

## **License to Trade: Commerce Department Authority to Allow Condensate Exports**

Prepared by Minority Staff for Ranking Member Lisa Murkowski  
U.S. Senate Committee on Energy & Natural Resources  
April 2, 2014

### **Introduction**

Rising levels of oil and gas production in the United States have been accompanied by a surge in domestic production of condensate. Condensate – a very light hydrocarbon – differs chemically from crude oil, but faces a similar challenge with respect to U.S. refining capacity.<sup>1</sup>

Regulations governing condensate exports are convoluted.<sup>2</sup> Condensate may be exported as natural gasoline if it is produced at a gas processing plant, but not if it is derived at the wellhead. Condensate exports are restricted by the 30-year-old definition of “crude oil” delineated in the Bureau of Industry and Security’s Short Supply Controls, which includes so-called “lease condensate” in the general prohibition. The Congressional Research Service described this further:

“While ‘lease condensate’ is included in the BIS crude oil definition, there is a potential contradiction within the definition. BIS defines crude oil as hydrocarbons that existed in liquid phase underground. However, condensate is generally in a gas phase underground and condenses to a liquid at atmospheric conditions. This apparent contradiction, along with other considerations, raises questions about the applicability of export restrictions to condensate.”<sup>3</sup>

The Department of Commerce retains the authority to allow condensate exports by modernizing its regulations, as it has done repeatedly since the 1970s. For example, the definition of crude oil could simply be updated, aligning the regulatory architecture with the new supply mix made possible by technological advancements.

This report summarizes a sample of petroleum-related modifications the Department of Commerce has made to the Short Supply Controls as a result of changing market dynamics and other factors. Relevant documents are reprinted herein for use by the public.

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<sup>1</sup> Bakken and Brent, for example, are light crudes that hover around 40° API gravity, while Californian and Mexican heavy crudes are typically closer to 20° API gravity. The distillation process might yield 10-20% naphtha for these grades of crudes. Emirati, Algerian, or Texan condensate, in contrast, can range higher than 60° AP gravity and yield upwards of 70% naphtha.

<sup>2</sup> Sarah O. Ladislaw and Michelle Melton, “The Molecule Laws: History and Future of the Crude Export Ban,” Center for Strategic & International Studies (January 2, 2014): <http://csis.org/publication/molecule-laws-history-and-future-crude-export-ban>.

<sup>3</sup> Phillip Brown, et al, “U.S. Crude Oil Export Policy: Background and Considerations,” Congressional Research Service (March 26, 2014 – R432442); p. 12.

## Defining Crude Oil and Petroleum Products

Quantitative restrictions on finished petroleum product exports were eliminated in October 1981. The general prohibition on crude oil exports, however, continued to be applied to petroleum that was only “partly refined” (i.e., petroleum that would be exported to a foreign nation for further refining), which would fail an “end-use” test.

In January 1985, the Office of Industrial Resources Administration issued an advance notice of proposed rulemaking. The notice stated:

“This ‘end use’ test helps enforce the stringent, Congressionally mandated export controls on crude oil. It also results in automatically precluding the export of many petroleum products while allowing the export of the same products if they are to be used without further refining.”

The notice further stated that the Commerce Department was considering eliminating the end-use test and defining “refined petroleum products” to include a “distillation test.” The notice stated:

“Refined petroleum products would be defined as those products that have been processed from crude oil through a ‘distillation process’ in the United States. This ‘distillation process’ must yield at least two distinct refined petroleum products....Petroleum that has not been distilled in the United States in this manner would be treated as crude oil.”

Legislative events overtook the rulemaking process in July 1985, with the passage of the Export Administration Amendments Act. This law removed the need for validated export licenses for petroleum product exports.

In October, the Commerce Department published an interim rule updating the Short Supply Controls to include a general license for product exports and a definition of crude oil that remains in effect today:

“A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and which has not been processed through a crude oil distillation tower. Included are reconstituted crude petroleum, and ***lease condensate*** and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil, residual oil, and other finished and unfinished oils are excluded.” [emphasis added]

These documents are available in Appendix A.

## Expanding Butane Exports

While the export controls of the 1970s did not prohibit petroleum product exports, they were subjected to quantitative restrictions. This led to market inefficiencies that the federal government was called upon to address as they arose.

In December 1978, the Office of Export Administration published a final rule that created a “supplementary quota” for exports of butane. The rule stated:

“In recent weeks, citing a build up of surplus stocks of butane in the United States, a number of companies have filed applications to export this commodity outside of quota limitations. The Department has consulted with the Department of Energy as to the butane supply and demand situation and the Department of Energy has advised this Department that, under current supply conditions in addition to historical quota exports, the export of 1,250,000 barrels of butane from the U.S. Gulf Coast during the period of October 1978 through March 1979 **would not impact the supply of butane to domestic consumers.**” [emphasis added]

The Short Supply Controls were thereby “temporarily relaxed.” Two minor corrections were also published. These documents are available in Appendix B.

## Expanding Specialty Naphtha Exports

At the request of the Commission of European Communities, the Department of Commerce launched a review of quantitative restrictions on the export of certain naphtha products in March 1981. The following June, the Department eliminated validated licensing requirements for small levels of certain petroleum products, including specialty naphthas, as part of a wide-ranging review “with a view toward simplifying and streamlining its procedures wherever practicable.”

In July, the Department issued a final rule stating:

“In light of these comments, in an effort to be responsive to the desires of the European Communities, and after consultation with other interested agencies, the Department is removing all quantitative export limitations on the specific naphthas which were subject to the public comment. This decision is in keeping with the Administration's policy of removing burdensome export regulations when no longer warranted. The removal of quantitative restraints on the export of low-octane, high-paraffinic (65% or higher) naphthas is made effective immediately....”

The rule also stated:

“The Department has further determined that this action will not adversely affect domestic energy supplies, nor will foreign demand have a serious inflationary impact. **This action is considered to be in the national interest by expanding markets for the domestic industry.** Should this action have an adverse effect on

available domestic energy supply, either directly or indirectly, exporters are placed on notice that this liberalization action can be swiftly reversed.” [emphasis added]

These documents are available in Appendix C.

### **Modifying the List of Prohibited Exports from NPR**

The Naval Petroleum Reserves Product Act of 1976 prohibited the export of hydrocarbons from the reserves it created. In January 1985, the Commerce Department solicited comments on the list of commodities that were restricted. The following May, it published a final rule that removed several “petroleum-based chemical commodities” from the list:

“We have determined that these commodities are highly refined down-stream products of the crude petroleum from which they are produced. It is therefore highly unlikely that removal of NPRPA export restrictions on these commodities would significantly affect the exploitation of Naval Reserves petroleum as a source of supply for export.”

The commodities removed from the relevant section of the Short Supply Controls included benzene, ethylene, propylene, linear alpha olefins, and several others. These documents are available in Appendix D.

### **Allowing Exports of Linear Alpha Olefins**

In June 1984, the Commerce Department published an advance notice of proposed rulemaking requesting comments on a proposal to remove export restrictions on linear alpha olefins from the Short Supply Controls. These chemical compounds are used by the petrochemical industry. An interim rule followed in January 1985, stating:

“The International Trade Administration, in consultation with other U.S. agencies, has determined that commodities that are not likely to be used as an energy source should be removed from the list of refined petroleum products that require a validated license for export. As a result, linear alpha olefins and comparable commodities described as acyclic organic compounds are [now permitted]...unless they are derived from petroleum produced from a Naval Petroleum Reserve.”

The final rule was published in May 1985, the same day as the NPR rulemaking described above. The finalization of both rules effectively liberalized trade in linear alpha olefins. These documents are available in Appendix E.

### **Exporting Residual Fuel Oil from California**

In 1978, the Department of Energy announced that it was concerned about the state of the oil industry on the West Coast. Californian producers were under pressure from both Alaskan North Slope crude and from production increases (required by law) at the Elk Hills Naval Petroleum Reserve. In addition to the upstream situation, Californian refiners were

optimized for heavy sour crudes, which yielded large volumes of residual fuel oil that was difficult to market in California for a variety of reasons.

Citing shut-in production, the Department of Energy recommended that the Commerce Department institute a temporary export program with certain restrictions. The final rule from the Commerce Department in 1978 summarized the argument:

“The inability of California refiners to market all their residual fuel oil output has resulted in a reduction of total crude oil runs, ***thus contributing to the decline in California crude oil production.*** The reduction in crude oil runs has also had the effect of depleting inventories of lighter products such as gasoline, thus requiring expensive movements of gasoline into California from the gulf and east coasts.”  
[emphasis added]

The rule outlined the Commerce Department’s decision to support this program:

“After studying the Department of Energy recommendations and supporting rationale, and after consultation with other appropriate Federal agencies, the Department of Commerce has concluded that, under current conditions, the recommended temporary program is in the national interest.”

The Short Supply Controls were thereby amended, detailing a number of conditions that exporters would be required to meet and further information about the process. Relevant documents are available in Appendix F.

### **Licensing of Petroleum Coke Exports**

In December 1977, the Commerce Department issued a final rule that eliminated the need for exporters of petroleum coke to provide documentation that their product would be consumed for non-energy purposes. The rule identified three reasons for taking this action:

“(1) There is a current buildup of stock levels of petroleum coke in the United States. (2) Environmental restrictions in many U.S. jurisdictions prevent the burning of petroleum coke as a fuel because of its high sulfur dioxide emissions. And (3) Under current market conditions, it is not economical to manufacture petroleum coke specifically for export in lieu of other liquid petroleum products, primarily residual fuel oil.”

In February 1979, the Commerce Department announced that it was considering eliminating the validated licensing requirement for petroleum coke exports. The previous decision had only eliminated the end-use test. By creating a general license instead, the Department would increase the ease with which petroleum coke could be exported.

The notice identified three reasons for taking this action:

“(1) Such action would not contribute to a decrease in domestic energy supplies as the use of petroleum coke as a fuel within the United States is limited due to environmental restrictions; (2) it is in the national interest to encourage the expansion of coking facilities in domestic refineries so as to increase their capability to produce lighter petroleum products from heavy domestic crude oils, such as those produced in Alaska and California; and (3) petroleum coke ***stocks in the United States appear to exceed domestic needs, and refiners should thus not be subject to restrictions which could inhibit their ability to market this product abroad.***” [emphasis added]

The final rule, published in June 1979, determined that the revision would be “in the national interest” and revised the Short Supply Controls accordingly. These documents are available in Appendix G.

## **Conclusion**

The Commerce Department has often modified its regulations without either congressional intervention or presidential finding, during both Republican and Democratic administrations. In so doing, the Department has cited inefficiencies, warned of risks to production and supply, encouraged access to international markets, and described anomalies that require special action. The ban on condensate exports, based on a definition of crude oil inserted into the regulations nearly 30 years ago, is just such a case where the Commerce Department can act on its own to resolve a challenge unforeseen by regulators and legislators alike.

## **Acknowledgments**

Staff wish to thank the Senate Library for its assistance with this report.

**APPENDIX A:**  
**Defining Crude Oil and Petroleum Products**

seven airplanes, 50% of the blowout panels were either taped in place, missing, or had substitute panels taped in place. Missing blowout panels reduce fire containment and fire suppression capability of the cargo compartment.

**DATE:** Comments must be received on or before February 2, 1985.

**ADDRESSES:** Send comments to the FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The applicable service bulletin may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle Washington 98124. This information may also be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert C. McCracken, Systems & Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-2947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the rules docket.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket No. 84-NM-122-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**Discussion**

Operators of Boeing Model 757 airplanes have reported that blowout panels in the forward and aft cargo compartments have become dislodged. There are 4 panels in each airplane.

During a survey of seven airplanes, 50% of the panels were taped in place, missing completely, or had substitute panels taped in place. The blowout panels are designed to blow out in case of a decompression, and serve to minimize the differential pressure of floor structure. Missing blowout panels reduce fire containment capability of the compartment liners, and affect the fire suppression capability of the cargo compartment fire protection system.

Since all Model 757 airplanes are equipped with cargo compartment liners which are subject to becoming dislodged, an airworthiness directive is being proposed which would require replacement of the existing panels with new panels which employ improved retention methods.

It is estimated that 15 airplanes of U.S. registry are affected by this AD; that it will take approximately 4 manhours per airplane to accomplish the required replacement, and that the average labor cost would be \$40 per manhour. The kits for accomplishing the replacement are being furnished by Boeing at no charge. Based on these figures, the total cost impact of this AD would be \$2400. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

**List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft.

**The Proposed Amendment**

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

**Boeing:** Applies to Boeing Model 757 airplanes listed in the Boeing Service Bulletin 757-25A0036, Revision 1, dated September 21, 1984. To prevent degradation of fire protection capability in the cargo compartments, accomplish the following within 120 days after the effective date of this AD, unless already accomplished:

A. Replace the existing cargo compartment blowout panels in accordance with Boeing Service Bulletin 757-25A0036, Revision 1, dated September 21, 1984, or later FAA approved revision.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle

Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of replacements required by this AD.

All persons affected by this directive who have not already received the above specified service bulletins from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or they may be examined at the FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

**Note:** For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, since few, if any, Model 757 series airplanes are operated by small entities. A copy of a draft regulatory evaluation has been prepared for this action and has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on December 19, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-1066 Filed 1-14-85; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**15 CFR Part 377**

[Docket No. 50101-5001]

**Short Supply Regulations Covering "Petroleum Partly Refined for Further Refining"**

**AGENCY:** Office of Industrial Resource Administration, Commerce.

**ACTION:** Advance notice of proposed rulemaking with request for comments.

**SUMMARY:** The Short Supply Regulations, administered by the Office of Industrial Resource Administration, ("OIRA"), classify commodities as

refined "petroleum products" only if they are exported for use as a finished product. If they are to be further refined abroad they are treated as crude oil, regardless of the extent of processing in the United States. This "end use" test helps enforce the stringent, Congressionally mandated export controls on crude oil. It also results in automatically precluding the export of many petroleum products while allowing the export of the same products if they are to be used without further refining. The revision under consideration would classify petroleum commodities as refined petroleum products, regardless of end-use. An alternative being considered is a "distillation" test. If commodities have been subjected to a specific distillation process in the United States they will be classified in the refined petroleum products categories. Furthermore, in the event that the stated end-use of a product is further refining abroad, the exporter will be required to identify the U.S. facility where the distillation took place. This requirement is designed to ensure that petroleum products that are exported have been subjected to distillation in the U.S. and are not crude petroleum or blends thereof. Comments on this test as well as other alternatives are requested. The proposed revisions are intended to continue to implement Congress' mandate to vigorously control the export of crude oil, but without unnecessarily restricting exports of refined petroleum products.

