

continue to be reviewed for compliance with the Act and Commission rules. Accordingly, the amendment being adopted herein should have no effect on the Commission's ability to protect market participants and the public.

2. *Efficiency and competition.* The amendment, by requiring that the subject documents need only be filed with NFA and not also the Commission, should increase the efficiency with which CPOs comply with rule 4.26(d).

3. *Financial integrity of futures markets and price discovery.* The amendment should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets.

4. *Sound risk management practices.* The amendment being adopted herein should have no effect on the risk management practices of the futures and options industry.

5. *Other public interest considerations.* The amendment should make compliance with the Commission rule 4.26(d) more efficient without imposing any costs to the regulatory oversight of commodity registrants.

After considering these factors, the Commission has determined to adopt the amendment discussed above.

C. Administrative Procedure Act

The Commission has determined that the amendment discussed herein relates solely to agency organization, procedure, and practice. Accordingly, the provisions of the Administrative Procedure Act that generally require notice of proposed rulemaking and that provide other opportunities for public participation are not applicable.⁷ The Commission further finds that, because the amendment relieves a restriction as to the required filing of documents and the amendment has no adverse effect upon a member of the public, there is good cause to make it effective less than thirty days after publication in the **Federal Register**.⁸

List of Subjects in 17 CFR Part 4

Advertising, Customer protection, and Reporting and recordkeeping requirements.

For the reasons discussed in the foregoing, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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

Authority: 7 U.S.C. 1a, 2, 6b, 6c, 6(c), 6l, 6m, 6n, 6o, 12a, and 23.

2. Section 4.26 is amended as follows:

- a. By amending the introductory text of paragraph (d) by removing “and paragraph (d)(3) of this section”; and
- b. By removing paragraph (d)(3).

Issued in Washington, DC on March 10, 2003, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03-6179 Filed 3-14-03; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 00N-1463]

RIN 0910-AB78

Labeling Requirements for Systemic Antibacterial Drug Products Intended for Human Use; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of February 6, 2003 (68 FR 6062). The document amended FDA's regulations to require that the labeling for all systemic antibacterial drug products intended for human use include certain statements about using antibiotics in a way that will reduce the development of drug-resistant bacterial strains. The document was published with an inadvertent error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 03-2969, appearing on page 6062 in the **Federal Register** of Thursday, February 6, 2003, the following correction is made:

1. On page 6081, in the second column, at the end of the document, the phrase “Dated: October 4, 2002” is corrected to read “Dated: December 4, 2002”.

Dated: March 10, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03-6232 Filed 3-14-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 1

RIN 1505-AA97

Disclosure of Records in Legal Proceedings

AGENCY: Departmental Offices, Treasury.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends Treasury's regulations that govern access to information and records in connection with legal proceedings, including litigation in which neither the United States nor the Department of the Treasury is a party. The amendments elaborate on the procedures used when determining whether employees in the Departmental Offices will be permitted to testify or provide records relating to their official duties when they are directly subpoenaed or otherwise requested to testify. The amendments also specify and clarify the criteria that Treasury officials use when deciding whether to allow an employee to testify or provide records.

DATES: This interim final rule is effective March 17, 2003. Written comments may be submitted by April 16, 2003.

ADDRESSES: Submit written comments to Thomas M. McGivern, Counselor to the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 3000, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Tom McGivern, Counselor to the General Counsel, at (202) 622-2317 or Traci J. Sanders, Deputy Counselor, at (202) 622-2744 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Under 5 U.S.C. 301, heads of Executive or military departments may prescribe regulations governing the conduct of its employees and the custody, use, and preservation of the department's records, papers, and property. Many departments and agencies have promulgated such regulations to provide procedures for the disclosure of official records and

⁷ 5 U.S.C. 553(b)(3)(A) (1994).

