

occurring is the same for a glider with 10 hours time-in-service (TIS) as it would be for a glider with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in this proposed AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Burkhardt GROB Luft-und Raumfahrt GMBH:
Docket No. 98-CE-72-AD.

Applicability: Model G 109B gliders, all serial numbers, certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To detect and correct damage to the engine mounting frame, which could result in failure of the engine mount structure with consequent loss of the engine, accomplish the following:

(a) Within the next 3 calendar months after the effective date of this AD, inspect the engine mounting frame for paint scratches and damage (abrasions, notches, or chafing) in accordance with the Action section of Grob Service Bulletin TM 817-45, dated July 27, 1995.

(b) If a paint scratch(es) is found during the inspection required by paragraph (a) of this AD, prior to further flight, remove all flakes and dust from the area, degrease the tube and apply a protective anti-corrosion coat, and shorten the warm air duct or replace it if damaged. Accomplish the warm air duct modification or replacement in accordance with the maintenance manual.

(c) If damage (abrasions, notches, or chafing) is found during the inspection required by paragraph (a) of this AD, and the damage is 0.7 millimeters (mm) or less in depth as specified in paragraph 3(b) of the Action section of Grob Service Bulletin TM 817-45, dated July 27, 1995, prior to further flight, degrease the tube and apply a protective anti-corrosion coat, and shorten the warm air duct or replace it if damaged. Accomplish the warm air duct modification or replacement in accordance with the maintenance manual. Within 6 calendar months after the inspection required by paragraph (a) of this AD, accomplish one of the following:

(1) Send the engine mounting frame to the manufacturer for repair at the address specified in paragraph (g) of this AD and accomplish the warm air duct modification or replacement specified in paragraph (b) of this AD. Do not operate the glider until the part is repaired, sent back, and re-installed on the glider; or

(2) Replace the engine mounting frame with a new part of the same design, or an FAA-approved part that has been inspected in accordance with the requirements of paragraph (a) of this AD and is found free of damage.

(d) If damage (abrasions, notches, or chafing) is found during the inspection required by paragraph (a) of this AD, and the damage is more than 0.7 mm in depth as specified in paragraph 3(c) of the Action

section of Grob Service Bulletin TM 817-45, dated July 27, 1995, prior to further flight, accomplish one of the following:

(1) Send the engine mounting frame to the manufacturer for repair at the address specified in paragraph (g) of this AD and accomplish the warm air duct modification or replacement specified in paragraph (b) of this AD. Do not operate the glider until the part is repaired, sent back, and re-installed on the glider; or

(2) Replace the engine mounting frame with a new part of the same design, or an FAA-approved part that has been inspected in accordance with the requirements of paragraph (a) of this AD and is found free of damage. Accomplish the warm air duct modification or replacement specified in paragraph (b) of this AD

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to Grob Service Bulletin TM 817-45, dated July 27, 1995, should be directed to Grob-Werke GmbH & Co. KG, Unternehmensbereich, Burkhart Grob Flugzeugbau, Flugplatz Mattsies, 86874 Tussenhausen, Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 95-362 Grob, dated September 27, 1995.

Issued in Kansas City, Missouri, on August 27, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-23616 Filed 9-1-98; 8:45 am]

BILLING CODE 4910-13-U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release No. 34-40364; File No. S7-23-98]

Rules of Practice

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing for public comment amendments to its Rules of Practice, Rules 210 and 221. Rule 210 currently prohibits any person from intervening or participating on a limited basis as a party or non-party in an enforcement proceeding, a disciplinary proceeding, or a proceeding to review a self-regulatory organization determination. The Commission is proposing to amend Rule 210 to permit representatives of any federal, state, or local criminal prosecutorial authority limited participation for the purpose of requesting a stay, in order to support efforts to bring criminal prosecutions arising out of securities violations. Rule 221 currently requires that parties generally participate in both an initial and a final prehearing conference. The Commission proposes requiring only one prehearing conference, in order to streamline the administrative process and conserve the parties' and the Commission's resources.

DATES: Comments must be submitted on or before October 2, 1998.

