the preamble, 38 CFR part 21 (subparts D, K, and L) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority for part 21, subpart D is revised to read as follows:

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4200, paragraph (z) is added to read as follows:

§ 21.4200 Definitions.

* * * * *

(z) *Proprietary educational institution.* The term *proprietary educational institution* (including a proprietary profit or proprietary nonprofit educational institution) means an educational institution that:

(1) Is not a public educational institution;

(2) Is in a State; and

(3) Is legally authorized to offer a program of education in the State where the educational institution is physically located.

(Authority: 38 U.S.C. 3680A(e))

3. Section 21.4251 is revised to read as follows:

§ 21.4251 Minimum period of operation requirement for educational institutions.

(a) *Definitions.* The following definitions apply to the terms used in this section. The definitions in § 21.4200 apply to the extent that no definition is included in this paragraph.

(1) *Control.* The term *control* (including the term controlling) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(2) *Person.* The term *person* includes a legal person (corporation or partnership) or an individual.

(Authority: 38 U.S.C. 3680A(e))

(b) *Some educational institutions must be in operation for two years.* Except as provided in paragraph (c) of this section, when a proprietary educational institution offers a course not leading to a standard college degree, VA may not approve an enrollment in that course if the proprietary educational institution—

(1) Has been operating for less than two years;

(2) Offers the course at a branch or extension and the branch or extension has been operating for less than two years; or

(3) Offers the course following either a change in ownership or a complete move outside its original general locality, and the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality unless the educational institution following such change or move has been in operation for at least two years.

(Authority: 38 U.S.C. 3680A(e) and (g))

(c) *Exception to the two-year operation requirement.* Notwithstanding the provisions of paragraph (b) of this section, VA may approve the enrollment of a veteran, servicemember, reservist, or eligible person in a course not leading to a standard college degree approved under this subpart if it is offered by a proprietary educational institution that—

(1) Offers the course under a contract with the Department of Defense or the Department of Transportation; and

(2) Gives the course on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

(Authority: 38 U.S.C. 3680A(e) and (g))

(d) *Operation for two years.* VA will consider, for the purposes of paragraph (b) of this section, that a proprietary educational institution (or a branch or extension of such an educational institution) will be deemed to have been operating for two years when the educational institution (or a branch or extension of such an educational institution)—

(1) Has been operating as an educational institution for 24 continuous months pursuant to the laws of the State(s) in which it is approved to operate and in which it is offering the training; and

(2) Has offered courses continuously for at least 24 months inclusive of normal vacation or holiday periods, or periods when the institution is closed temporarily due to a natural disaster that directly affected the institution or the institution's students.

(Authority: 38 U.S.C. 3680A(e) and (g))

(e) *Move outside the same general locality.* A proprietary educational institution (or a branch or extension thereof) will be deemed to have moved to a location outside the same general locality of the original location when the new location is beyond normal commuting distance of the original location, i.e., 55 miles or more from the original location.

(Authority: 38 U.S.C. 3680A(e))

(f) *Change of ownership.* (1) A change of ownership of a proprietary educational institution occurs when—

(i) A person acquires operational management and/or control of the proprietary educational institution and its educational activities; or

(ii) A person ceases to have operational management and/or control of the proprietary educational institution and its educational activities.

(2) Transactions that may cause a change of ownership include, but are not limited to the following:

(i) The sale of the educational institution;

(ii) The transfer of the controlling interest of stock of the educational institution or its parent corporation;

(iii) The merger of two or more educational institutions;

(iv) The division of one educational institution into two or more educational institutions;

(3) VA considers that a change in ownership of an educational institution does not include a transfer of ownership or control of the institution, upon the retirement or death of the owner, to:

(i) The owner's parent, sibling, spouse, child, spouse's parent or sibling, or sibling's or child's spouse; or

(ii) An individual with an ownership interest in the institution who has been involved in management of the institution for at least two years preceding the transfer.

(Authority: 38 U.S.C. 3680A(e))

(g) *Substantially the same faculty, student body, and courses.* VA will determine whether a proprietary educational institution has substantially the same faculty, student body, and courses following a change of ownership or move outside the same general locality by applying the provisions of this paragraph.