⁸ See 5 U.S.C. 553(d) (1994).

information. Generally, these are termed Touhy regulations, after the Supreme Court's decision in *United States ex rel. Touhy v. Regan*, 340 U.S. 462 (1951). In that case, the Supreme Court held that an agency employee could not be held in contempt for refusing to disclose agency records or information when following instructions of his or her supervisor regarding the disclosure that were issued pursuant to agency regulations. As such, an agency's Touhy regulations are the instructions agency employees are to follow when those employees receive requests or demands to testify or otherwise disclose agency records or information.

Treasury's Touhy regulations are codified in sections 1.8 through 1.12 of title 31 of the Code of Federal Regulations. These regulations provide that employees of the Departmental Offices of the Department of the Treasury may not disclose documents or information in response to a demand or other order of a court or any other authority without first being authorized to do so. The purpose of these regulations is to conserve valuable agency resources, protect Treasury employees from becoming enmeshed in litigation, and to protect sensitive government information and decision making processes.

This interim final rule revises the regulations to prescribe the factors Treasury officials should consider when deciding whether to allow disclosure of documents and information and which officials may make these decisions. This rule also makes a number of clarifying and technical amendments to the current regulations.

II. Analysis of the Interim Final Rule

Section 1.8 Scope

This section is amended to exclude references to the United States Savings Bonds Division and the United States Secret Service. The Savings Bond Division is currently a part of the Bureau of the Public Debt and the Secret Service will become a component of the Department of Homeland Security on March 1, 2003. This section also is amended to make clear that all offices and bureaus of the Department are covered by this subpart, except to the extent that the bureaus enact their own regulations governing the subject matter of a provision of this subpart.

Section 1.11 Testimony or the Production of Records in a Court or Other Proceeding

This section sets forth the policies and procedures of the Department regarding the testimony of employees as

witnesses in legal proceedings and the production or disclosure of Treasury documents for use in legal proceedings.

Paragraph (a) describes the applicability of section 1.11. It specifies that section 1.11 does not apply (1) to an employee's testimony regarding matters that are unrelated to the official business of the Department and (2) to access to records pursuant to the Freedom of Information Act, the Privacy Act, or the Trade Secrets Act. Paragraph (a) also clarifies that the procedures of section 1.11 only provide guidance for the internal operations of the Department and do not create any rights or benefits enforceable at law by a party against the United States.

Paragraph (b) defines various terms used in section 1.11.

Paragraph (c) sets forth the general policy of the Department concerning requests that employees testify or provide documents or other information in litigation. This policy provides that employees may not respond to a demand, produce any documents, provide testimony regarding any information relating to, or based upon Department documents, or disclose any information or produce materials acquired as part of the performance of that employee's official duties or official status, without the prior authorization of the General Counsel or the appropriate agency counsel.

Paragraph (d) sets forth procedures applicable to requests for testimony or the production of documents. Paragraph (d)(1) provides that requests directed at the Department for testimony by an employee of the Departmental Offices or for the production of documents are to be directed to the General Counsel of the Department. Requests for testimony by an employee of a Treasury office or bureau are to be directed to the Chief or Legal Counsel of the office or bureau.

Paragraph (d)(2) provides that subpoenas or other requests for testimony or the production of documents directed at a Department employee be served in accordance with the Federal Rules of Civil or Criminal Procedure, or applicable State procedure.

Paragraph (d)(3) provides that any request for testimony or the production of documents in litigation in which neither the Department nor the United States is a party be supported by an affidavit setting forth the nature of the litigation, describing the nature of the testimony and/or documents sought, and explaining why the testimony and/or documents are desired.

Paragraph (d)(4) provides that employees may not give testimony or produce documents in connection with

legal proceedings without the approval of agency counsel.

Paragraph (e) sets forth the factors to be considered by agency counsel when reviewing requests for testimony or records. These factors include (1) the burden on government resources, (2) applicable privileges, and (3) the potential release of classified documents. The factors enumerated in paragraph (e) are not exclusive and other relevant factors may be considered in appropriate circumstances.