**DATE:** Comments must be received by February 14, 1985.

**ADDRESS:** Department of Commerce, Resource Assessment Division, P.O. Box 663, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Steven C. Goldman, Director, Resource Assessment Division, International Trade Administration (Telephone: 202/377-4060).

**SUPPLEMENTARY INFORMATION:** The Department of Commerce is considering revisions to the short supply regulations concerning the classification of commodities as "petroleum partly refined for further refining" as set forth in section 377(d)(1) and Supplement No. 2 to Part 377 of the Export Administration Regulations. ("EAR")

Under existing regulations, petroleum commodities are classified as refined petroleum products only if they are to be used abroad as finished products. Such refined petroleum products have been exported on a routine basis since the lifting of quantitative restrictions on petroleum product exports in 1981. In contrast, petroleum commodities that are exported for further refining abroad

are subject to the stringent statutory export restrictions that apply to crude oil. This "end-use" test has produced the anomalous result of classifying the same petroleum products in different export control categories because of their stated end-use abroad.

OIRA's objective is to continue to enforce the statutory restrictions on crude oil exports without imposing unwarranted controls on refined petroleum product exports. Accordingly, OIRA is soliciting comments from the public regarding the following proposal to amend the short supply regulations:

- The "end-use" test would no longer be applied to determine whether a commodity was to be treated as crude oil or as a refined product. Crude oil export restrictions would not be applied automatically to petroleum products that will be further refined abroad.
- Refined petroleum products would be defined as those products that have been processed from crude oil through a "distillation process" in the United States. This "distillation process" must yield at least two distinct refined petroleum products listed in Supplement No. 2 to Part 377 of the EAR and total at least one-half of the crude charge. Petroleum that has not been distilled in the United States in this manner would be treated as crude oil. The category "petroleum partly refined for further refining" would be eliminated from the Group A category of the EAR.

- All petroleum products that have been through the "distillation process" in the United States will be classified in Groups B through N of Supplement No. 2 to Part 377 of the EAR, and could be exported in accordance with § 377.6(d)(2) and (3) of the EAR.

- However, if the stated end-use of such a product is further refining abroad, the exporter would be required to identify the name and location of the facility in the United States where the required distillation took place.

Comments should include an analysis of the practicality of the "distillation test," any alternatives to it, and the economic impact of the proposed change.

The period of submission of comments will close one month from the publication of this notice. All comments received before the close of the comment period will be considered by OIRA. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments will become a matter of public record, and will be available for public inspection and copying. Communications from agencies of the United States Government or foreign

governments will not be made available for public inspection.

The public record concerning this notice will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

**Authority:** Secs. 203, 206, Pub. L. 95-223, as amended (50 U.S.C. 1702, 1704); E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 6212); E.O. 11912 of April 13, 1976 (41 FR 15825, as amended); sec. 201 (10), Pub. L. 94-258 amending 10 U.S.C. 7430.

January 10, 1985.

**John A. Richards,**

*Director, Office of Industrial Resources Administration.*

[FR Doc. 85-1120 Filed 1-14-85; 8:45 am]

**BILLING CODE 3510-25-M**

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 13

[File No. 822-3153]

#### **Craftmatic/Contour Organization, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require two Bensalem, Pa. sellers of electric adjustable beds and their individual owner, among other things, to cease denying responsibility of their written warranties; failing to fully and promptly honor valid warranty claims; and failing to disclose relevant information concerning any other guarantor. The firms would be required to clearly and prominently disclose in advertisements and promotional materials offering any product warranty, either the nature and extent of all material limitations and exclusions of the warranty (including any requirement that consumers seeking

Boeing: Applies to Model 727-100, -100C, and -200 series airplanes listed in Boeing Service Bulletin Number 727-53A0173, dated July 12, 1985, certificated in any category. To detect cracks in the Body Station 1183 pressure bulkhead web and vertical beams, accomplish the following:

A. On airplanes with less than 40,000 flight cycles on the effective date of this AD, visually inspect within the next 400 flight cycles after the effective date of this AD, or prior to the accumulation of 25,000 flight cycles, whichever occurs later after the effective date of this AD, the aft pressure bulkhead web for cracks in accordance with Figure 1 of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision:

1. If no cracks are detected, repeat the inspection in paragraph A., above, at intervals not to exceed 400 flight cycles until inspected in accordance with paragraph C., below.

2. If cracks are detected, inspect the vertical beams in accordance with Figures 2 and 3 of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revisions. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E., and III.F. of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision, and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office. Repeat the visual inspection required by paragraph A., above, at intervals not to exceed 400 flight cycles until inspected in accordance with paragraph C., below.

B. On airplanes with 40,000 or more flight cycles, visually inspect within the next 200 flight cycles after the effective date of this AD, the Body Station 1183 pressure bulkhead web for cracks in accordance with Figure 1 of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision.

1. If no cracks are detected, repeat the inspection in paragraph A., above, at intervals not to exceed 200 flight cycles until in accordance with paragraph C., below.

2. If cracks are detected, inspect in accordance with Figures 2 and 3 of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E., and III.F. of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision; and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat the visual inspection required by a paragraph A., above, at intervals not to exceed 200 flight cycles until inspected in accordance with paragraph C., below.

C. Within 3,800 flight cycles after the effective date of this AD or upon the accumulation of 25,000 flight cycles, whichever occurs later, visually inspect the Body Station 1183 pressure bulkhead vertical beams for cracks in accordance with Figure 2

of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision. If cracks longer than 2 inches are detected, inspect the vertical beams and web in accordance with Figures 1 and 3 of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E. and III.F. of Boeing Service Bulletin 727-53A0173, dated July 12, 1985, or later FAA-approved revision; and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat the visual inspection of this paragraph at intervals not to exceed 3,800 flight cycles.

D. To terminate the repetitive inspection requirements of this AD, incorporate the reinforcement of the Body Station 1,183 bulkhead vertical beams in accordance with Paragraph II.D. of Boeing Service Bulletin 727-53-55, Revisions N/C through 2; or Paragraph III.D. of Boeing Service Bulletin 727-53-55, Revision 3, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received copies of the service bulletins may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 15, 1985.

Issued in Seattle, Washington, on September 20, 1985.

**Charles R. Foster,**

*Director, Northwest Mountain Region.*

[FR Doc. 85-24076 Filed 10-4-85; 11:43 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Parts 371, 377 and 399

[Docket No. 50841-5141]

#### Revisions to Short Supply Regulations

**AGENCY:** Office of Industrial Resource Administration, International Trade Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule revises certain provisions of the Short Supply

Regulations to incorporate changes made to the Export Administration Act of 1979 by the Export Administration Amendments Act of 1985. This interim rule also makes certain technical and housekeeping changes to the regulations.

**DATES:** Effective October 9, 1985; Comments December 9, 1985.

**ADDRESSES:** Send written comments to Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Inspect public rulemaking docket at Freedom of Information Records Inspection Facility, International Trade Administration, Room 4104, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Telephone: 202/377-3984.

**SUPPLEMENTARY INFORMATION:** On July 12, 1985, President Reagan signed the Export Administration Amendments Act of 1985 (Amendments) which extended and amended the Export Administration Act of 1979 (EAA).

Section 110(b) of the Amendments amended section 7(e) of the EAA by eliminating the requirement for validated licenses for the export of refined petroleum products unless the President determines that it is necessary to impose export controls. In October 1981 (46 FR 49108), the Department of Commerce eliminated quantitative limitations on exports of refined petroleum products, stating that it had determined that foreign demand will not have a serious inflationary impact on the domestic economy, and that quantitative limitations were no longer necessary to protect domestic supply from the excessive drain of materials. However, validated licensing requirements were continued at that time because of the requirements contained in section 7(e) of the EAA.

Accordingly, this interim rule eliminates the validated licensing requirement for exports of refined petroleum products (Petroleum Commodity Groups B, C, D, E, F, G, K, L, M, and N of Supplement No. 2 to Part 377 of the Export Administration Regulations (EAR)) and permits their export under general license G-NNR or one of several other special general licenses, provided they were not produced or derived from the Naval Petroleum Reserves or did not become

available for export as a result of an exchange of a Naval Petroleum Reserves-produced or derived commodity.

Section 110(b) also amended section 7(e) by eliminating the mandatory 30-day Congressional review period for export license applications that would result in the annual export of 250,000 barrels or more of refined petroleum products to any country. This review period now will be necessary only when short supply controls are imposed on refined petroleum products pursuant to Presidential determination. Accordingly, the Department has discontinued its routine notification to the Congress.

On January 15, 1985, the Department of Commerce published in the *Federal Register* (50 FR 2064) an advance notice of proposed rulemaking (ANPRM) with request for comment regarding a possible revision of the short supply provisions of the EAR covering "petroleum partly refined for further refining." Due to the recent statutory changes, the ANPRM is being withdrawn.

Section 110(c) of the Amendments made certain definitional and technical changes to section 7(i) of the EAA relating to unprocessed red cedar. Section 377.7 (b) of the EAR is being revised to reflect these changes. The Amendments also provided that multiple validated export licenses should be used in lieu of validated licenses for exports under section 7. Accordingly § 377.7(i) is being revised to extend the validity period for validated licenses issued to export unprocessed red cedar to twelve months and to permit the submission of an application for an export license before the purchaser(s) or ultimate consignee(s) are known.

In April 1985, responsibility for the administration of the Short Supply Regulations was transferred within the International Trade Administration's Office of Industrial Resource Administration from the Resource Assessment Division to the National Security Preparedness Division. This interim rule revises the EAR accordingly.

A definition of crude oil is added at § 377.6(c).

#### Executive Order 12291

This rule is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3)

significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

#### Administrative Procedure Act

Under section 13(a) of the Export Administration of 1979, as amended (50 U.S.C. app. 2412(a)), this rule is exempt from all requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553) including publication of a notice of proposed rulemaking, an opportunity for public comment, and a 30-day delay in effective date. Further, no other law requires that notice and an opportunity for comment be given for this rule.

Because the revisions made by this rule primarily are needed to conform the short supply regulations to the recent EAA amendments, it is not practicable to delay making these revisions pending notice of proposed rulemaking and an opportunity for comment. Accordingly, the rule is being issued without notice of proposed rulemaking and is effective upon publication.

#### Public Comments Invited

As previously stated, the revisions made by this rule primarily are needed to conform the short supply regulations to the recent EAA amendments. The Department of Commerce also is considering further revisions to the short supply regulations to update the statutory references, and to ensure that the regulations are as clear as possible, achieve legislative goals effectively and efficiently, and do not impose unnecessary burdens on the economy.

Accordingly, and consistent with the intent of Congress as expressed in section 13(b) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(b)), these revisions are issued in interim-final rather than final form. Comments from the public on this interim rule and on ways to improve the short supply regulations are invited and will be considered in formulating a final rule, if received no later than December 9, 1985. Comments received after that date will be considered if possible. All public comments received will be placed in the public rulemaking docket and will be available for public inspection and copying.

In the interest of accuracy and completeness, written comments are preferred. Written comments (three (3) copies) should be sent to the address indicated in the address section above.

Oral comments should be directed to Rodney A. Joseph, OIRA, (202) 377-3984. If oral comments are received, the Department of Commerce official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments, as well as the person on whose behalf they purport to be made. All such memoranda will be placed in the public rulemaking docket and will be available for public review and copying.

Written comments accompanied by a request that part or all of the material contained be treated confidentially will not be considered in developing the final regulation. Such comments and materials will be returned to the submitter.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public rulemaking docket concerning this regulation will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, at the address indicated in the address section above. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information pertaining to the inspection and copying of records may be obtained from Ms. Patricia L. Mann, International Trade Administration's Freedom of Information Officer, at the Records Inspection Facility address, or by calling (202) 377-3031.

#### Regulatory Flexibility Act

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the Administrative Procedure Act (5 U.S.C. 553) and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

#### Paperwork Reduction Act

This rule contains collections of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The collection of the information required on export license applications has been approved by the Office of Management and Budget (OSMB control number 0625-0001). The reporting and recordkeeping requirements set forth in §§ 371.16, 377.6 and 377.7 have been submitted to the

Office of Management and Budget for review under the Act. These requirements are needed to implement effectively the requirements of the Export Administration Act of 1979, as amended. Comments from the public on these collections of information requirements are invited and should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20530. Attention: Desk Officer, ITA, Department of Commerce. Copies of these comments should be sent to Mr. Rodney A. Joseph at the address indicated in the address section above.

**List of Subjects in 15 CFR Parts 371, 377, and 399**

**Exports.**

Accordingly, Parts 371, 377 and 399 of title 15, Code of Federal Regulations, are amended to read as follows:

**PART 371—GENERAL LICENSES**

1. The authority citation for Part 371 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. Section 371.2(c)(10) is revised to read as follows:

**§ 371.2 General provisions.**

(c) \* \* \* (10) The commodity is listed in a Supplement to Part 377 as being subject to short supply licensing controls, unless the export is authorized under the provisions of general licenses G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ, or GUS;

**§ 371.7 [Amended]**

3. In § 371.7, paragraph, paragraphs (c)(1) (i) and (ii) are amended by removing the words "Resource Assessment Division" and inserting in their place, the words "National Security Preparedness Division".

4. The introductory text and the last sentence of paragraph (b) of § 371.16 are revised to read as follows:

**§ 371.16 General license G-NNR; Shipments of certain non-naval reserve petroleum commodities.**

A general license designated G-NNR is established, subject to the provisions of this section, authorizing the export of any commodity listed in Petroleum Commodity Groups B, C, D, E, F, G, K, L, M, N, and Q (see Supplement No. 2 to Part 377) to any destination in Country

.Group Q, T, V, W, and Y, and Canada provided that both of the following conditions are met:

(b) \* \* \* Any commodity listed in Petroleum Commodity Group B, C, D, E, F, G, K, L, M, N, or Q which does not meet the conditions for export under General License G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ or GUS, may be exported only pursuant to § 377.6(d)(3).