ADDRESSES: Interested persons should submit three copies of their written comments to: Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. *Comments also may be submitted electronically at the following E-mail address:* rulecomments@sec.gov. All comment letters should refer to File No. S7-23-98. This file number should be included on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: Joan L. Loizeaux, Principal Assistant General Counsel, or Kathleen O'Mara, Senior Counsel, Office of General Counsel, (202) 942-0950, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6-6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:**I. Discussion**

The Commission adopted, after notice and comment, comprehensive revisions to its Rules of Practice that became effective on July 24, 1995.¹ These revisions were the result of an

approximately two-and-a-half year study by the Commission's Task Force on Administrative Proceedings that culminated in a comprehensive report.² The Task Force found that the fundamental structure of the Commission's administrative process was sound and successfully protected the essential interests of respondents, investors, and the public, but that some changes were necessary. The Task Force recommended changes to the Rules of Practice in an effort to set forth applicable procedural requirements more completely, in a format easier to use, and to streamline procedures that had become burdensome.

In November 1997, the Commission's Inspector General issued a report evaluating the Commission's Administrative Proceedings Process in an attempt to assess the impact of the new Rules of Practice. The Inspector General recommended, among other things, that the Commission review Rules 210 and 221. The Commission has reviewed these rules and proposes that the rules be changed as discussed below (and reflected in the text of the rules).

Rule 210 currently prohibits intervention or limited participation in Commission enforcement or in disciplinary proceedings to review self-regulatory organization determinations.³ This prohibition exists due to the distinct issues raised by enforcement proceedings, in which the government seeks to impose sanctions upon named persons. The Commission believed that the only parties should be those specified by the Commission in the order instituting proceedings, and no one else, should be granted status as a limited or non-party participant. In addition, prohibiting intervention or participation in Commission cases served the purpose of preventing extraneous issues from diverting proceedings and promoted timely and efficient resolution of particular matters before the Commission.

In recent years, the Commission has received requests from representatives of various federal and local criminal prosecutors to enter an appearance in order to request a stay of the Commission's proceedings during the pendency of a criminal investigation or prosecution based on the same or

related underlying conduct. These authorities typically assert that substantial prejudice could result to a criminal prosecution if an administrative proceeding is not postponed.

The Commission supports efforts to bring criminal prosecutions arising out of securities violations. Accordingly, the Commission proposes that Rule 210 be amended to allow authorized representatives of the United States Department of Justice, including any United States Attorney's Office, and of state and local prosecutors to seek leave to participate in a Commission proceeding for the limited purpose of requesting a stay in that proceeding. The process of considering such requests for postponements will be facilitated if those seeking them are permitted to present their views to the hearing officer. The hearing officer can then evaluate that request in light of the hearing's status. Any postponement of an administrative proceeding, however, should be based on a showing of good cause and be limited to a reasonable period of time, balancing the need for delay against the need to bring the administrative proceeding to a timely resolution, consistent with the public interest.

In addition, the Commission proposes to amend Rule 221 to require a single prehearing conference, instead of the two prehearing conferences currently required. The Commission's experience with this Rule indicates that, as a routine practice, two conferences are not always necessary. Accordingly, in order to streamline the administrative process, conserving the parties', as well as the Commission's, resources, the Commission proposes requiring only one prehearing conference. Rule 221 would continue to permit the hearing officer in his or her discretion to order additional prehearing conferences on his or her own motion or at the request of a party.

II. Administrative Procedure Act and Regulatory Flexibility Act

The Commission finds, in accordance with the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A), that this revision relates solely to agency organization, procedures, or practice. It is therefore not subject to the provisions of the Administrative Procedure Act requiring notice, opportunity for public comment, and publication. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, also does not apply. Nonetheless, the Commission has determined it would be useful to publish these proposed rule changes for notice and comment, before adoption.

² Task Force on Administrative Proceedings, Securities and Exchange Commission, Fair and Efficient Administrative Proceedings: Report of the Task Force (Feb. 1993).

³ Rule 210(f) does, however, allow the Commission or a hearing officer to modify the provisions of Rule 210 to impose such terms and conditions on participation of any person in any proceeding as it may deem necessary or appropriate in the public interest.

¹ Final Rules of Practice, Exchange Act Release No. 35833, 60 FR 32738 (June 23, 1995).

III. Statutory Basis and Text of Proposed Amendment

The proposed Rule amendments would be promulgated pursuant to section 19 of the Securities Act, 15 U.S.C. 77s; section 23 of the Exchange Act, 15 U.S.C. 78w; section 20 of the PUHCA, 15 U.S.C. 79t; section 319 of the Trust Indenture Act, 15 U.S.C. 77sss; sections 38 and 40 of the Investment Company Act, 15 U.S.C. 80a-37 and 80a-39; and section 211 of the Investment Advisers Act, 15 U.S.C. 80b-11.