Paragraph (f) provides that requests for employees to provide expert testimony shall be denied except in cases of exceptional need and when the matter is not adverse to the interests of the Department. This provision is designed to ensure that the Department's resources are not consumed by repeated requests for employee expert testimony. This provision also allows former employees who hire themselves out as experts in the subject area in which they worked while with the government to provide testimony, as long as the testimony involves only the employee's general expertise.

Paragraph (g) sets forth procedures to be followed by an employee when agency counsel determines that it is not appropriate to comply with a request for testimony or the production of documents.

Section 1.12 Regulations Not Applicable to Official Request

This section currently provides that subpart B does not apply to official requests made by other government agencies or officials, unless it appears that granting a request would be in violation of law or inimical to the public interest. The interim final rule clarifies that agency counsel should be consulted if an employee has any doubt concerning the applicability of this section to a particular request.

III. Procedural Requirements

Because this rule relates to agency management and personnel, and because it merely amends Treasury's existing regulations to more closely parallel similar regulations adopted by other Federal agencies, it is not subject to notice and public procedure pursuant to 5 U.S.C. 553(a)(2) and (b)(B). For the same reasons, a delayed effective date is not required pursuant to 5 U.S.C. 553(a)(2) and (d)(3). Nevertheless, the Department will consider any public comments on this interim final rule before issuing a final rule.

Because no notice of proposed rulemaking is required, the provisions

of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

It has been determined that this interim final rule is not a significant regulatory action for purposes of Executive Order 12866.

List of Subjects in 31 CFR Part 1

Courts, Freedom of information, Government employees, and Privacy.

Therefore, for the reasons discussed in the preamble, 31 CFR part 1 is amended as set forth below:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

2. The second sentence of §1.8 is amended by removing the references to the United States Savings Bond Division and the United States Secret Service. The amended sentence reads as follows:

§1.8 Scope.

* * * This subpart is applicable to the Departmental Offices and to the bureaus of the Department as defined in §1.1(a) of this part, except to the extent that bureaus of the Department have adopted separate guidance governing the subject matter of a provision of this subpart.

3. Section 1.9 is republished and reads as follows:

§1.9 Records not to be otherwise withdrawn or disclosed.

Except in accordance with this part, or as otherwise authorized, Treasury Department officers and employees are prohibited from making records or duplicates available to any person who is not an officer or employee of the Department, and are prohibited from withdrawing any such records or duplicates from the files, possession or control of the Department.

4. Section 1.10(a) is revised to read as follows:

§1.10 Oral information.

(a) Officers and employees of the Department may, in response to requests, orally provide information contained in records of the Department that are determined to be available to the public. If the obtaining of such information requires a search of records, a written request and the payment of the fee for a record search set forth in §1.6 will be required.

* * * * *

5. Section 1.11 is revised to read as follows:

§1.11 Testimony or the production of records in a court or other proceeding.

(a) *Applicability.* (1) This section sets forth the policies and procedures of the Department regarding the testimony of employees and former employees as witnesses in legal proceedings and the production or disclosure of information contained in Department documents for use in legal proceedings pursuant to a request, order, or subpoena (collectively referred to in this subpart as a demand).

(2) This section does not apply to any legal proceeding in which an employee is to testify while on leave status regarding facts or events that are unrelated to the official business of the Department.

(3) (i) Nothing in this section affects the rights and procedures governing public access to records pursuant to the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a).

(ii) Demands in legal proceedings for the production of records, or for the testimony of Department employees regarding information protected by the Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905), or other confidentiality statutes, must satisfy the requirements for disclosure set forth in those statutes and the applicable regulations of this part before the records may be provided or testimony given.

(4) This section is intended only to provide guidance for the internal operations of the Department and to inform the public about Department procedures concerning the service of process and responses to demands or requests, and the procedures specified in this section, or the failure of any Treasury employee to follow the procedures specified in this section, are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party against the United States.