**PART 377—SHORT SUPPLY CONTROLS AND MONITORING**

5. The authority citation for Part 377 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Sec. 103, Pub. L. 94-163, as amended, (42 U.S.C. 6212) as amended by Pub. L. 99-58 of July 2, 1985; Sec. 28 Pub. L. 93-153, (30 U.S.C. 185); Sec. 28 Pub. L. 95-372, (43 U.S.C. 1354); E.O. 11912 of April 3, 1976 (41 FR 15825, as amended); Sec. 101 and 201(11)(e) Pub. L. 94-258, (10 U.S.C. 7420 and 7430(e)); and Presidential Findings (50 FR 25189, June 18, 1985).

**§§ 371.1, 377.4, 377.6, and 377.8 [Amended]**

6. In § 377.1, paragraph (c)(3); § 377.4, paragraphs (d)(1), (h), and (i)(2); § 377.6, paragraph (d); and § 377.8, paragraph (d) are amended by removing the words "Resource Assessment Division" and inserting in their place, the words "National Security Preparedness Division".

7. In § 377.6, paragraph (c) is added, and the first sentence of the introductory text to paragraph (d)(1), and paragraph (d)(2) are revised to read as follows:

**§ 377.6 Petroleum and petroleum products.**

(c) *Definitions.* For the purposes of this section, crude oil is defined as follows:

*Crude oil.* A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and which has not been processed through a crude oil distillation tower. Included are reconstituted crude petroleum, and lease condensate and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil, residual oil, and other finished and unfinished oils are excluded.

(d) \* \* \*

(1) *Group A* The export from the United States of crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil is permitted only as provided in this paragraph. \* \* \*

(2) *Groups B, C, D, E, F, G, K, L, M, N, and Q.* The export of refined petroleum products listed in Supplement No. 2 to Part 377, which are not subject to paragraph (d)(1) or (d)(3) of this section, is permitted under the General Licenses G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ or GUS as described in § 371.16.

8. In § 377.7, paragraph (b)(1)(i) and paragraph (i) are revised to read as follows:

**§ 377.7 Unprocessed western red cedar.**

(b) \* \* \*

(1) \* \* \*

(i) Lumber of American Lumber Standards Grades of Number 3 dimension or better or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better.

(i) *Export Licenses for Western Red Cedar.* (1) A license issued pursuant to this section is subject to the same one year validity period limitations as other individual validated licenses (see § 372.9(d)).

(2) If the purchaser(s) or ultimate consignee(s) is unknown at the time of submission of the application for an export license, enter "Various" in Items 6, 7, or both, as appropriate, of Form ITA-622P.

(3) Any exporter, using a validated license with "Various" in Items 6 or 7 will be required to provide the specific information following each export shipment.

9. In Supplement No. 2 to Part 377, Group A is amended by revising the entry for 475.0710 to read as follows: Petroleum and Petroleum Products Subject to Short Supply Licensing Controls

**GROUP A**

475.0710. Crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil.

**PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS**

10. The authority citation for Part 399 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), in Group 7—Chemicals, Metalloids, Petroleum Products and Related Materials, the heading to 4781B is revised as follows:

4781B Crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil listed in Supp. No. 2 to Part 377.

Issued October 7, 1985.

John A. Richards,  
Director, Office of Industrial Resource Administration.

[FR Doc. 85-24258 Filed 10-8-85; 8:45 am]  
BILLING CODE 3510-25-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 510**

**Animal Drugs, Feeds, and Related Products; Change of Sponsor Name**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of name for the sponsor of several new animal drug applications (NADA's) from American Hoechst Corp., Animal Health Division, to Hoechst-Roussel Agri-Vet Co.

**EFFECTIVE DATE:** October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

**SUPPLEMENTARY INFORMATION:** Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876, has informed FDA of a sponsor name change for several NADA's from American Hoechst Corp., Animal Health

Division. The NADA's cover use of furoseamide, fenbendazole, altrenogest, euthanasia solution, and bambarmycins alone and in combination.

This is an administrative change that does not in any other way affect approval of the firm's NADA's. The agency is amending the regulations in Part 510 to reflect the change.

**List of Subjects in 21 CFR Part 510**

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. In § 510.600 by removing the entry in paragraph (c)(1) for "American Hoechst Corp., Animal Health Division", and adding a new sponsor entry alphabetically, and in paragraph (c)(2) by revising the entry for "012799", to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

Firm name and address	Drug labeler code
Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876	012799
(2) * * *	
Drug labeler code	Firm name and address
012799	Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876

Dated: October 2, 1985.  
Richard A. Carnevale,  
Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.  
[FR Doc. 85-24073 Filed 10-8-85; 8:45 am]  
BILLING CODE 4160-01-M

**21 CFR Parts 510 and 540**

**Penicillin Antibiotic Drugs for Animal Use; Change of Sponsor**

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of a new animal drug application (NADA) for penicillin G procaine in oil for bovine intramammary infusion from Masti-Kure Products Co., Inc., to Wendt Laboratories, Inc.

**EFFECTIVE DATE:** October 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

**SUPPLEMENTARY INFORMATION:** Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011, has informed FDA of a change in sponsor for NADA 65-383 from Masti-Kure Products Co., Inc., 1 Wisconsin Ave., Norwich, CT 06360. Masti-Kure has confirmed the change. The NADA covers use of two penicillin G procaine products, one for dry cow intramammary infusion, another for lactating cows. Masti-Kure Products Co. is no longer the sponsor of any approved NADA's. FDA is amending the regulations to reflect the change of sponsor.

The change is an administrative action which does not otherwise affect approval of the firm's NADA.

**List of Subjects**

**21 CFR Part 510**

Administrative practice and procedure, Animal drugs, Labeling, Reporting requirements.

**21 CFR Part 540**

**Animal drugs, Antibiotics, Penicillin.**

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 540 are amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

**§ 510.600 [Amended]**

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of*

**APPENDIX B:  
Expanding Butane Exports**

accounts from the minimum amount requirement for share certificates. The amendment to Part 745 conforms the regulation pertaining to share insurance coverage for IRA and Keogh accounts to the Financial Institutions Regulatory and Interstate Rate Control Act of 1978. That Act, among other things, raised the share insurance coverage for IRA and Keogh accounts from \$40,000 to \$100,000 per account.

**EFFECTIVE DATE:** November 10, 1978.

**ADDRESS:** National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:**

J. Leonard Skiles, Deputy General Counsel, Office of the General Counsel, at the above address. Telephone: (202) 632-4870.

**SUPPLEMENTARY INFORMATION:** Pursuant to §701.35(c)(2)(iii) of the National Credit Union Administration rules and regulations (12 CFR 701.35(c)(2)(iii)), the lowest minimum amount requirement for a share certificate account is set at \$500. This particular limitation has discouraged, rather than encouraged, people of more modest means to establish IRA and Keogh accounts in Federal credit unions. Further, the \$500 limitation has created a competitive imbalance. Section 701.35(c)(2)(iii), therefore, is amended by deleting the \$500 minimum amount requirement for IRA and Keogh accounts.

Section 1401(c) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 amended the Federal Credit Union Act to authorize the National Credit Union Share Insurance Fund to insure funds held in IRA and Keogh accounts to a maximum of \$100,000 per account. This particular provision became effective upon enactment, therefore, IRA and Keogh accounts are presently insured in accordance with the statutory change. This amendment simply conforms the regulation to Section 1401(c) of the Act.

In order to facilitate the achievement of the above stated objectives as rapidly as possible, the NCUA finds that application of the notice and public participation provisions of 5 U.S.C. Section 553 would be contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Accordingly, 12 CFR 701.35(c)(2)(iii) and 745.9-2 are amended as set forth below.

LORENA C. MATTHEWS,  
*Acting Administrator.*

NOVEMBER 22, 1978.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.35 [Amended]

1. Section 701.35 Share Accounts and Share Certificate Accounts.

(a) Section 701.35(c)(2)(iii) is amended to read as follows:

(c) . . .

(2) . . .

(iii) Except for share certificate accounts established pursuant to § 721.4, the lowest minimum amount requirement shall be \$500 or more;

2. Section 745.9-2 Qualified Trusts and Individual Retirement Accounts

(a) Section 745.9-2 is amended to read as follows:

§ 745.9-2 Keogh accounts and individual retirement accounts

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) or section 408(a) of the Internal Revenue Code shall be insured up to \$100,000 separately from other deposits of the participant or designated beneficiary.

(b) Upon liquidation of the credit union, any insurance coverage payment shall be made by the Administrator to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing, by the plan participant or beneficiary.

[FR Doc. 78-34015 Filed 12-5-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

**CHAPTER II—CIVIL AERONAUTICS BOARD**

[Regulation PR-184 Procedural Regulations Amendment No. 46 to Part 302]

**PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS**

**Notice of Approval by Comptroller General**

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Final rule.

**SUMMARY:** This final rule gives notice of approval by the Comptroller

General of the reporting requirements contained in a regulation concerning applications for unused authority under the Airline Deregulation Act of 1978. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated November 8, 1978.

**DATES:** Adopted: November 30, 1978. Effective: November 30, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 302 of its Procedural Regulations (14 CFR 302) by adding the following note at the end of Part 302:

**NOTE.**—The reporting requirements contained in sections 1803, 1805, 1806, 1809, and 1810 have been approved by the U.S. General Accounting Office under Number B-180226 (R0568).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,  
*Secretary.*

[FR Doc. 78-34034 Filed 12-5-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

**CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 377—SHORT SUPPLY CONTROLS**

**Establishment of Supplementary Export Quota for Butane During the Fourth Quarter 1978**

**AGENCY:** Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** These regulations establish a supplementary export quota for the Fourth Quarter 1978 for butane to be exported from the Gulf Coast since current stocks of this commodity are more than adequate to meet domestic needs. They further establish a time

period during which exporters may apply for licenses under this supplementary quota and set forth the criteria which will be considered by the Department in allocating that quota.

**EFFECTIVE DATE OF ACTION:** December 4, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone 202-377-3984).

**SUPPLEMENTARY INFORMATION:** Supplement No. 2 to Part 377 of these Regulations sets forth the historical quarterly export quotas established for the export limitations. Ninety-five percent of each historical quota is allocated exclusively among exporters who have satisfactorily documented their participation in the export trade in that commodity during the historical base period used in calculating the particular quota; the remaining five percent of each quota is reserved for applicants who apply on grounds of unique hardship. Butane is subject to a rotating base period, with export quotas established quarterly on the basis of an exporter's actual exports during the corresponding calendar quarter of the period April 1, 1972, through March 31, 1973. The overall Fourth Quarter 1978 export quota for butane has been established at 216,299 barrels, with 10,815 barrels set aside for hardship applications.

In recent weeks, citing a build up of surplus stocks of butane in the United States, a number of companies have filed applications to export this commodity outside of quota limitations. The Department has consulted with the Department of Energy as to the butane supply and demand situation and the Department of Energy has advised this Department that, under current supply conditions in addition to historical quota exports, the export of 1,250,000 barrels of butane from the U.S. Gulf Coast during the period of October 1978 through March 1979 would not impact the supply of butane to domestic consumers.

Accordingly, the Department has determined that the short supply controls over exports of butane from the Gulf Coast area of the United States may be temporarily relaxed. The Department has further decided to establish a supplementary export quota for butane for the Fourth Quarter 1978 of 1,250,000 barrels and to make this quota available to applicants without regard to whether or not they are historical exporters of butane.

Exporters seeking to participate in this supplementary export quota should file applications so as to be physically received by the Office of

Export Administration no later than close of business on December 18, 1978. Those applications to export butane from the Gulf Coast which have been submitted under the unique hardship provisions of the Regulations and which are now pending with the Office of Export Administration will be considered, together with the new applications filed during this time period.

While the Department will attempt to accommodate all applicants, because of the limited size of the supplementary quota it is likely that not all applicants can be accommodated and that not all applications will be licensed in the full quantity requested.

Following expiration of the time period for submission of applications to participate in this supplementary export quota, as noted above, the Department will weigh the relative merits of all such applications under the criteria set forth below and will allocate the available quota accordingly. Criteria to be considered by the Department in reviewing these applications will include:

(1) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(2) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(3) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(4) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

Accordingly, the Export Administration Regulations (15 CFR Part 377) are amended as follows:

(1) A new § 377.6(d)(1) is established to read as follows:

§ 377.6 Petroleum and petroleum products.

(12) Group K: Non-Historical Supplementary Quota for Butane in Fourth Quarter 1978.

An application for a validated license to export butane under the non-historical export quota established for the Fourth Quarter 1978 will be considered without regard to the applicant's past history of exports provided: (i) the butane is to be exported from the U.S. Gulf Coast, (ii) the application is submitted by the date specified in Supplement No. 2, and (iii)

it is accompanied by supporting documentation required by Section 377.6(e)(2). In allocating this supplementary quota among competing applicants, the Department will consider all reasons advanced by the applicant as to why his application deserves consideration, including:

(i) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(ii) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(iii) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(iv) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

(2) The table entitled SUBMISSION DATES in Supplement No. 2 to Part 377 is revised to read as follows:

**SUBMISSION DATES:** Applications against historical quotas: Not prior to the beginning of the applicable quarter and received in the Office of Export Administration not later than the close of business on the tenth day prior to the end of the applicable quarter.

Applications against non-historical quotas for butane (Commodity Group K) for Fourth Quarter 1978: Not later than close of business December 1978.

Applications for hardship and all other commodities subject to validated licensing but not historical quotas: At any time.

(3) At the end of Supplement No. 2 to Part 377 the following table is added:

**NON-HISTORICAL SUPPLEMENTARY QUOTA FOR GROUP K**

(in barrels)

(SCHEDULE B NO. 475.1545, BUTANE)

All Countries

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3,

dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,  
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-34050 Filed 12-4-78; 10:02 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-29351]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE, CORRECTIVE ACTIONS

National Fire Hose Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Compton, Calif., manufacturer and seller of fire hose and accessories to cease, in connection with the sale and distribution of their products, from entering into agreements, or taking any other action that would impose territorial or customer restrictions on their distributors.

DATE: Complaint and order issued November 1, 1978.<sup>1</sup>

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Regional Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, August 24, 1978, there was published in the FEDERAL REGISTER, 43 FR 37712, a proposed consent agreement with analysis in the Matter of National Fire Hose Corp., a corporation, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of National Fire Hose Corp., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form con-

<sup>1</sup>Copies of the Complaint and the Decision and Order filed with the original document.

templated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealing, franchises, etc. Subpart—Cutting Off Access To Customers or Market: § 13.560 Interfering with distributive outlets. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-33952 Filed 12-5-78; 8:45 am]

[6750-01-M]

[Docket No. 8978]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Borden, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a New York City firm to cease attempting to hinder, restrain or eliminate competition in the processed lemon juice market by granting improper price reductions and promotional allowances to its customers; or by selling its product, ReaLemon, below cost or at unreasonably low prices.