(1) VA will consider that the faculty remains substantially the same in an educational institution when faculty members who teach a majority of the courses after the move or change in ownership were so employed by the educational institution before the move or change in ownership.

(2) VA will consider that the courses remain substantially the same at an educational institution when:

(i) Faculty use the same instructional methods during the term, quarter, or semester after the move or change in ownership as were used before the move or change in ownership; and

(ii) The courses offered after the move or change in ownership lead to the same educational objectives as did the courses offered before the move or change in ownership.

(3) VA considers that the student body remains substantially the same at an educational institution when, except for those students who have graduated, all, or a majority of the students enrolled in the educational institution on the last day of classes before the move or change in ownership are also enrolled in the educational institution immediately after the move or change in ownership.

(Authority: 38 U.S.C. 3680A(e) and (f)(1))

4. In § 21.4252, paragraph (m) is added to read as follows:

§ 21.4252 Courses precluded.

* * * * *

(m) *Courses offered under contract.* VA may not approve the enrollment of a veteran, servicemember, reservist, or eligible person in a course as a part of a program of education offered by any educational institution if the educational institution or entity providing the course under contract has not obtained a separate approval for the course in the same manner as for any other course as required by §§ 21.4253, 21.4254, 21.4256, 21.4257, 21.4260, 21.4261, 21.4263, 21.4264, 21.4265, 21.4266, or 21.4267, as appropriate.

(Authority: 38 U.S.C. 3680A(f) and (g))

5. In § 21.4253, paragraphs (d)(6), (d)(7), and (d)(8) are added to read as follows:

§ 21.4253 Accredited courses.

* * * * *

(d) * * *

(6) The accredited courses, the curriculum of which they form a part, and the instruction connected with those courses are consistent in quality, content, and length with similar courses in public educational institutions and other private educational institutions in the State with recognized accepted standards.

(7) There is in the educational institution offering the course adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(8) The educational and experience qualifications of directors, and administrators of the educational institution offering the courses, and instructors teaching the courses for which approval is sought, are adequate.

(Authority: 38 U.S.C. 3675(b), 3676(c)(1), (2), (3))

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

6. The authority for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

7. Section 21.7122 is amended as follows:

a. Paragraph (e)(6) is amended by removing ''school, or'' and adding, in its place, ''school;'';

b. Paragraph (e)(7) is amended by removing ''course.'' and adding, in its place, ''course; or'';

c. Paragraphs (e)(1) through (e)(5), and the authority citation for paragraph (e) are revised; and

d. Paragraph (e)(8) is added, to read as follows:

§ 21.7122 Courses precluded.

* * * * *

(e) *Other courses.* VA shall not pay educational assistance for—

(1) An enrollment in an audited course (see § 21.4252(i));

(2) An enrollment in a course for which the veteran or servicemember received a nonpunitive grade in the absence of mitigating circumstances (see § 21.4252(j));

(3) New enrollments in a course where approval has been suspended by a State approving agency;

(4) An enrollment in certain courses being pursued by nonmatriculated students as provided in § 21.4252(l);

(5) Except as provided in § 21.4252(j), an enrollment in a course from which the veteran or servicemember withdrew without mitigating circumstances;

* * * * *

(8) An enrollment in a course offered under contract for which VA approval is prohibited by § 21.4252(m).

(Authority: 38 U.S.C. 3002(3), 3034, 3672(a), 3676, 3680(a), 3680A(a), 3680A(f), 3680A(g))

Subpart L—Educational Assistance for Members of the Selected Reserve

8. The authority for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

9. Section 21.7622 is amended as follows:

a. Paragraph (f)(4)(v) is amended by removing ''or'';

b. Paragraph (f)(4)(vi) is amended by removing ''course.'' and adding, in its place, ''course; or'';

c. The authority citation for paragraph (f) is revised; and

d. Paragraph (f)(4)(vii) is added, to read as follows:

§ 21.7622 Courses precluded.

* * * * *

(f) * * *

(4) * * *

(vii) An enrollment in a course offered under contract for which VA approval is prohibited by § 21.4252(m).