(b) *Definitions.* For purposes of this section:

(1) *Agency counsel* means:

(i) With respect to the Departmental Offices, the General Counsel; and

(ii) With respect to a bureau or office of the Department, the Chief Counsel or Legal Counsel (or his/her designee) of such bureau or office.

(2) *Demand* means a request, order, or subpoena for testimony or documents related to or for possible use in a legal proceeding.

(3) *Department* means the United States Department of the Treasury.

(4) *Document* means any record or other property, no matter what media and including copies thereof, held by the Department, including without limitation, official letters, telegrams,

memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.

(5) *Employee* means all employees or officers of the Department, including contractors and any other individuals who have been appointed by, or are subject to the supervision, jurisdiction or control of the Secretary. The procedures established within this subpart also apply to former employees of the Department where specifically noted.

(6) *General Counsel* means the General Counsel of the Department or other Department employee to whom the General Counsel has delegated authority to act under this subpart.

(7) *Legal proceeding* means all pretrial, trial and post trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, grand juries, or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings.

(8) *Official business* means the authorized business of the Department.

(9) *Secretary* means the Secretary of the Treasury.

(10) *Testimony* means a statement in any form, including personal appearances before a court or other legal tribunal, interviews, depositions, telephonic, televised, or videotaped statements or any responses given during discovery or similar proceedings, which response would involve more than the production of documents.

(c) *Department policy.* No current or former employee shall, in response to a demand, produce any Department documents, provide testimony regarding any information relating to or based upon Department documents, or disclose any information or produce materials acquired as part of the performance of that employee's official duties or official status, without the prior authorization of the General Counsel or the appropriate agency counsel.

(d) *Procedures for demand for testimony or production of documents.*

(1) A demand directed to the Department for the testimony of a Department employee or for the production of documents shall be served in accordance with the Federal Rules of Civil Procedure, Federal Rules

of Criminal Procedure, or applicable state procedures and shall be directed to the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, or to the Chief or Legal Counsel of the concerned Department component. Acceptance of a demand shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue, or any other defense in law or equity available under the applicable laws or rules.

(2) A subpoena or other demand for testimony directed to an employee or former employee shall be served in accordance with the Federal Rules of Civil or Criminal Procedure or applicable State procedure and a copy of the subpoena shall be sent to agency counsel.

(3)(i) In court cases in which the United States or the Department is not a party, where the giving of testimony or the production of documents by the Department or a current or former employee is desired, an affidavit (or if that is not feasible, a statement) by the litigant or the litigant's attorney, setting forth the information with respect to which the testimony or production is desired, must be submitted in order to obtain a decision concerning whether such testimony or production will be authorized. Such information shall include: the title of the legal proceeding, the forum, the requesting party's interest in the legal proceeding, the reason for the demand, a showing that the desired testimony or document is not reasonably available from any other source and, if testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony. The purpose of this requirement is to assist agency counsel in making an informed decision regarding whether testimony or the production of document should be authorized. Permission to testify or produce documents will, in all cases, be limited to the information set forth in the affidavit or statement, or to such portions thereof as may be deemed proper.

(ii) Agency counsel may consult or negotiate with an attorney for a party, or the party if not represented by an attorney, to refine or limit a demand so that compliance is less burdensome or obtain information necessary to make the determination required by paragraph (e) of this section. Failure of the attorney or party to cooperate in good faith to enable agency counsel to make an informed determination under this subpart may serve, where appropriate,

as a basis for a determination not to comply with the demand.

(iii) A determination under this subpart to comply or not to comply with a demand is without prejudice as to any formal assertion or waiver of privilege, lack of relevance, technical deficiency or any other ground for noncompliance.

(4)(i) Employees shall immediately refer all inquiries and demands made on the Department to agency counsel.

(ii) An employee who receives a subpoena shall immediately forward the subpoena to agency counsel. Agency counsel will determine the manner in which to respond to the subpoena.