List of Subjects 17 CFR Part 201

Administrative practice and procedure.

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 201—SUBPART D—RULES OF PRACTICE

1. The authority citation for Part 201, Subpart D, continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77h-1, 77j, 77s, 77u, 78c(b), 78d-1, 78d-2, 78l, 78m, 78n, 78o(d), 78o-3, 78s, 78u-2, 78u-3, 78v, 78w, 79c, 79s, 79t, 79z-5a, 77sss, 77ttt, 80a-8, 80a-9, 80a-37, 80a-38, 80a-39, 80a-40, 80a-41, 80a-44, 80b-3, 80b-9, 80b-11, and 80b-12 unless otherwise noted.

2. Section 201.210 is amended by revising paragraph (a)(1) and the introductory text of paragraph (c) and adding paragraph (c)(3) to read as follows:

§ 201.210 Parties, limited participants and amici curiae.

(a) *Parties in an enforcement or disciplinary proceeding or a proceeding to review a self-regulatory organization determination*—(1) *Generally*. No person shall be granted leave to become a party or non-party participant on a limited basis in an enforcement or disciplinary proceeding or a proceeding to review a determination by a self-regulatory organization pursuant to §§ 201.420 and 201.421, except as authorized by paragraph (c) of this section.

(c) *Leave to participate on a limited basis*. In any proceeding, other than an enforcement proceeding, a disciplinary proceeding, or a proceeding to review a self-regulatory organization determination, any person may seek leave to participate on a limited basis as a non-party participant as to any matter affecting the person's interests. In any enforcement proceeding or disciplinary proceeding, an authorized

representative of the United States Department of Justice, an authorized representative of a United States Attorney, or an authorized representative of any criminal prosecutorial authority of any State or any other political subdivision of a State may seek leave to participate on a limited basis as a non-party participant as provided in paragraph (c)(3) of this section.

(3) *Leave to participate in certain Commission proceedings by a representative of the United States Department of Justice, a United States Attorney's Office, or a criminal prosecutorial authority of any State or any political subdivision of a State*. The Commission or the hearing officer may grant leave to participate on a limited basis to an authorized representative of the United States Department of Justice, an authorized representative of a United States Attorney, or an authorized representative of any criminal prosecutorial authority of any State or any political subdivision of a State for the purpose of requesting a stay during the pendency of a criminal investigation or prosecution arising out of the same or similar facts that are at issue in the pending Commission enforcement or disciplinary proceeding. Upon a showing that such a stay is in the public interest or for the protection of investors, the motion for stay shall be favored. A stay granted under this paragraph (c)(3) may be granted for such a period and upon such conditions as the Commission or the hearing officer deems appropriate.

3. Section 201.221 is amended by revising the section heading and paragraphs (a) and (d) to read as follows:

§ 201.221 Prehearing conference.

(a) *Purposes of conference*. The purposes of a prehearing conference include, but are not limited to:

- (1) Expediting the disposition of the proceeding;
- (2) Establishing early and continuing control of the proceeding by the hearing officer; and
- (3) Improving the quality of the hearing through more thorough preparation.

(d) *Required prehearing conference*. Except where the emergency nature of a proceeding would make a prehearing conference clearly inappropriate, at least one prehearing conference should be held.

By the Commission.
Dated: August 26, 1998.

Jonathan G. Katz,
Secretary.

[FR Doc. 98-23610 Filed 9-1-98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 3, 5, 10, 20, 207, 310, 312, 316, 600, 601, 607, 610, 640, and 660

[Docket No. 98N-0144]

RIN 0910-AB29

Biological Products Regulated Under Section 351 of the Public Health Services Act; Implementation of Biologics License; Elimination of Establishment License and Product License; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of July 31, 1998 (63 FR 40858). The document proposed to amend the biologics regulations to eliminate references to establishment licenses and product licenses for all products regulated under the Public Health Services Act. The document published with an incorrect address. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Harris, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 98-20427, appearing on page 40858, in the **Federal Register** of Friday, July 31, 1998, the following correction is made: On page 40858, in the second column, under the "ADDRESSES" caption, in line four, "12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857", is corrected to read "5600 Fishers Lane, rm. 1061, Rockville, MD 20852".

Dated: August 26, 1998.

William K. Hubbard,
Associate Commissioner for Policy Coordination.

[FR Doc. 98-23586 Filed 9-1-98; 8:45 am]

BILLING CODE 4160-01-F