

Philadelphia, PA, and Wilmington, DE, Class E airspace areas.

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Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 280

[Docket Number: 980623159-8159-01]

RIN 0693-AB47

Implementation of the Fastener Quality Act

AGENCY: National Institute of Standards and Technology, United States Department of Commerce.

ACTION: Final rule and extension of implementation date.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, under authority delegated by the Secretary of Commerce, and pursuant to Section 15 of the Fastener Quality Act (Act), has determined that by July 26, 1998, the current implementation date of the Act, there will not be a sufficient number of laboratories accredited to perform the volume of inspection and testing required by the Act. Accordingly, the Director is extending the implementation date of the Act until October 25, 1998 and amending the existing regulations to reflect the new implementation date.

DATES: Effective June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Subhas G. Malghan, FQA Program Manager, Technology Services, National Institute of Standards and Technology, Building 820, Room 306, Gaithersburg, MD 20899, telephone number (301) 975-5120.

SUPPLEMENTARY INFORMATION: The Fastener Quality Act (Act), (Pub.L. 101-592 as amended by Pub.L. 104-113), requires that certain fasteners sold in commerce conform to the standards and specifications to which they are represented to be manufactured and have been inspected, tested, and certified. Inspection and testing mean that the manufacturer of a lot of fasteners shall cause to be inspected and tested a representative sample of the fasteners in such a lot to determine

whether the lot of fasteners conforms to the standards and specifications to which the manufacturer represents it has been manufactured. Such inspection and testing shall be performed by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under Section 6 of the Act.

In accordance with Section 15, the requirements of the Act shall be applicable only to fasteners fabricated one hundred eighty (180) days or more after the effective date of final regulations implementing the Act. The Secretary may extend the implementation date upon a determination that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required.

The final rule implementing the Fastener Quality Act became effective on November 25, 1996, and was to apply to fasteners manufactured on or after May 27, 1997, the "implementation date". On April 18, 1997, as permitted by Section 15 of the Act, NIST announced a one year extension of the implementation date of the Act to May 26, 1998, because there was an insufficient number of laboratories accredited to perform the volume of inspection and testing required by the Act and regulations (62 FR 19041 (1997)). During the one extension, NIST published for public comment proposed amendments to the rule implementing the Act (62 FR 47240 (1997)). On April 14, 1998, based on the public comments received, NIST published the amendments to the 1996 final rule and once again extended the implementation date of the Act (63 FR 18260 (1998)). At that time, the National Voluntary Laboratory Accreditation Program (NVLAP) and the NIST-recognized private accreditation bodies reported that although an insufficient number of laboratories was expected to be accredited by May 26, 1998, only a sixty (60) day extension appeared necessary. Based on this information, NIST extended the implementation date of the Act to July 26, 1998.

Currently, NVLAP and the private accreditation bodies have received applications from approximately 580 testing laboratories, a sufficient number for implementation of the Act. Of these, approximately 250 testing laboratories have been accredited and are listed on the NIST Accredited Laboratory List. The extension of the implementation date to October 25, 1998, will allow the remainder of the laboratories who have applies to complete the accreditation process. In addition, NIST is publishing

technical amendments to section 280.12 (a), (b), and (c) to reflect the extension.

The extension of the implementation date does not affect the provisions of section 280.12(d) and (e). Fasteners manufactured after May 14, 1998 and meeting the requirements of either of these paragraphs still may be sold as FQA compliant.

In addition, the extension of the implementation date affects the Facilities self-certification provisions contained in section 280.810(c)(3). A Facility's determination whether to self-certify must now be based on whether that Facility believes its registration will be completed by October 25, 1998, the new implementation date. Such determination is within each Facility's discretion and should be based on arrangements between the Facility and its Registrar as to when the Facility's registration will be complete. However, Facilities wishing to self-certify still must submit the required items by September 30, 1998; NIST cannot legally accept self-certification paperwork after September 30, 1998. NIST cannot provide relief for Facilities whose registrations are not complete by October 25, 1998, but who failed to submit self-certification by September 30, 1998. Any self-certifications received by September 30, 1998, and acknowledged by NIST will only be effective until May 25, 1999, as stated in the existing regulations at § 280.810(c)(3)(ii).

Additional Information

Administrative Procedure Act

Pursuant to authority at 5 U.S.C. 553(b)(B), the Director of NIST has determined that good cause exists to waive the requirement to provide prior notice and an opportunity for public comment for this action as such procedures are unnecessary. The procedures are unnecessary because this action merely makes technical amendments to the existing regulations to comport with the exercise of statutory authority to extend the implementation date. Since this action is not a substantive change to the regulations, this rule is not subject to a thirty day delay in its effectiveness.

Executive Order 12866

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

Regulatory Flexibility Act

Since this action is not subject to the requirement to provide prior notice and an opportunity for public comment under 5 U.S.C. § 553, or any other law,

it is not subject to the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

List of Subjects in 15 CFR Part 280

Business and industry, Fastener industry, Imports.