(e) *Factors to be considered by agency counsel.* (1) In deciding whether to authorize the release of official information or the testimony of personnel concerning official information (hereafter referred to as "the disclosure") agency counsel shall consider the following factors:

(i) Whether the request or demand is unduly burdensome;

(ii) Whether the request would involve the Department in controversial issues unrelated to the Department's mission;

(iii) Whether the time and money of the United States would be used for private purposes;

(iv) The extent to which the time of employees for conducting official business would be compromised;

(v) Whether the public might misconstrue variances between personal opinions of employees and Department policy;

(vi) Whether the request demonstrates that the information requested is relevant and material to the action pending, genuinely necessary to the proceeding, unavailable from other sources, and reasonable in its scope;

(vii) Whether the number of similar requests would have a cumulative effect on the expenditure of agency resources;

(viii) Whether disclosure otherwise would be inappropriate under the circumstances; and

(ix) Any other factor that is appropriate.

(2) Among those demands and requests in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exists:

(i) The disclosure would violate a statute, Executive order, or regulation;

(ii) The integrity of the administrative and deliberative processes of the Department would be compromised;

(iii) The disclosure would not be appropriate under the rules of procedure governing the case or matter in which the demand arose;

(iv) The disclosure, including release in camera, is not appropriate or necessary under the relevant substantive law concerning privilege;

(v) The disclosure, except when in camera and necessary to assert a claim of privilege, would reveal information properly classified or other matters exempt from unrestricted disclosure; or

(vi) The disclosure would interfere with ongoing enforcement proceedings, compromise constitutional rights, reveal the identity of an intelligence source or confidential informant, or disclose trade secrets or similarly confidential commercial or financial information.

(f) *Requests for opinion or expert testimony.* (1) Subject to 5 CFR 2635.805, An employee shall not provide, with or without compensation, opinion or expert testimony concerning official information, subjects, or activities, except on behalf of the United States or a party represented by the Department of Justice, without written approval of agency counsel.

(2) Upon a showing by the requestor of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the Department or the United States, agency counsel may, in writing, grant authorization for an employee, or former employee, to appear and testify at no expense to the United States.

(3) Any expert or opinion testimony by a former employee of the Department shall be excepted from § 1.11(f)(1) where the testimony involves only general expertise gained while employed at the Department.

(g) *Procedures when agency counsel directs an employee not to testify or provide documents.* (1) If agency counsel determines that an employee or former employee should not comply with a subpoena or other request for testimony or the production of documents, agency counsel will so inform the employee and the party who submitted the subpoena or made the request.

(2) If, despite the determination of the agency counsel that testimony should not be given and/or documents not be produced, a court of competent jurisdiction or other appropriate authority orders the employee or former employee to testify and/or produce documents, the employee shall notify agency counsel of such order.

(i) If agency counsel determines that no further legal review of, or challenge to, the order will be sought, the employee or former employee shall comply with the order.

(ii) If agency counsel determines to challenge the order, or that further legal

review is necessary, the employee or former employee should not comply with the order. Where necessary, the employee should appear at the time and place set forth in the subpoena. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of this subpart and respectfully inform the legal tribunal that he/she has been advised by counsel not to provide the requested testimony and/or produce documents. If the legal tribunal rules that the subpoena must be complied with, the employee shall respectfully decline to comply, citing this section and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

6. The second sentence of § 1.12 is revised to read as follows:

§ 1.12 Regulations not applicable to official request.

* * * Cases of doubt should be referred for decision to agency counsel (as defined in § 1.11(b)(1)).

Dated: March 11, 2003.

David D. Aufhauser,
General Counsel.

[FR Doc. 03-6247 Filed 3-14-03; 8:45 am]

BILLING CODE 4810-25-P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2003-4; Order No. 1362]

Rule of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Commission recently implemented a comprehensive electronic (online) document handling system. This system's ability to provide rapid notice of filings has overtaken practices that were adopted some time ago to address certain situations where there was special interest in expediting notice of Postal Service requests and distribution of other documents. Accordingly, the Commission is making minor conforming changes to four sets of provisions to align them with the new online system. These changes preserve or increase the expedition these provisions were originally designed to provide.