DATES: Complaint issued July 2, 1974. Decision issued November 7, 1978.<sup>1</sup>

FOR FURTHER INFORMATION CONTACT:

John M. Peterson, Attorney, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-8522.

<sup>1</sup>Copies of the Complaint, Initial Decision, Opinion of the Commission, Separate Opinion of Chairman Michael Pertschuk on the Issue of Relief, Concurring Opinion of Commissioner David A. Clanton and Concurring Opinion of Commissioner Robert Pitofsky filed with the original document.

SUPPLEMENTARY INFORMATION: In the Matter of Borden, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Cutting Prices Arbitrarily: § 13.665 Cutting prices arbitrarily, to stifle competition. Subpart—Discriminating Between Customers: § 13.685 Discriminating between customers; 13.685-10 Federal Trade Commission Act. Subpart—Offering Unfair, Improper And Deceptive Inducements To Purchase Or Deal: § 13.2090 Undertakings, in general. Subpart—Selling Below Cost: § 13.2180 Selling below cost.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The final order, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

*It is ordered,* That the initial decision of the administrative law judge, pages 1-162, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

*It is further ordered,* That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

*It is ordered,* That Borden, Inc., and its successors and assigns, officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, affiliate, division or other device, in connection with the production, marketing and sale of processed lemon juice in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

(1) Granting price reductions, directly or indirectly, which result in different net prices among Borden's ReaLemon customers, whether or not such customers compete in the same geographic area, which differences in price are not attributable to differing cost of manufacture, sale or delivery, and the effect of which is to hinder, restrain or eliminate competition be-

[1505-01-M]

TITLE 15—COMMERCE AND FOREIGN TRADE

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Establishment of Supplementary Export Quota for Butane During the Fourth Quarter 1978

Correction

In FR Doc. 78-34050 appearing at page 57141 in the issue for Wednesday, December 6, 1978; on page 57142, third column, fourth line of the second paragraph under SUBMISSION DATES, insert "18" after "December".

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Subpart G—Sponsors of Approved Applications

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) filed for United Suppliers, Inc., providing for the use of an 0.8-gram-per-pound tylosin premix for making complete swine feeds, and to add United Suppliers, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627, is the sponsor of an NADA (102-590V) providing for the safe and effective use of a premix containing 0.8 gram of tylosin (as tylosin phosphate) per pound. The premix is used for the manufacture of a complete swine feed used for increased rate of weight gain and improved feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491V. This approval does not constitute reaffirmation of the referenced NADA nor of the drug's safety and effectiveness.

United Suppliers, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

*	*	*	*	*
(c) * * *				
(1) * * *				
Firm name and address:	Drug listing No.			
*	*	*	*	*
United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627.	017475			
*	*	*	*	*
(2) * * *				

Drug listing No. Firm name and address

*	*	*	*	*
017475	.....	United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627.		

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(46), to read as follows:

§ 558.625 Tylosin.

(b) \* \* \*  
(46) To 017475: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.

Effective date. This regulation is effective December 12, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: December 1, 1978.

LESTER M. CRAWFORD,  
Director of  
Veterinary Medicine.

[FR Doc. 78-34397 Filed 12-11-78; 8:45 am]

[4110-03-M]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc., providing for use of an injectable antibiotic for treating certain diseases of cattle.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA (108-963V) providing for use of oxytetracycline hydrochloride injection in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves for treatment

tors from which received. While an approved consignee in Switzerland, without obtaining a Swiss Blue Import Certificate, may stock commodities in Switzerland for reexport to other approved consignees in other countries, such commodities may be released for distribution or use within Switzerland only after a Swiss Blue Import certificate covering the transaction has been obtained. These documents shall be retained in accordance with the record-keeping provision of § 373.3(1)(3).

2. Section 373.4 is amended by adding a note immediately under the title to that section to read as follows:

§ 373.4 Foreign-based warehouse procedure.

NOTE.—The Distribution License procedure (§ 373.3) was revised, effective January 9, 1979, to include provisions under which distributors may be authorized to reexport commodities received under the procedure. At the time this revision was made, the Office of Export Administration announced that the Foreign-based Warehouse Procedure was being phased out. Export licenses and authorizations issued under this procedure that were valid as of February 8, 1979, will remain in effect until they expire, are replaced by other licenses or authorizations or until June 30, 1979, whichever is earliest. No new licenses or authorizations will be issued under the Foreign-based Warehouse procedure after February 8, 1979.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
for Trade Regulation.

JANUARY 4, 1979.

[FR Doc. 79-729 Filed 1-8-79; 8:45 am]

[1505-01-M]

CHAPTER III—INDUSTRY AND TRADE  
ADMINISTRATION, DEPARTMENT  
OF COMMERCE

PART 377—SHORT SUPPLY  
CONTROLS

Establishment of Supplementary  
Export Quota for Butane During  
the Fourth Quarter 1978

Correction

In FR Doc. 78-34050 appearing at page 57141 in the issue for Wednesday, December 6, 1978, in the middle column of page 57142, the amendatory language for § 377.6 now reading "A new § 377.6 (d)(1) is established to read as follows:" should have read "A new § 377.6 (d)(12) is established to read as follows:"

[8010-01-M]

Title 17—Commodity and Securities  
Exchanges

CHAPTER II—SECURITIES AND  
EXCHANGE COMMISSION

[Release No. 34-15423]

PART 240—GENERAL RULES AND  
REGULATIONS, SECURITIES AND  
EXCHANGE ACT OF 1934

Uniform Net Capital Rule

AGENCY: Securities and Exchange  
Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting previously proposed amendments to this uniform net capital rule, which set forth the treatment to be accorded specific receivables and undue concentration deductions relating to transactions in municipal securities.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION  
CONTACT:

Nelson S. Kibler, Assistant Director,  
Division of Market Regulation, Securities  
and Exchange Commission,  
Washington, D.C. 20549 (202) 376-  
8131.

SUPPLEMENTARY INFORMATION:  
The Securities and Exchange Commission today announced the adoption of certain amendments to Rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934, the uniform net capital rule. The amendments<sup>1</sup> which become effective on February 1, 1979 are substantially the same as those contained in Securities Exchange Act Release No. 14995, July 26, 1978, 43 FR 33935 (August 2, 1978),

<sup>1</sup>Those sections amended are §§ 240.15c3-1(c)(2)(iv)(C); 240.15c3-1(c)(2)(vi)(M) and 240.15c3-1(f)(3)(iii).

with minor modifications to Rule 15c3-1(c)(2)(iv)(C) distinguishing secondary joint accounts from underwritings, and Rule 15c3-1(c)(2)(vi)(M) and Rule 15c3-1(f)(3)(iii) clarifying that the 20 consecutive day holding period for determining the application of the undue concentration haircut requirements begins on the date of delivery of the securities to the broker or dealer and not on the date the commitment is made by the broker or dealer to purchase municipal securities from a syndicate.

Six comment letters were received to the amendments proposed in Release No. 14995. All commentators favored the adoption of the proposed amendments with minor technical modifications. One commentator, however, expressed the opinion that municipal broker-brokers should be exempt from the undue concentration requirements. It is the view of the Commission that such an exemption is not necessary as such brokers generally do not take a position in municipal securities. However, to the extent such firms are required to take a position they should conform to the same undue concentration requirement as apply to other brokers or dealers in municipal securities.

DISCUSSION

Rule 15c3-1(c)(2)(iv)(C) originally required the deduction from net worth of good faith deposits arising in connection with an underwriting of any security and outstanding longer than eleven business days. In addition, profits derived from participation in an underwriting syndicate were treated as "unsecured receivables" which pursuant to Rule 15c3-1(c)(2)(iv)(E) were deducted from net worth. In Securities Exchange Act Release No. 11854<sup>2</sup> the Commission adopted temporary amendments to Rule 15c3-1(c)(2)(iv)(C) permitting the inclusion in net worth, for ninety (90) days after settlement of the underwriting with the issuer, good faith deposits and receivables arising from participation in municipal securities underwritings. In Release No. 14995 the Commission proposed to reduce the ninety (90) day period to sixty (60) days. It was also proposed in Release No. 14995 that profits receivable from municipal securities secondary joint accounts would be includable in net worth for 60 days. Rule 15c3-1(c)(2)(iv)(C) has been adopted substantially as proposed with minor language modifications indicating that secondary joint accounts are not considered to be underwritings for purposes of that provision, and to distinguish non-municipal securities underwritings from municipal securities underwritings.

<sup>2</sup>Securities Exchange Act Release No. 11854, November 20, 1975; 40 FR 57786 (December 12, 1975).

**APPENDIX C:  
Expanding Specialty Naphtha Exports**

## DEPARTMENT OF COMMERCE

## International Trade Administration

## 15 CFR Parts 371, 377, and 399

**Petroleum Products Under Short Supply Export Controls; Interim Regulations to Increase Efficiency of Controls and Administration of Exports**

**AGENCY:** Office of Export Administration, International Trade Administration, Commerce.

**ACTION:** Interim rule with invitation to comment.

**SUMMARY:** This rule amends the regulations governing exports of petroleum products under short supply export controls.

This rule expands and clarifies the provisions of several general license authorizations to permit more extensive exports without prior written authorization from the Office of Export Administration, and reduces certain reporting requirements.

**DATE:** These rules are effective on publication, but may be revised after comments are received. Comments to be received by the Department by August 24, 1981.

**ADDRESS:** Written comments (five copies) should be sent to: Mr. Robert F. Kan, Special Assistant to the Director, Short Supply Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert F. Kan, Special Assistant to the Director, Short Supply Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-3795.

**SUPPLEMENTARY INFORMATION:** The Department has recently examined its petroleum short supply export licensing program with a view toward simplifying and streamlining its procedures wherever practicable, in compliance with section 12(e) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. App. 2401 *et seq.*) ("the Act") and with the Administration's policy of easing the regulatory burden. During this review it was noted that a large number of validated export licenses are being issued for quantities that do not significantly reduce domestic supplies of a particular commodity. While the purpose of short supply export control programs is "to protect the domestic economy from an excessive drain of scarce materials" through export, the Department does not believe that this goal is furthered or any other useful purpose served by the maintenance of controls that require

validated licenses for the export of insignificant quantities of materials which, in the aggregate, are in short supply.

**General License GLV.** The GLV dollar value limit for three commodity control list entries is being raised from \$250 to \$1,000, in order to reduce industry and Government paperwork associated with export shipments of certain petroleum commodities under short supply export control. The Department believes that petroleum exports of such limited value will not significantly reduce domestic supplies. This change will permit general license shipments of many exports that previously required validated export licenses.

**General License G-NNR.** After reviewing its petroleum licensing records, the Department believes a revision of General License G-NNR is warranted to accommodate the numerous small quantity drummed shipments of specialty petroleum products intended for non-fuel usage, and of petroleum reference fuels for use as reference standards in petroleum refineries shipped in quantities of 10,000 gallons or less. Because of the high purity of some of these products, they frequently sell for prices from five to twenty-five times the selling price of similar mass-marketed commercial grade fuels. Therefore, export shipments of as few as two or three barrels often exceed the new dollar value limit of \$1,000. To avoid the continuation of case-by-case licensing of numerous small quantity shipments of these high-value, low-volume specialty products, the Department has moved them to Petroleum Group Q. This addition will allow exports of these products under General License G-NNR.

Exporters are put on notice that the Office of Export Administration will, in appropriate cases, conduct audits of exporters' files to determine that these rules pertaining to shipping quantities are complied with. This change in the regulations is not to be interpreted to represent a liberalization of petroleum export controls, as all these types of shipments have been licensed in the past without being subject to quantitative limitations as either an N-2 product or as a recognized exception.

**General License GPCC.** The regulations concerning General License GPCC are amended to clarify that petroleum products exported to the Panama Canal Commission under that general license must be intended for use by the Commission and not for export resale.

**General License Ship Stores.** The regulations concerning this general license are revised to indicate that crude petroleum and blends of unrefined crude

petroleum with a petroleum product may not be used to bunker a vessel under General License *Ship Stores*. Because many ports are not capable of servicing Super Tankers within the port itself, General License *Ship Stores* is revised to authorize the bunkering of these large vessels in U.S. or international waters under limited circumstances.

**General License RCS.** The regulations concerning General License *RCS* are revised to indicate that crude petroleum and blends of unrefined crude petroleum with a petroleum product may not be used to bunker a vessel under this general license. The regulations covering this general license are also revised to rescind authority to export unlimited quantities of aviation fuel to a U.S. or Canadian Airline's installation or agent abroad, but continue to allow exports of ship's bunker and aviation fuel for use of a specific vessel or aircraft of U.S. or Canadian registry, in unusual circumstances and in quantities necessary for a single onward voyage or flight.

**Documentation for Special Exception.** The special rule which permits applicants for petroleum export licenses to substitute an affidavit for an export order is clarified to ensure that all required information and affidavits are submitted when no formal contract exists.

**Affidavit for non-Naval Petroleum Reserve-Origin.** The affidavit in § 377.6(e)(1)(iv) certifying the non-Naval Petroleum Reserve-Origin of a petroleum product which is required to accompany each application for a license to export such product is revised by lengthening from 90 to 180 days the time periods used in calculating (a) the volume of products produced in a refinery utilizing any Naval Petroleum Reserves feedstock which are attributable to other feedstocks, and (b) the total volume of products attributed to such feedstock to be exported during the comparable future time period. This eliminates the need to restrict the validity of each license to 90 days from the date the affidavit was executed, and permits the issuance of licenses which will remain valid until 30 days following the end of the calendar quarter in which issued. The suggested affidavit is also revised to include alternative statements that may be used concerning the origin of the commodities.

**Affidavit Identifying Refiner.** As a result of the termination of the crude oil price control program of the Department of Energy, refiners are no longer required to take an adjustment of the volume of crude oil runs to stills. Because these adjustments are no longer

required, the affidavits required by §§ 371.7(b)(4) and 377.6(e)(2)(ii) are also unnecessary, and the sections are deleted.

**Validity Period.** Section 377.6(g) is revised to indicate that the Office of Export Administration may issue licenses to export petroleum products with validity periods longer than one calendar quarter.