Dated: June 25, 1998.

Robert E. Hebner,

Acting Deputy Director, National Institute of Standards and Technology.

PART 280—FASTERNER QUALITY

For the reasons set forth in the preamble, Title 15 of the Code of Federal regulations part 280 is amended as follows:

1. The authority for part 280 continues to read as follows:

Authority: Sec. 13 of the Fastener Quality Act (Pub. L. 101-592, as amended by Pub. L. 104-113).

2. Section 280.12 is revised to read as follows:

§ 280.12 Applicability.

(a) The requirements of the Fastener Quality Act and this report shall be applicable only to fasteners manufactured on or after October 25, 1998.

(b) Metal manufactured prior to October 25, 1998 may not be used to manufacture fasteners subject to the Act and this part unless the metal has not tested for chemistry pursuant to § 280.15 of this part by a laboratory accredited under the Act and this part and the chemical characteristics of the metal conform to those required by the standards and specifications.

(c) Nothing in the Act and this part prohibits selling finished fasteners manufacture prior to October 25, 1998 or representing that such fasteners meet standards and specifications of a consensus standards organization or a government agency.

3. Section 280.602(k) is revised to read as follows:

§ 280.602 Violations.

* * * * *

(k) *Sale of fasteners manufactured prior the implementation date as compliant with the Act.* No person shall represent, sell, or offer for sale fasteners manufactured prior to October 25, 1998 as being in conformance with the Act of this part except as provided for in § 280.12 (d) or (e) of this part.

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4. Section 280.810(c)(3)(i) is revised to read as follows:

§ 280.810 Listing of recognized accreditors, accredited registrars, and registered facilities.

* * * * *

(c) List of Facilities. * * *

(3)(i) If a Facility intends to be listed in accordance with § 280.810(c)(1) but the registration process will not be completed by October 25, 1998, the Facility may be provisionally listed on the Facilities List by providing the following to NIST on or before September 30, 1998:

(A) Certification that:

(1) The Facility is registered to QS-9000 or an equivalent by a quality systems registrar;

(2) The facility conforms to all other requirements of the Act and these regulations at the time of certification;

(3) If the Facility ceases to be registered to QS-9000 or an equivalent by an accredited Registrar and/or ceases to conform to any other requirement of the Act and these regulations at any time during the provisional listing period, it will notify NIST of that fact within three working days; and

(4) If the Facility fails to apply to an accredited Registrar for registration under the FQA within 30 days of the time the Registrar is accredited by a NIST-approved Accreditor, an authorized representative of the Facility will immediately notify NIST. (If the Facility's current Registrar decides not to seek accreditation under the FQA, it is the Facility's responsibility to apply to another Registry that has been approved by NIST-ABEP.);

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 270, and 275

[Release Nos. 33-7548, 34-40122, IC-23272, and IA-1727; File No. S7-4-97]

RIN 3235-AG62; 3235-AH01

Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission is amending the definitions of "small business" and "small organization" that are used in connection with Commission rulemaking under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities

Exchange Act of 1934, and the Securities Act of 1933 regarding regulatory requirements applicable to investment companies, investment advisers, exchanges, securities information processors, transfer agents and issuers, and broker-dealers. These definitions are used specifically for purposes of the Regulatory Flexibility Act, which requires the Commission to consider the impact of its regulations on small entities. The amendments to these definitions reflect recent changes in the law as well as changes in the securities markets over the past decade, including technological innovations and increased business relationships among participants in the securities industry.

EFFECTIVE DATE: The rule amendments will become effective July 30, 1998.

FOR FURTHER INFORMATION CONTACT:

General

Christopher Gilkerson, Assistant General Counsel at (202-942-0929), or Anne H. Sullivan, Senior Counsel at (202-942-0954), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6-6, Washington, D.C. 20549.

Divisions with Particular Responsibility

Thomas M.J. Kerwin, Senior Counsel, Division of Investment Management, (definitions applicable to investment companies and investment advisers) (202-942-0690).

Glenn J. Jessee, Special Counsel, Office of the Chief Counsel, Division of Market Regulation (definitions applicable to brokers, dealers, exchanges, transfer agents and issuers, securities information processors, and broker-dealers) (202-942-0073).

SUPPLEMENTARY INFORMATION: The Commission is amending the definitions of "small business" and "small organization" (together, "small business") set forth in Rule 0-10 (17 CFR 270.0-10) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Investment Company Act"), Rule 0-7 (17 CFR 275.0-7) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) (the "Advisers Act"), Rule 0-10 (17 CFR 240.0-10) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (the "Exchange Act"), and Rule 157 (17 CFR 230.157) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "Securities Act") as those terms are used for purposes of Chapter Six of the Administrative Procedure Act, 5 U.S.C. 601 et seq. (the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980), as amended, Pub. L. No. 104-