DATES: This rule is effective April 16, 2003.

ADDRESSES: Submit comments via the Commission's Filing Online system, which can be accessed at <http://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel,
202-789-6818.

SUPPLEMENTARY INFORMATION:

Regulatory History

66 FR 33034
67 FR 67552
68 FR 46

Background

On October 21, 2002, the Commission issued Order No. 1349 amending its rules of practice. This order made submitting documents via the Internet using the Commission's Filing Online system the standard method for filing documents in Commission proceedings. The effective date of the new filing system was January 7, 2003.

The Commission's rules of practice provide expedited procedures for considering Postal Service requests for a recommended decision on certain, narrowly defined changes to postal rates, classifications, or terms of service. Currently, the Commission has four sets of rules authorizing expedited proceedings that seek to achieve expedition, in part, through special accelerated notice, service, intervention, or discovery procedures. They were adopted before Filing Online became the standard procedure for filing and serving documents in formal Commission dockets. Filing Online now provides a faster and more effective means for performing most of these functions. The Commission is eliminating or simplifying these special procedures, as appropriate, wherever standard Filing Online procedures provide a faster and more effective alternative.

In 1989, the Postal Service proposed, and the Commission adopted, a set of special rules for processing "Express Mail Market Response Rate" requests. See Order No. 836, issued August 10, 1989, and 39 CFR 3001.57 through 3001.60. They are designed to allow such requests to be processed within 90 days of filing. 39 CFR 3001.60. To help speed the processing of such requests, existing rule 59(c)(1) authorizes persons wishing to participate in such a proceeding to register their name and business address with the Commission. Registrants are automatically made parties to a Market Response rate proceeding at the time that the request is filed. Existing rule 59(c)(2) requires the Postal Service to hand deliver a copy of its request on the day that it is filed to registrants who maintain a service address in the Washington metropolitan area, and to serve other registrants with a copy by Express Mail. Rule 59(c)(3) requires the Postal Service

to send by Express Mail to all participants in the most recent omnibus rate case, a notice briefly describing its Market Response Rate Request, the special rules under which it was filed, and advising them of the deadline for intervention.

This registration and notification scheme provides a model for three other sets of rules authorizing expedited proceedings. Almost identical provisions are included in the set of rules for processing "expedited minor classification cases" (see 39 CFR 3001.69b(b), (c) and (d)), the rules for "expedited review to allow market tests of proposed mail classification changes" (see 39 CFR 3001.163(b), (c) and (d)), and the rules for "expedited review of requests for Provisional Service Changes of Limited Duration" (see 39 CFR 3001.173(b), (c) and (d)).

Rationale for Making Minor Conforming Changes

For each of these four sets of rules, the purpose of these special notice, intervention, and service procedures was to accelerate the processing of these requests. The Commission's Filing Online system and related electronic document handling procedures can now serve this purpose more quickly and more effectively.

Under the Commission's electronic document handling procedures, there is no longer a need to maintain a list of registrants who are entitled to receive a hard copy of a Postal Service request of one of these special types promptly after it is filed. On the Commission's website, an interested person may define a "Document Alert" rule that will result in notice from the Commission by e-mail when the Postal Service files a request to institute a proceeding of any kind, expedited or otherwise. That person should be able to download the request from the Commission's website within 30 minutes of the time that the request was accepted for filing by the Commission. This is earlier than the person would have received hard copy delivery of the request from the Postal Service. Because requests under these expedited rules are expected to be much smaller and simpler documents than omnibus rate requests, downloading them from the Commission's website is unlikely to strain the computing resources of any interested person. Under the Commission's electronic document handling procedures, therefore, the opportunity to register to promptly receive a hard copy of a request in an expedited proceeding does not provide an additional benefit of any significance to interested persons.