**Rulemaking Procedure and Invitation to Comment**

Section 13(a) of the Act exempts regulations promulgated under it from the public participation in rulemaking procedures of the Administrative Procedure Act. It has been determined that this rule:

(1) Is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981);

(2) Will not have a significant economic impact on a substantial number of small business entities because it does not impose any additional costs or other regulatory burden on them; and

(3) Does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close August 24, 1981. However, in order that comments may be given maximum consideration, persons wishing to comment are urged to submit their comments as soon as possible. Although comments received after the end of the comment period will be considered if possible, this consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda (in five copies) which will also be a matter of public record and will be available for public review and copying.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the *Export Administration Regulations* are amended as follows:

**PART 371—GENERAL LICENSES**

1. In § 371.7(b), paragraphs (2)(i) and (ii) are revised; paragraph (2)(iii) is removed, and paragraph (4) is removed.

**§ 371.7 General license G—FTZ: Exports of petroleum commodities from U.S. foreign-trade zones and from Guam.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Did not become available for export as a result of an exchange for commodities which would not qualify for export under General License G—FTZ, and will not be replaced within the exporter's customary domestic marketing area by commodities which do not so qualify; and

(ii) Were refined exclusively from foreign-origin crude petroleum in a Foreign-Trade Zone or Guam.

(iii) (Removed).

\* \* \* \* \*

(4) (Removed).

\* \* \* \* \*

2. Section 371.8(a) is revised to read as follows:

**§ 371.8 General license GPCC; Export of petroleum products to the Panama Canal Commission.**

(a) *Scope.* A general license designated *GPCC* is established subject to the provisions of this section authorizing the export to the Panama Canal Commission, under a Commission-issued contract or purchase order, of refined petroleum products listed in Supplement No. 2 to Part 377 for

use by the Commission and not for export resale

\* \* \* \* \*

3. Section 371.9 is revised to read as follows:

**§ 371.9 General license ship stores.**

(a) *Scope.* A general license designated *Ship Stores* is established, subject to the provisions of §371.9, authorizing the export, under certain circumstances, of usual and reasonable kinds and quantities of the commodities indicated in paragraphs (a) (1) and (2) of this section, provided such commodities are not intended for unloading in a foreign country and are not exported under a bill of lading as cargo. <sup>1</sup> Exports under this general license may be made on vessels of any registry, except as provided for in paragraph (a)(3) of this section, departing from the United States. Additionally, exports under this general license may be made on lighters servicing vessels too large to enter a U.S. port to allow for the refueling of super tankers, *e.g.*, Ultra Large Crude Carriers (ULCC) and Very Large Crude Carriers (VLCC), provided such vessels are lading or unloading, in U.S. or international waters, cargo destined for or coming from a U.S. port.

(1) Dunnage necessary and appropriate to stow or secure cargo on the outgoing and immediate return voyage of an exporting carrier, when exported solely for use as dunnage, may be exported to any destination under this General License *Ship Stores*.

(2) The items listed below may be exported subject to the conditions set forth in (b) of this section for use or consumption on board a vessel of any registry during the outgoing and immediate return voyage—

(i) Bunker fuel, except crude petroleum and blends of unrefined crude petroleum with a petroleum product, provided it is not of Naval Petroleum Reserve origin or derivation;

(ii) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements, provided they are not of Naval Petroleum Reserves origin or derivation if listed in Supplement No. 3 to Part 377;

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles; and

(vi) Saloon stores or supplies.

(3) Equipment and spare parts for permanent use on a vessel may be exported for use on board a vessel of any registry, when necessary for the

<sup>1</sup> Where a validated license is required, see §§ 372.4 and 376.9.

proper operation of such vessel, except a vessel registered in Country Group P, Q, W, Y, or Z, or owned or controlled by, or under charter or lease to any of these countries or their nationals. Notwithstanding the above, equipment and spare parts for permanent use on a vessel, when necessary for the proper operation of such vessel, may be exported on board a vessel registered in, owned or controlled by, or under charter or lease to a country in Country Group P, Q, W or Y, or a national of such country, if the equipment or spare parts are authorized to be exported to a destination in Country Group P, Q, W, or Y under General License *G-DEST*. In addition, other equipment and services for necessary repair to fishing and fishery support vessels of PQWY countries or Cuba may be exported for use on board such vessels when admitted into the United States under governing international fishery agreements.

(b) *Restrictions on exports of petroleum and petroleum products.* Crude petroleum and blends of unrefined crude petroleum with petroleum products may not be exported under this general license. Export of any petroleum product listed in Supplement No. 3 to Part 377 may be made under this general license provided the exporter, prior to the export of such commodity, has assembled documentary evidence establishing that the commodity was not produced or derived from a Naval Petroleum Reserve. Such documentary evidence may take the form of the affidavit prescribed in § 377.6(e)(1)(iv), or it may consist of other documentation establishing the factual data to be covered in such affidavit. The exporter shall retain such documentary evidence in his files for the period prescribed in § 387.13(e), and is put on notice that the Office of Export Administration will, in appropriate cases, conduct audits of exporters' files to determine that such documentary evidence is available covering each export of a commodity listed in Supplement No. 3 to Part 377 that was made under General License *Ship Stores*. Crude petroleum may be exported only under a validated license issued pursuant to § 377.6(d)(1). Any other petroleum commodity listed in Supplement No. 3 to Part 377 which does not meet the conditions for export under General License *Ship Stores* may be exported only under a validated license issued pursuant to § 377.6(d)(6).

4. Section 371.12 is amended by revising paragraphs (b)(3), (b)(4), the introductory paragraph to (c), (c)(4), the

introductory paragraph to (d), (d)(1) and (e) to read as follows:

**§ 371.12 General license RCS: Shipments to U.S. or Canadian vessels, planes and airline installations or agents.**

\* \* \* \* \*

(b) \* \* \*

(3) In usual and reasonable kinds and quantities during times of extreme need, except that usual and reasonable quantities of ship's bunkers or aviation fuel are considered to be only that quantity necessary for a single onward voyage or flight;

(4) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is *not* required when any of the commodities, other than fuel, is exported by *U.S. airlines* to their own aircraft abroad for their use.

\* \* \* \* \*

(c) *Exports to U.S. or Canadian Airline's Installation or Agent.* Exports of the commodities set forth in paragraph (d) of this section, except fuel, may be made to a U.S. or Canadian airline's <sup>2</sup> installation or agent in any foreign destination except Country Group P, Y or Z (excluding Cuba) provided such commodities are—

\* \* \* \* \*

(4) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is *not* required when any of these commodities is exported by *U.S. airlines* to their own installations and agents abroad for use in their aircraft operations.

\* \* \* \* \*

(d) *Applicable Commodities.* This general license applies to the commodities listed below, subject to the provision in paragraphs (b) and (c) of this section—

(1) Fuel, except crude petroleum and blends of unrefined crude petroleum with petroleum products, which is of non-Naval Petroleum Reserves origin or derivation;

\* \* \* \* \*

(e) *Crude Petroleum.* Crude petroleum and blends of unrefined crude petroleum with petroleum products may not be exported under this general license. Export of any petroleum product listed in Supplement No. 3 to Part 377 may be made under this general license provided the exporter, prior to the export of such commodity, has assembled documentary evidence establishing that the commodity was not produced or derived from a Naval Petroleum Reserve. Such documentary

<sup>2</sup> See § 370.2 for definition of United States and Canadian airlines.

evidence may take the form of the affidavit prescribed in § 377.6(e)(1)(iv), or it may consist of other documentation establishing the factual data to be covered in such affidavit. The exporter shall retain such documentary evidence in his files for the period prescribed in § 387.13(e), and is put on notice that the Office of Export Administration will, in appropriate cases, conduct audits of exporters' files to determine that such documentary evidence is available covering each export of a commodity listed in Supplement No. 3 to Part 377, that was made under General License *RCS*. Crude petroleum may be exported only under a validated license issued pursuant to § 377.6(d)(1). Any other petroleum commodity listed in Supplement No. 3 to Part 377, which does not meet the conditions for export under General License *RCS*, may be exported only under a validated license issued pursuant to § 377.6(d)(6).

**PART 377—SHORT SUPPLY CONTROLS AND MONITORING**

5. In § 377.6, paragraphs (e)(1)(iv), (2), (3), and (9), and paragraph (g) are revised to read as follows:

**§ 377.6 Petroleum and petroleum products.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iv) A sworn affidavit, signed by an authorized representative of the exporter, reading as follows (insert paragraph a or b, as appropriate):

**Affidavit**

I (name) \_\_\_\_\_  
 (Title) \_\_\_\_\_  
 of (company) \_\_\_\_\_  
 hereby certify that the (quantity) \_\_\_\_\_  
 bbls. of (commodity) \_\_\_\_\_

(a) I propose to export from the United States were *not* produced from a Naval Petroleum Reserve nor were they derived from any crude oil, gases of all kinds (including natural gas, hydrogen, carbon dioxide, helium, etc.), natural gasoline, and other related hydrocarbons (tar sands, asphalt, propane, butane, etc.) or oil shale produced from a Naval Petroleum Reserve. Or—

(b) I propose to export from the United States, if they are the product of a refinery or petrochemical plant utilizing as raw material any resource produced from a Naval Petroleum Reserve, the quantity of the products from that refinery or petrochemical plant which are to be exported during the next 180 days, do *not* exceed that portion of the total products of that refinery or petrochemical plant attributable to the non-Naval Petroleum Reserve raw materials used in that plant during the preceding 180 days.

The petroleum commodities that I propose to export did not become available for export

as a result of an exchange for a Naval Petroleum Reserves—produced resource or a product(s) derived therefrom.

To the extent that I do not have personal knowledge of the foregoing, I have addressed appropriate inquiries to the refiner or producer of the commodity(ies) to be exported, and have been assured by him that these statements are correct.

The Individual who made these representations to me is:  
 I (name) \_\_\_\_\_  
 Of (Title) \_\_\_\_\_  
 (company) \_\_\_\_\_

And he communicated these assurances to me on (date) \_\_\_\_\_  
 (Signature) \_\_\_\_\_

(2) Groups B, C, D, E, F, G, K, L, M, N-1, N-2, Q, and R. An application for a validated license to export a commodity from Petroleum Commodity Group B, C, D, E, F, G, K, L, M, N-1, N-2, Q, or R, must be accompanied by the same documentation required by § 377.6(e)(1), except that the affidavit described in paragraph (e)(1)(iii) of this section is not required.

(3) Exception for established trade practices. A special rule is established for the documentation of export orders for which no contract is entered into pursuant to a well-established and consistently maintained trade practice. With respect to such orders, in lieu of the copy of the contract and the affidavit required by paragraph (e)(1) of this section as to the amount previously exported against such contract, the exporter may submit an affidavit describing his exporting arrangement and the shipments made under that arrangement.

(9) Groups N-1 and N-2. An application for a validated license to export a commodity from Petroleum Commodity Group N-1 must be submitted with the same documentation required by § 377.6(e)(1), except the affidavit described in paragraph (e)(1)(iii) of this section is not required. An application for a validated license to export a commodity from Petroleum Commodity Group N-2 must be submitted with the same documentation required for Petroleum Commodity Group N-1, and:

(i) An end-use statement by the applicant in affidavit format indicating the name, location and type of business

of the end-user, the nature of the end-use, and stating that, to the best of his knowledge and belief, the commodity will not be used as a fuel either alone or when blended with other petroleum products, nor will it be used as a refinery feedstock or for synthetic natural gas production, nor will it be substituted for a commodity which will be so used, and

(ii) A published technical data sheet (unless one has previously been submitted) or independent inspector's certificate of analysis of the product to be exported which clearly indicates that the commodity is properly classifiable under Petroleum Commodity Group N-2.

(g) *Validity Period.* Unless otherwise specified, a license issued pursuant to this section will expire no later than 30 days from the end of the calendar quarter in which it is issued. A longer validity period may be authorized if found to be consistent with the national interest and the purposes of this short supply control program. Requests for extension of the validity period of any license issued under this section will normally not be entertained.

6. Supplement No. 2 to Part 377 is amended by revising Group Q to read as follows:

**Supplement No. 2 to Part 377—Petroleum and Petroleum Products Subject to Short Supply Licensing Controls**

Schedule B No. <sup>1</sup>	Commodity description <sup>2</sup>	Unit of quantity <sup>3</sup>
Petroleum Products Subject to Provisions of Either § 371.16 or § 377.6(d)(6)		
<i>Group Q</i>		
401.0110	Benzene.....	Gallon.
401.0120	Toluene.....	Do.
401.0132	Ortho-xylene.....	Do.
401.0134	Para-xylene.....	Do.
401.0139	Other xylene.....	Do.
415.2400	Helium.....	Million cubic feet.
415.2900	Hydrogen.....	X.
417.2000	Ammonia, aqueous.....	Cnt. ton.
423.1010	Carbon dioxide and carbon monoxide.....	X.
431.0210	Butadiene.....	Pound.
431.0220	Butylene.....	Do.
431.0230	Ethylene.....	Do.
431.0240	Isoprene.....	Do.
431.0250	Propylene.....	Do.
431.0260	Tetrapropylene.....	Do.

**Supplement No. 2 to Part 377—Petroleum and Petroleum Products Subject to Short Supply Licensing Controls—Continued**

Schedule B No. <sup>1</sup>	Commodity description <sup>2</sup>	Unit of quantity <sup>3</sup>
431.0290	Acetylene.....	Do.
431.0290	High purity hydrocarbons, and blends of hydrocarbons used for engine calibration, fuel certification and other laboratory applications in quantities of 10,000 gallons or less. <sup>4</sup>	Do.
475.2520		
475.2560		
475.3500	Specialty naphthas, mineral spirits, solvents and other finished light petroleum products, n.s.p.f., which are packaged and shipped in drums or containers not exceeding 55 U.S. gallons per container.	Barrel.
475.4510	Aviation engine lubricating oil, except jet engine lubricating oil.	Do.
475.4515	Jet engine lubricating oil.....	Do.
475.4520	Automotive, diesel, and marine engine lubricating oil.	Do.
475.4525	Turbine lubricating oil, including marine.	Do.
475.4530	Automotive gear oils.....	Do.
475.4550	Steam cylinder oils.....	Do.
475.4555	Insulating or transformer oils.....	Do.
475.4560	Quenching or cutting oils.....	Do.
475.4565	Other petroleum lubricating oils, including red and pale oils, bright stock, black oils, white mineral oils, and lubricants, n.s.p.f.	Do.
475.5700	Greases.....	Pound.
475.6740	Petroleum jelly, and petrolatum, all grades.	Do.
475.6760	Hydraulic fluids, including automatic transmission fluids.	Barrel.
475.6781	Other non-lubricating and non-fuel petroleum oils, n.s.p.f.	X.
480.6540	Ammonia, anhydrous.....	Short ton.
492.5210	Paraffin wax, crystalline, fully refined.	Pound.
492.5220	Paraffin wax, crystalline, except fully refined.	Do.
492.5240	Paraffin wax, all others (including microcrystalline wax).	Do.
517.5120	Petroleum coke, calcined.....	Short ton.
521.3150	Petroleum coke, except calcined...	Do.