(Authority: 10 U.S.C. 16131(c), 16136(b); 38 U.S.C. 3672(a), 3676, 3680(a), 3680A(f), 3680A(g); § 642, Public Law 101–189, 103 Stat. 1458)

[FR Doc. 00–2211 Filed 2–1–00; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Delivery of Mail to a Commercial Mail Receiving Agency

AGENCY: Postal Service.

ACTION: Proposed rule with request for comments.

SUMMARY: The purpose of this proposal is to clarify requirements for delivery of an addressee's mail to a commercial mail receiving agency (CMRA). The proposal provides for guidelines to distinguish when a corporate executive center (CEC) or a part of its operations is considered a commercial mail receiving agency for purposes of these standards.

DATES: Comments must be received on or before March 3, 2000.

ADDRESSES: Written comments should be mailed to Manager, Delivery, U.S. Postal Service, 475 L'Enfant Plaza SW Room 7142, Washington, DC 20260–2802. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Roy E. Gamble, (202) 268–3197.

SUPPLEMENTARY INFORMATION: On March 25, 1999, the Postal Service published a final rule in the **Federal Register** adopting revised regulations governing the operation of commercial mail receiving agencies (CMRAs) with an effective date of April 26, 1999. (64 F.R. 14385). The final rule amended sections D042.2.5 through D042.2.7 of the Domestic Mail Manual (DMM) to update and clarify procedures for delivery of an addressee's mail to a CMRA. The rule provided procedures for registration to act as a CMRA; an addressee to request mail delivery to a CMRA; and delivery of the mail to a CMRA. The rule was applicable to all businesses that provide agent mailing services to their customers; that is, receive delivery of mail for others from the Postal Service.

A corporate executive center (CEC) is a business that operates primarily to provide shared private office facilities and business support services to individuals or firms. These CEC customers may also receive mail at the CEC address. CECs also have customers that do not occupy space and use the CEC address primarily to receive mail.

Postal customers have asked the Postal Service to provide guidance when a CEC is considered a CMRA for purposes of postal standards; that is, when it and its customers must comply with rules governing the operation of CMRAs in sections D042.2.5 through D042.2.7 of the DMM. This proposal responds to that request and seeks to clarify and set forth guidelines when a CEC customer must comply with those standards. The proposal provides an objective test, based on the terms of the relationship between the CEC and its customer, to determine whether a customer is considered a ''CMRA customer.'' The CEC must register as a CMRA and comply with all CMRA regulations if one or more customers receiving mail at its address are considered ''CMRA customers.'' Each customer considered a ''CMRA customer'' must comply with the standards set forth in the DMM. Other customers, not considered to be ''CMRA customers,'' need not comply with these standards. A CEC will receive single point delivery of mail regardless whether its customers are deemed to be receiving CEC or CMRA services.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. of 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001 3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section D042.2.0 of the Domestic Mail Manual is amended by adding subsection D042.2.8 to read as follows:

D Deposit, Collection, and Delivery

* * * * *

D040 Delivery of Mail

* * * * *

D042 Conditions of Delivery

* * * * *

2.0 DELIVERY TO ADDRESSEE'S AGENT

* * * * *

2.8 CEC DEFINITION

Use the following procedures to distinguish when a corporate executive center (CEC) or part of its operation is a commercial mail receiving agency (CMRA): a. A CEC is a business that operates primarily to provide shared private office facilities and business support services to individuals or firms (customers). CEC customers may also receive mail at the CEC address. These customers will be considered CEC customers if they meet the standards set forth below. Customers who do not meet these standards and who receive mail through the CEC address will be considered CMRA customers and must comply with the CMRA standards. The CEC must register as a CMRA and comply with all CMRA standards if one or more customers receiving mail through its address are considered CMRA customers. A CEC will receive single point delivery of mail regardless of whether its customers are deemed to be receiving CEC or CMRA services.

b. Except as provided in d, a customer receiving mail through the CEC address will be considered a CEC customer under these standards if:

(1) The CEC licenses the customer through a written agreement to use one or more of the offices or workstations within the CEC facility for full-time occupancy; or,

(2) The CEC licenses the customer through a written agreement to use one or more of the office or workstations within the CEC facility regularly each month for the term of the agreement (as defined in c) and the agreement also provides the customer:

(A) Full-time receptionist service during normal business hours,