<sup>1</sup> See Supplement No. 3 to Part 377 for correlation of old Schedule B Numbers. Schedule B Numbers are provided only as a guide to proper completion of the Shipper's Export Declaration, Form No. 7525 V.

<sup>2</sup> Commodity description determines the product under control.

<sup>3</sup> Report commodities in units of quantity indicated.

<sup>4</sup> Such as for reference standards, certified iso-octane, certified normal heptane, or certified fuels used for emission control standard tests, and for comparative laboratory testing.

**PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS**

7. The Commodity Control List, Supplement No. 1 to § 399.1, is amended by revising the following entries to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV dollar value limits T&V	Processing code	Reason for control
4'82B Other petroleum products listed in Supplement No. 2 to Part 377. (See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses G-NNR and GLV).		POSTVWYZ and Canada.....	≥ \$1,000	SS.....	2
4'83B Natural gas liquids and other natural gas derivatives listed in Supplement No. 2 to Part 377. (See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses G-NNR and GLV.) <sup>4</sup> .	Barrel.....	POSTVWYZ and Canada.....	≥ \$1,000	SS.....	2
4'84B Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supplement No. 2 to Part 377. (See §§ 371.16 and 371.5(d) for special provisions regarding shipments under General Licenses G-NNR and GLV).	Mcf.....	POSTVWYZ and Canada.....	≥ \$1,000	SS.....	2

\* \* \* \* \*  
<sup>4</sup> GLV \$ value limit for petroleum asphalt and paving mixtures is \$5,000.  
 \* \* \* \* \*

<sup>2</sup> GLV \$ value limit for exports to Canada and Country Group Q is \$1,000.

**Drafting Information:** The principal author of these rules is Robert F. Kan, Special Assistant to the Director, Short Supply Division, Office of Export Administration.

**Authority:** Sections 7, 12, 13, 15, and 21, Pub. L. 96-72, 50 U.S.C. App. 2401 *et seq.*; E.O. 12214, (45 FR 29783, May 6, 1980); Department Organization Order 10-3, (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980).

Dated: June 1, 1981.

William V. Skidmore,  
Director, Office of Export Administration.

[FR Doc. 81-18470 Filed 6-22-81; 8:45 am]

BILLING CODE 3510-25-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 4

#### Ex Parte Communications in Adjudicative Proceedings

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission amends Rule 4.7(e) to define when an order of remand by a U.S. court of appeals shall be deemed to become effective for purposes of applying the prohibitions of Rule 4.7(b), and to make clear that those prohibitions apply during the period within which a petition for reconsideration under Rule 3.55 may be filed.

**EFFECTIVE DATE:** The rule is effective on June 23, 1981.

**FOR FURTHER INFORMATION CONTACT:** Jerome Tintle (202) 523-3487, Office of General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

#### SUPPLEMENTARY INFORMATION:

##### Cases on Remand from the Courts of Appeals

Rule 4.7(b) prohibits *ex parte* communications by, among others, any employee or agent of the Commission who performs investigative or prosecuting functions in adjudicative proceedings while a proceeding is in adjudicative status within the Commission, except to the extent required for the disposition of *ex parte* matters as authorized by law. Rule 4.7(e), among other things, extends these prohibitions to an adjudicative proceeding "from the time an order by a U.S. court of appeals remanding a Commission decision and order for further proceedings becomes effective, until the time the Commission votes to enter its decision in the proceeding." Rule 4.7(e), however, does not define when a court of appeals' order "becomes effective" for purposes of applying the restrictions imposed by Rule 4.7(b).

When a court of appeals remands a Commission decision and order for further proceedings, the Commission resumes jurisdiction over the case when the court's remand is issued as its mandate pursuant to Rule 41 of the Federal Rules of Appellate Procedure, generally 21 days after entry of judgment. Regardless of when the mandate issues, the Commission may petition the Supreme Court for a writ of *certiorari* from a court of appeals' adverse judgment within 90 days from the date the court of appeals enters its judgment or enters an order disposing of a timely filed petition for rehearing going to the substance of the judgment. 28 U.S.C. 2101(c).

Rule 4.7(e) as presently worded could be construed to mean that a court of appeals' order of remand "becomes effective" from the date that the Commission resumes jurisdiction over the case, *i.e.*, when the court's mandate issues. This construction would, practically speaking, preclude the Commission from consulting *ex parte* with its prosecuting staff on whether Supreme Court review of the judgment should be sought. In adopting present Rule 4.7(e), the Commission did not intend this construction. On the contrary, before and since adoption of the Rule, the Commission has regularly received the views of its prosecuting staff on the question of *certiorari* without regard to whether the court of appeal's mandate has been issued. A matter on remand is not returned to adjudicative status until the Commission has determined not to seek Supreme Court review, or until the time for seeking such review has expired without a petition for *certiorari* having been filed, or until such a petition has been denied. The Commission has, therefore, amended Rule 4.7(e) to reflect its regular practice. The amendment adds a provision defining when a court of appeals' judgment "becomes effective" for purposes of the Rule.

#### Prohibition of ex Parte Communications During the Period Within Which a Petition for Reconsideration May Be Filed

Under present Rule 4.7(e) the ban on *ex parte* communications in an adjudicative proceeding ends when the Commission "votes to enter its decision in the proceeding." The ban is not reinstated unless a petition for reconsideration under Rule 3.55 is filed, in which event Rule 4.7(e) provides that the *ex parte* restrictions shall apply "from the time the petition is filed \* \* \*." Thus, the Rule implicitly sanctions *ex parte* contacts in the interim between the Commission's vote on a final decision and the deadline for filing a Rule 3.55 petition. It has not been the Commission's policy to permit such contacts in the past, and the Rule is being amended so as to eliminate any possible ambiguity on the question.

Accordingly, 16 CFR 4.7(e) is revised to read as follows:

#### § 4.7 Ex parte communications.

\* \* \* \* \*

(e) The prohibitions of this section shall apply in an adjudicative proceeding from the time the Commission votes to issue a complaint pursuant to § 3.11, to conduct adjudicative hearings pursuant to § 3.13, or to issue an order to show cause pursuant to § 3.72(b), or from the time an order by a U.S. court of appeals remanding a Commission decision and order for further proceedings becomes effective, until the time the Commission votes to enter its decision in the proceeding and the time permitted by § 3.55 to seek rehearing of that decision has elapsed. For purposes of this section, an order of remand by a U.S. court of appeals shall be deemed to become effective when the Commission determines not to file a petition for a writ of *certiorari*, or when the time for filing such a petition has expired without a petition having been filed, or when such a petition has been denied. If a petition for reconsideration of a

(2) Issue an order stating the Board's intention to process the application through show cause or other expedited procedures, where the course of action is clear under Board policy; or

(3) Issue an order, subject to presidential review under section 801(a) of the Act, finalizing an order to show cause issued under paragraph (1) of this subsection where no objections to the order to show cause have been filed.

Dated: July 27, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-22360 Filed 7-30-81; 8:45 am]

BILLING CODE 6320-01-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Part 377

#### Removal of Quantitative Limitations on Exports of Certain Low-Octane, High-Paraffinic Naphthas

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

**SUMMARY:** This action removes quantitative limitations for the export of low-octane, high-paraffinic naphthas for the production of petrochemicals. This action is being taken in response to the European Communities' request and following an interagency review of export restrictions on unfinished naphthas used for petrochemical feedstocks. Liberalization of export controls will have minimal impact on available domestic supplies.

**EFFECTIVE DATE:** July 28, 1981.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Kan, Acting Director, Short Supply Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Washington, D.C. 20230 (Telephone: 202-377-3795).

#### SUPPLEMENTARY INFORMATION:

##### Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that to the extent practicable "regulations imposing controls on exports" be published in proposed form,

is not applicable because this regulation does not impose new controls on exports. Therefore, this regulation is issued in final form. Comments were solicited and received on this proposal in response to an earlier notice, however, public comments on this regulation are welcome on a continuing basis.

This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

#### Substance of the Regulation

On September 30, 1976 (as announced in the Federal Register on October 7, 1976 (41 FR 44155)) exports of naphtha, mineral spirits, naphtha solvents and other finished light petroleum products, n.e.c., became subject to quantitative limitations with export quotas established at historical levels. On April 7, 1977 (42 FR 18395) the Department announced that quantitative limitations based upon the historical pattern of exports must be maintained for those naphthas capable of being used as a fuel, either alone or when blended with other petroleum products, or which are suitable for further refining or for use as a feedstock for petrochemical or synthetic natural gas production. However, in that notice, those naphthas with certain distillation ranges and solvency values, or shipped in small containers, may be licensed without quantitative limitations.

In the June 23, 1981, Federal Register (46 FR 32431), the Department announced that certain specialty naphthas, mineral spirits, solvents and other finished light petroleum products n.s.p.f. which are packaged and shipped in drums or containers not exceeding 55 gallons, could be exported without being subject to validated licensing utilizing General License G-NNR.

On March 18, 1981, the Department announced it was reviewing export restrictions on certain unfinished naphthas used for petrochemical feedstocks. This action was taken because the Commission of the European Communities (E.C.) requested modification of U.S. export controls on naphthas capable of use in the petrochemical industry. This concern was expressed by the E.C. in consultations under GATT Article XXIII (1). Also, as reported in the March 18 Notice, preliminary indications were that removal or modification of export limitations on these products would not have a detrimental effect on domestic energy supplies, and appearances were

that if such action were taken, the national interest would be served by broadening markets for naphthas unsuitable or unneeded for domestic consumption. Consequently, the Department invited public comment on the merits of removing or revising these export limitations.

Responses were received from ten companies, interested trade associations, and the European Community. All of the comments favored liberalization, i.e., lifting of quantitative export restrictions on naphthas. One trade association representing 19 petrochemical companies opposed the limited approach, however favored a broader export liberalization to include all naphthas, citing that export relief on a narrow scope of paraffinic naphthas had the potential of price and market distortions. This response went beyond the scope of this review.

A major concern of the trade association was that paraffinic naphthas will be used in the manufacture of gasoline. End-use regulatory controls would mandate compliance that these commodities will be used for petrochemical feedstock.

Other comments included such statements as:

- Low octane, high-paraffinic naphthas are finding less use as leaded gasolines are phased out of use and accordingly, these naphthas are in plentiful supply with prices below world market levels;
- U.S. refineries, operating at considerably less than installed capacity, can produce additional naphthas without adversely affecting output of transportation fuels;
- Elimination of export restrictions will encourage the direction of these products to the highest valued-uses and will encourage more efficient utilization of U.S. supplies of hydrocarbons;
- Decontrol will increase petroleum industry efficiency, productivity, and competitiveness and, thus, benefit the U.S. consumer; and
- In a non-emergency supply environment, export limitations are unnecessary to assure that domestic demands for fuels and petrochemical products are satisfied the market will balance supply and demand.

In light of these comments, in an effort to be responsive to the desires of the European Communities, and after consultation with other interested agencies, the Department is removing all quantitative export limitations on the specific naphthas which were subject to the public comment. This decision is in keeping with the Administration's policy

of removing burdensome export regulations when no longer warranted. The removal of quantitative restraints on the export of low-octane, high-paraffinic (65% or higher) naphthas is made effective immediately as of the effective date stated above.

The Department has further determined that this action will not adversely affect domestic energy supplies, nor will foreign demand have a serious inflationary impact. This action is considered to be in the national interest by expanding markets for the domestic industry. Should this action have an adverse effect on available domestic energy supply, either directly or indirectly, exporters are placed on notice that this liberalization action can be swiftly reversed.

**PART 377—SHORT SUPPLY CONTROLS AND MONITORING**

Accordingly, Part 377 of the *Export Administration Regulations* (15 CFR Part 377) is amended as follows:

1. Sections 377.6(d)(7) and 377.6(e)(9) are revised as follows:

**§ 377.6 Petroleum and petroleum products.**

\* \* \* \* \*

(d) \* \* \*  
 (7) *Groups N-1, N-2 and N-3.* An application for a validated license to export a commodity from Petroleum Commodity Group N-1, N-2 or N-3 as established in Supplement No. 2 will be considered if submitted with supporting documentation as required by 377.6(e)(9) by the date specified in Supplement No. 2. Applications to export commodities from Group N-1 will be considered only to the extent of an exporter's quota share for such commodity. Applications to export commodities from Group N-2 and N-3 will be considered without regard to quota limitation.

\* \* \* \* \*

(e) \* \* \*  
 (9) *Groups N-1, N-2 and N-3.—(i) Group N-1.* An application for a validated license to export a commodity from Petroleum Commodity Group N-1 must be submitted with the same documentation required by § 377.6(e)(1), except the affidavit described in § 377.6(e)(1)(iii) is not required.

(ii) *Group N-2.* An application for a validated license to export a commodity from Petroleum Commodity Group N-2 must be submitted with the documentation required by § 377.6(e)(1)(i), (ii), and (iv) and:

(A) An end-use statement by the applicant in affidavit format indicating the name, location and type of business of the end-user, the nature of the end-

use, and stating that, to the best of his knowledge and belief, the commodity will not be used as a fuel either alone or when blended with other petroleum products, nor will it be used as a refinery feedstock or for synthetic natural gas production, nor will it be substituted for a commodity which will be so used; and

(B) A published technical data sheet (unless one has previously been submitted) or independent inspector's certificate of analysis of the product to be exported which clearly indicates that the commodity is properly classifiable under Petroleum Commodity Group N-2.

(iii) *Group N-3.* An application for a validated license to export a commodity from Petroleum Commodity Group N-3 must be submitted with the documentation required by § 377.6(e)(1)(i), (ii), and (iv), and:

(A) An end-use statement by the applicant in affidavit format indicating the name, location and type of business of the end-user, and the nature and identity of the petrochemical to be produced from the Group N-3 commodity; and

(B) A published technical data sheet or an independent inspector's certificate of analysis of the product to be exported verifying the paraffinic content using established ASTM tests.

\* \* \* \* \*

2. Supplement No. 2 to Part 377 is amended by revising Group N-1, by adding a new Group N-3 following Group N-2, and by revising the introductory language that precedes the country quotas for Group N-1, as follows:

**Supplement No. 2 to Part 377.—Petroleum and Petroleum Products Subject to Short Supply Licensing Controls**

Schedule B No. <sup>1</sup>	Commodity description <sup>2</sup>	Unit of quantity <sup>3</sup>
Petroleum products subject to validated licensing and historical quotas		
Group N-1:		
475.3500	Naphtha, mineral spirits, solvents and other finished light petroleum products n.s.p.f., which are (a) * capable of being used as a fuel, either alone or when blended with other petroleum products, or (b) suitable for use in refinery processing or synthetic natural gas production, but excluding (1) naphthas having a distillation dry point of 440° F or more, or (2) naphthas having a Kauri-Butanol value of less than 35 as determined by the ASTM D-1133 Test Method.	Barrel.
475.6781		
Petroleum products subject to validated licensing but not quotas		
Group N-3:		
475.3500	Low-octane, high-paraffinic naphthas (65% or higher paraffin content as determined by the ASTM D-1319, D-1491 or D-1492 test methods) suitable for feedstock for petrochemical production.	Barrel.
475.6781		
431.0290		

<sup>1</sup>Schedule B Nos. are provided only as a guide to proper completion of the Shipper's Export Declaration, Form No. 7525 V.  
<sup>2</sup>Commodity description determines the product under control.  
<sup>3</sup>Report commodities in units of quantity indicated.

**Quarterly Country Quotas**

*Country Quotas For Group N-1*

Schedule B. No. 475.3500, Schedule B. No. 475.6781, Naphtha, mineral spirits, solvents, and other finished light petroleum products, n.s.p.f., which are (a) capable of being used as a fuel, either alone or when blended with other petroleum products, or (b) suitable for use in refinery processing or synthetic natural gas production, but excluding (1) naphthas having a distillation dry point of 440°F. or more, or (2) naphthas having a Kauri-Butanol value of less than 35 as

determined by ASTM D1133 Test Method.  
 \* \* \* \* \*

**Drafting Information**

The principal author of these rules is Robert F. Kan, Acting Director, Short Supply Division, Office of Export Administration.

(Secs. 7, 12, 13, 15, and 21, Pub. L. 96-72, 50 U.S.C. App. 2401 *et seq.*, E.O. 12214 (45 FR 29783, May 6, 1980); sec. 103, Pub. L. 94-163, 42 U.S.C. 6212; Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration

Organization and Function Order 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Dated: July 28, 1981.

William V. Skidmore,

Director, Office of Export Administration.

[FR Doc. 81-22375 Filed 7-28-81; 4:09 pm]

BILLING CODE 3510-25-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Dinoprost Tromethamine Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co., providing for use of dinoprost tromethamine injectable for abortion of feedlot cattle.

**EFFECTIVE DATE:** July 31, 1981.

**FOR FURTHER INFORMATION CONTACT:** William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

**SUPPLEMENTARY INFORMATION:** The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental NADA (108-901) providing for intramuscular use of dinoprost tromethamine for abortion of feedlot cattle. Upjohn also holds approval for intramuscular use of the drug in beef cattle, nonlactating dairy heifers, and mares for synchronization of estrus. The regulations are amended to reflect approval of the supplemental NADA. The regulations are further amended to delete the drug's chemical name (currently listed in the U.S. Adopted Name) and to delete from the text of the individual approved uses certain common warning and precautionary statements and consolidate them in a "Special considerations" paragraph.

Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this supplement involves a Category II change. Approval of this supplemental application required a reevaluation of the human safety data base for the drug because of the expansion of use into a new production class (feedlot cattle) for the abortifacient claim. Data provided

by Upjohn along with that available in the published literature demonstrate no concern for carcinogenic potential of the drug and are adequate to satisfy the agency's general food safety requirements. Because the dose of the new claim will not exceed the approved dosage (25 milligrams) of dinoprost, data provided by the sponsor in the parent application and in the supplemental application support waiver of requirement for a regulatory method for this supplemental application.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.690 by revising paragraphs (a), (b), (c), and (d)(1)(iii), by removing paragraph (d)(2)(iii)(e) and (f) and redesignating (g) and (e), and by adding new paragraph (d)(3), to read as follows:

§ 522.690 Dinoprost tromethamine sterile solution.

(a) *Specifications.* Each milliliter of sterile solution contains the equivalent of 5 milligrams of dinoprost.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Special considerations.* Women of child-bearing age, asthmatics, and persons with bronchial and other respiratory problems should exercise extreme caution when handling this product. Dinoprost tromethamine is readily absorbed through the skin and

can cause abortion and bronchospasms. Accidental spillage on the skin should be washed off immediately with soap and water. Use of this product in excess of the approved dose may result in drug residues. Do not administer to pregnant cattle unless abortion is desired. Do not administer intravenously; this may potentiate adverse reactions.

(d) \* \* \*

(1) \* \* \*

(iii) *Limitations.* For use once as a single intramuscular injection. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(3) *Feedlot cattle—(i) Amount.* Five milliliters (equivalent to 25 milligrams of dinoprost), as a single injection.

(ii) *Indications.* For its abortifacient effect in feedlot cattle.

(iii) *Limitations.* For intramuscular use only, during first 100 days of gestation. Cattle that abort will abort within 35 days after injection. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.* July 31, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 24, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-22367 Filed 7-30-81; 8:45 am]

BILLING CODE 4110-03-M

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs Not Subject To Certification; Iron Hydrogenated Dextran Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories providing for safe and effective use of an iron hydrogenated dextran injection for prevention or treatment of iron deficiency anemia in baby pigs.

**EFFECTIVE DATE:** July 31, 1981.

**FOR FURTHER INFORMATION CONTACT:** Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

**SUPPLEMENTARY INFORMATION:** Wendt Laboratories, Inc., 100 Nancy Drive, Belle Plaine, MN 56011, filed an NADA

**APPENDIX D:  
Modifying the List of Prohibited Exports from NPR**

**Agricultural Marketing Service****7 CFR Part 920****Kiwifruit Grown in California;  
Extension of Time for Filing of  
Comments**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Extension of time for filing of comments.

**SUMMARY:** This extension of time is necessary to allow interested persons additional time to prepare and file written comments on proposals designed to implement the newly established kiwifruit marketing order. These proposals include reporting, inspection, and container requirements and the establishment of expenses and an assessment rate for the 1984-85 fiscal period.

**DATE:** The date by which written comments must be postmarked is extended to January 10, 1985.

**ADDRESS:** Interested persons may send four copies of written comments to the Hearing Clerk, Room 1077—South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for inspection during business hours.

**FOR FURTHER INFORMATION CONTACT:** William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, USDA, AMS, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** Notice was given of this proposed rulemaking in the *Federal Register* on December 19, 1984 (49 FR 49302). The notice provided an opportunity to file written comments thereto by January 3, 1985.

The time for the filing of written comments is hereby extended to January 10, 1985.

**List of Subjects in 7 CFR Part 920**

Marketing agreements and orders, California, Kiwifruit.

(Sec. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 3, 1985.

**Thomas R. Clark,**  
*Deputy Director, Fruit and Vegetable  
Division, Agricultural Marketing Service.*  
[FR Doc. 85-573 Filed 1-4-85; 11:45 am]

**BILLING CODE 3410-02-M**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[Docket No. 41267-4167]

**15 CFR Part 377****Request for Public Comment on  
Revising the List of Commodities  
Subject to the Naval Petroleum  
Reserves Production Act of 1976**

**AGENCY:** Office of Industrial Resource Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of proposed rulemaking and request for public comment.

**SUMMARY:** The Department issued a Federal Register Notice of June 29, 1984 requesting comments on a proposal to lift the validated licensing requirement on linear alpha olefins (49 FR 26751). The Department received a number of comments in response to this Notice. Subsequent to the close of the comment period, while the Department was reviewing the comments received, a number of additional comments were received which questioned the breadth of the list of commodities subject to the Naval Petroleum Reserves Production Act (NPRPA) export prohibition. The list of commodities subject to the NPRPA was established in 1976, and has not been reviewed since that time. The Department is soliciting comment from the public as to whether this list of commodities should be modified.

**DATE:** Comments must be received by February 6, 1985.

**ADDRESS:** Comments may be mailed to: Department of Commerce, Resource Assessment Division, P.O. Box 663, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** John Richards, Director, Office of Industrial Resource Administration, International Trade Administration (Telephone: 202/377-4506).

**SUPPLEMENTARY INFORMATION:** In proposing revisions to the list of commodities subject to the NPRPA (supplement No. 3 to 15 CFR Part 377 of the Export Administration Regulations), commenters should note the following provisions related to the Administration of the NPRPA:

The NPRPA prohibits the export of any petroleum produced from the Naval Petroleum Reserves. Petroleum is defined in that Act as including "crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources." The House Conference Report (No. 94-942) on the NPRPA expands the definition to include "crude oil, gases of all kinds (natural gas, hydrogen, carbon dioxide,

helium and any others), natural gasoline, and related hydrocarbons (tar sands, asphalt, propane, butane, etc.), oil shale and the products of such resources."

Since 1976, the Department has applied the NPRPA export prohibition to hydrocarbons, but not their derivatives. The commodities subject to the NPRPA are listed below.

Schedule B Number	Commodity Description
401.0110	Benzene.
401.0120	Toluene.
401.0132	Ortho-xylene.
401.0134	Para-xylene.
401.0139	Other xylene.
415.2400	Helium.
415.2900	Hydrogen.
417.2000	Ammonia, aqueous.
423.1010	Carbon dioxide and carbon monoxide.
431.0210	Butadiene.
431.0220	Butylene.
431.0230	Ethylene.
431.0240	Isoprene.
431.0250	Propylene.
431.0270	Linear alpha olefins (C-6 to C-30 range)
431.0295	Acyclic organic compounds, n.s.p.f.
475.0710	Crude petroleum (including reconstituted crude petroleum), tar sands and crude shale oil.
475.0710	Petroleum, partly refined for further refining.
475.0720	Distillate fuel oils, having a Saybolt Universal viscosity at 100°F. of less than 45 seconds.
475.0740	Distillate fuel oils (No. 4 type) having a Saybolt Universal viscosity at 100°F. of 45 seconds or more, but not more than 125 seconds.
475.0760	Fuel oils, having a Saybolt Universal viscosity at 100°F. of more than 125 seconds.
475.1505	Natural gas, methane and mixtures thereof (including liquefied natural gas and synthetic or substitute natural gas).
475.1515	Ethane with a minimum purity of 95 liquid volume percent.
475.1525	Propane with a minimum purity of 90 liquid volume percent.
475.1545	Butane with a minimum purity of 90 liquid volume percent.
475.1570	Other natural gases (including mixtures), n.s.p.f. and manufactured gas.
475.2520	Gasoline, motor fuel (including aviation).
475.2530	Jet fuel, naphtha-type.
475.2550	Jet fuel, kerosene-type.
475.2580	Other motor fuel (including tractor fuel and stationary turbine fuel).
475.3000	Kerosene derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel).
475.3500	Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel).
475.4000	Mineral oil of medicinal grade derived from petroleum, shale oil or both.
475.4100	Hydraulic fluids, including automatic transmission fluids.
475.4510	Aviation engine lubricating oil, except jet engine lubrication oil.
475.4515	Jet engine lubricating oil.
475.4520	Automotive, diesel, and marine engine lubricating oil.
475.4525	Turbine lubricating oil, including marine.
475.4530	Automotive gear oils.
475.4550	Steam cylinder oils.
475.4555	Insulating or transformer oils.
475.4560	Quenching or cutting oils.
475.4580	Lubricating oils, n.s.p.f., except white mineral oil.
475.5700	Greases.
475.6710	Carbon black feedstock oil.
475.6720	Natural gas liquids, including LPG, n.s.p.f.
475.6740	Petroleum jelly and petrolatum, all grades.
475.6750	White mineral oil, except medicinal grade.
475.6781	Other non-lubricating and non-fuel petroleum oils, n.s.p.f.
480.6540	Ammonia, anhydrous.
492.5210	Paraffin wax, crystalline, fully refined.
492.5220	Paraffin wax, crystalline, except fully refined.
492.5240	Paraffin wax, all others (including microcrystalline wax).
511.2500	Paving mixtures, bituminous, based on asphalt and petroleum.

Schedule B Number	Commodity Description
517.5120	Petroleum coke, calcined.
521.1120	Petroleum asphalt.
521.3150	Petroleum coke, except calcined.

The NPRPA is currently administered by the requirement that a non-Naval Reserve affidavit (attesting that the commodity to be exported was not produced from a Naval Reserve resource) accompany a validated license application. For the export of those commodities not subject to validated licensing, the affidavit must be retained in the exporter's files.

The Department is proposing to limit the applicability of the NPRPA to those commodities currently subject to a validated export license (Supplement No. 2 to 15 CFR Part 377, Commodity Groups A through N). Those commodities described in Group O in Supplement No. 2 to 15 CFR 377 which are presently subject to the requirements of general license, G-NNR on export, would then be eligible for export under general license G-DEST.

Of particular interest to the Department are comments directed to the administrative burden or difficulty of establishing whether a product is derived from Naval Reserve petroleum for purposes of the NPRPA affidavit, and whether the removal of restrictions on a product would lead to the significant exploitation of Naval Reserve petroleum as a source of supply for export markets. Parties submitting comments are asked to be as specific as possible. However, respondents are reminded that the Department is soliciting only information that may be used publicly. No "confidential business information" will be accepted. Any information so designated will be returned to the commenter.

After receiving public comments, the International Trade Administration will make a decision regarding this matter and issue an appropriate notice in the Federal Register. The period for submission of comments will close on (30 days from the publication of this notice). All comments received before the close of the comment period will be considered by the Department. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. It is the Department's intention to announce its decision in the Federal Register within 30 days of the close of the comment period.

Public comments will become a matter of public record, and will be available for public inspection and copying.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning this Notice will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

#### Rulemaking Requirements:

ITA has determined that this proposed rule is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a Regulatory Impact Analysis will not be prepared.

The General Counsel of the Department has certified to the Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small entities because it removes administrative burdens rather than imposing them.

The recordkeeping requirement associated with this proposed rule has been cleared under OMB control no. 0625-0104.

#### List of Subjects in 15 CFR Part 377 Exports.

**Authority:** Secs. 203, 206, Pub. L. 95-223, as amended (50 U.S.C. 1702, 1704); E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 6212); F.O. 11912 of April 13, 1976 (41 FR 15825, as amended); Section 201(10), Pub. L. 94-258 amending 10 U.S.C. 7430.

Dated: January 2, 1985.

John A. Richards,  
Director, Office of Industrial Resource Administration.  
[FR Doc. 85-331 Filed 1-4-85; 8:45 am]  
BILLING CODE 35N-DT-M

## DEPARTMENT OF THE TREASURY Internal Revenue Service

### 26 CFR PARTS 1, 31, and 54

[LR-216-84]

#### Taxation of Fringe Benefits; Proposed Rulemaking

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of Proposed Rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing temporary regulations relating to the taxation of fringe benefits. The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

**DATES:** Written comments and requests for a public hearing must be delivered by March 8, 1985. The regulations are proposed to be effective as of January 1, 1985.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T LR-216-84, Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Annette J. Guarisco of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, Attention: CC:LR:T (202) 566-3918 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend Parts 1, 31, and 54 of Title 26 of the Code of Federal Regulations. The temporary regulations are designated by a "T" following their section citation. The final regulations, which this document proposes to base on those temporary regulations, would amend Parts 1, 31, and 54 of Title 26 of the Code of Federal Regulations.

The regulations provide guidance on the treatment of taxable and nontaxable fringe benefits, including the valuation

**SUMMARY:** On January 7, 1985, the Department of Commerce published in the *Federal Register* (50 FR 729) an interim rule which lifted short supply validated licensing requirements for the export of linear alpha olefins and other acyclic organic compounds. The public was invited to comment on this interim final rule for 30 days. During this period, the Department received comments from four companies all favoring the interim rule but requesting clarification regarding the scope of products included under Group N. In order to respond to these concerns, the Department is modifying the interim rule to limit Group N only to naphthas classified under Census Schedule B No. 475.3500.

Furthermore, through a related rule published today, linear alpha olefins and other acyclic organic compounds are no longer subject to the export restrictions of the Naval Petroleum Reserves Production Act and may be exported under general license G-DEST.

**EFFECTIVE DATE:** May 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** John A. Richards, Director, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, DC 20230 (Telephone 202-377-4506).

**SUPPLEMENTARY INFORMATION:**

**Rulemaking Requirements**

(1) The Department has determined that this final rule relieves a restriction, and therefore, pursuant to section 553(d)(1) of the Administrative Procedure Act, it is effective immediately upon publication.

(2) Since notice and opportunity to comment were not required by the Administrative Procedure Act or any other law, this rule is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*)

(3) The Department has determined that this regulation is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a Regulatory Impact Analysis will not be prepared.

(4) This rule reduces a burden under the Paperwork Reduction Act by eliminating the need for a validated license. The reporting requirement

associated with this rule has been cleared under OMB control No. 0625-0001.

**List of Subjects in 15 CFR Part 377**

Exports.

Issued: April 17, 1985.

John A. Richards,  
Director, Office of Industrial Resource Administration.

Accordingly, Part 377 of the Export Administration Regulations is amended to read as follows:

**PART 377—[AMENDED]**

1. The authority citation for Part 377 is revised to read as follows:

**Authority:** Secs. 203, 206, Pub. L. 95-223, as amended (50 U.S.C. 1702, 1704); E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985); sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 8212); E.O. 11912 of April 13, 1978 (41 FR 15825, as amended); sec. 201(10), Pub. L. 94-258 amending 10 U.S.C. 7430.

2. Group N in Supplement No. 2 is revised to read as follows:

Schedule B No.	Commodity description	Unit of quantity
Group N		
475.3500	Naphthas, derived from petroleum, shale oil, or both but excluding specialty naphthas which are packaged and exported in containers not exceeding 55 U.S. gallons per container.	Bbl.

[FR Doc. 85-11314 Filed 5-8-85; 8:45 am]

BILLING CODE 3510-DT-M

**15 CFR Part 377**

[Docket No. 41267-5057]

**List of Commodities Subject to the Naval Petroleum Reserves Production Act of 1976**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** On January 7, 1985, the Department of Commerce published in the *Federal Register* (50 FR 835) a notice requesting public comment on a proposal to revise the list of commodities subject to regulations that implement the Naval Petroleum Reserves Production Act of 1976 (NPRPA). Comments were solicited on the proposal to remove from NPRPA requirements those commodities listed in Group Q in Supplement 2 to Part 377 of the Export Administration Regulations.

The Department received comments from eight companies supporting the removal of certain chemical commodities from the list of commodities subject to the NPRPA. Accordingly, we have reviewed the need to apply NPRPA requirements to these petroleum-based chemical commodities contained in Group Q. We have determined that these commodities are highly refined down-stream products of the crude petroleum from which they are produced. It is therefore highly unlikely that removal of NPRPA export restrictions on these commodities would significantly affect the exploitation of Naval Reserves petroleum as a source of supply for export. The Department is, therefore, issuing this rule in final form, removing these commodities from Group Q and from Supplement No. 3.

**EFFECTIVE DATE:** May 9, 1985.

**FOR FURTHER INFORMATION CONTACT:** John A. Richards, Director, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, DC 20230 (Telephone: 202/377-4506).

**SUPPLEMENTARY INFORMATION:**

**Rulemaking Requirements**

(1) The Department has determined that this final rule relieves a restriction, and therefore, pursuant to section 553(d)(1) of the Administrative Procedure Act, it is effective immediately upon publication.

(2) Because this rule is not likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets, it is not a major rule within the meaning of section 1 of Executive Order 12291. Therefore, a final Regulatory Impact Analysis will not be prepared.

(3) The General Counsel of the Department has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because it removes administrative burdens rather than imposes them. As a result, no Regulatory Flexibility Analysis was prepared.

(4) This rule reduces a burden under the Paperwork Reduction Act by eliminating the need for a validated license and a required affidavit. The information collection activities

associated with this rule have been cleared under OMB control Nos. 0625-0001 and 0625-0104.

**List of Subjects in 15 CFR Part 377**

**Exports.**

Issued: April 17, 1985.

**John A. Richards,**  
Director, Office of Industrial Resource Administration.

Accordingly, Part 377 of the Export Administration Regulations is amended as follows:

**PART 377—[AMENDED].**

1. The authority citation for Part 377 is revised to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, as amended (50 U.S.C. 1702, 1704); E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985); sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 6212); E.O. 11912 of April 13, 1976 (41 FR 15825, as amended); sec. 201(10), Pub. L. 94-258 amending 10 U.S.C. 7430.

**Supplement No. 2—[Amended]**

2. Group Q in Supplement No. 2 to Part 377 is amended by removing the following entries:

Schedule B No.	Commodity description	Unit of quantity
<b>Group O</b>		
401.0110	Benzene	Gal.
401.0120	Toluene	Gal.
401.0132	Ortho-xylene	Gal.
401.0134	Para-xylene	Gal.
401.0139	Other xylene	Gal.
431.0210	Butadiene	Lb.
431.0220	Butylene	Lb.
431.0230	Ethylene	Lb.
431.0240	Isoprene	Lb.
431.0250	Propylene	Lb.
431.0260	Tetrapropylene	Lb.
431.0270	Linear alpha olefins (C-6 to C-30 range)	Lb.
431.0295	Acyclic organic compounds, n.s.p.f.	Lb.

**Supplement No. 3—[Amended]**

3. Supplement No. 3 to Part 377 is amended by removing the following entries:

Schedule B No.	Commodity description
401.0110	Benzene.
401.0120	Toluene.
401.0132	Ortho-xylene.
401.0134	Para-xylene.
401.0139	Other xylene.
431.0210	Butadiene.
431.0220	Butylene.
431.0230	Ethylene.
431.0240	Isoprene.

Schedule B No.	Commodity description
431.0250	Propylene.
431.0270	Linear alpha olefins (C-6 to C-30 range).
431.0295	Acyclic organic compounds, n.s.p.f.

[FR Doc. 85-11313 Filed 5-8-85; 8:45 am]  
BILLING CODE 3510-DT-M

**RAILROAD RETIREMENT BOARD**

**20 CFR Parts 260 and 320**

**Appeals Procedure Under the Railroad Retirement and Railroad Unemployment Insurance Acts**

**AGENCY:** Railroad Retirement Board.

**ACTION:** Final rule.

**SUMMARY:** The Railroad Retirement Board (Board) hereby amends §§ 260.9 and 320.39 of its regulations to make minor revisions in the procedures for filing appeals to the Board under the Railroad Retirement and Railroad Unemployment Insurance Acts. The amendments conform the procedures for appeals to the Board under the two Acts by shortening the appeal period applicable to Railroad Unemployment Insurance Act appeals from the current 90 days to 60 days and by adding language to the regulations under both Acts to permit the Board to waive compliance with the requirement to file within the appeals period where the appellant requests an extension based on a showing of good cause for failure to make a timely filing.

**EFFECTIVE DATE:** May 9, 1984.

**FOR FURTHER INFORMATION CONTACT:** Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935 (FTS 387-4935).

**SUPPLEMENTARY INFORMATION:** The Board published this rule as a proposed rule on March 12, 1985, and requested public comment (50 FR 9810-9811). No comments were received by the Board on the proposed rule.

The Board's regulations governing appeals from decisions issued by the Board's Bureau of Hearings and Appeals (20 CFR 260.9 and 320.39), previously provided that appeals to the Board under the Railroad Retirement Act be filed within 60 days after notice of the decision by the Bureau of Hearings and Appeals, whereas appeals from such decisions under the Railroad Unemployment Insurance Act were required to be filed within 90 days.

There was no particular reason for this difference and it caused confusion concerning the filing of appeals. Accordingly, the Board is amending its regulations to conform the time periods under the two Acts. The new 60-day time period for appeals to the Board from decisions under the Railroad Unemployment Insurance Act shall apply with respect to decisions issued by the Bureau of Hearings and Appeals on and after the date of publication of this final rule.

In addition, where an appellant has been unavoidably prevented for good cause from filing an appeal within the allowable time period, the amendments provide a mechanism whereby the appellant may request an extension of time to file.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Sections 260.9(c) and 320.39 contain reporting requirements that are subject to OMB review under the Paperwork Reduction Act of 1980. In accordance with section 3504(h) of that Act, the board will submit these reporting requirements to OMB for review.

**List of Subjects**

*20 CFR Part 260*

Railroad employees, Railroad retirement, Railroads.

*20 CFR Part 320*

Railroad employees, Railroad unemployment insurance, Railroads.

**PART 260—[AMENDED]**

Title 20 CFR Chapter II, is amended as follows:

1. The authority citation for 20 CFR Part 260 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5).

2. Section 260.9(c) of the Board's regulations is revised to read as follows:

**§ 260.9 Final appeal for a decision of the referee.**

(c) *Timely filing.* The right to further review of a decision of a referee shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in § 260.9(b). However, when a claimant fails to file an appeal before the Board within the time prescribed in this section, the Board may waive this requirement if, along with the final appeal form, the appellant in writing requests an extension of time. The request for an extension of time must

**APPENDIX E:**  
**Allowing Exports of Linear Alpha Olefins**

Sacramento, CA, and Reno, NV, and establish a segment between Los Angeles, CA, and Reno, NV. Efficiency is improved through the codification of a route that is presently being requested routinely by pilots. Also, a reduction of air traffic controllers' workload is realized by eliminating the need for radar vectoring and route monitoring procedures along the route. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

#### List of Subjects in 14 CFR Part 75

Aviation safety, jet routes.

#### The Proposed Amendment

#### PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

#### § 75.100 [Amended]

#### J-7 [Amended]

By deleting the words "Oakland, CA, via Sacramento, CA;" and substituting the words "Los Angeles, CA, via INT Los Angeles 319°T(304°M) and Avenal, CA, 145°T(129°M) radials; INT Avenal 145°T(129°M) and Friant, CA, 181°T(164°M) radials; Friant;" (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 103(g) [Revised, Pub. L. 97-449, January 12, 1983]); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, DC., on June 22, 1984.

John W. Bauer,  
Acting Manager, Airspace—Rules and  
Aeronautical Information Division.

[FR Doc. 84-17329 Filed 6-23-84; 8:45 am]  
BILLING CODE 4910-13-M

## DEPARTMENT OF COMMERCE

### 15 CFR Part 377

[Docket No. 40677-4077]

#### Request for Public Comment of Lifting the Short Supply Validated Licensing Requirement for Exports of Linear Alpha Olefins and Other Products Without a Likely Energy End Use

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Department of Commerce.

ACTION: Advanced notice of proposed rulemaking and request for public comment.

SUMMARY: A number of exporters have requested that the Department of Commerce consider the removal of linear alpha olefins as a product subject to short supply licensing controls (15 CFR 377.6). Such commodities are included in Group N of Supplement No. 2 to Part 377 of the Export Administration Regulations and are included within an outdated Schedule B Number (431.0280). In 1982 the Census Bureau assigned a new number to linear alpha olefins (431.0270).

Linear alpha olefins do not have a likely end-use as an energy source. At present, linear alpha olefins require validated export licenses as refined petroleum products under Group N. If these products are removed from Group N, validated licensing requirements would be eliminated. Accordingly, the Department is soliciting comments from the public as to whether these commodities and comparable commodities in Group N without a likely energy end-use should continue to be included in the list of refined petroleum products subject to licensing. DATE: Comments must be received by July 13, 1984.

ADDRESS: Comments may be mailed to: Department of Commerce, Resource Assessment Division, PO Box 663, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: John Richards, Director, Office of Industrial Resource Administration, International Trade Administration (Telephone: 202/377-4508).

SUPPLEMENTARY INFORMATION: After receiving public comments the International Trade Administration will make a decision regarding this matter and issue an appropriate notice in the Federal Register. The period for submission of comments will close two weeks from the publication of this notice. All comments received before the close of the comment period will be

considered by the Department. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured.

Public comments will become a matter of public record, and will be available for public inspection and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning this Notice will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3931.

Authority: Secs 233, 235, Pub. L. 95-223, as amended (59 U.S.C. 1702, 1704); E.O. 12170 of March 30, 1984 (49 FR 13599, April 3, 1984); Sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 6312); E.O. 11912 of April 13, 1976 (41 FR 15925, as amended); Section 231 (10), Pub. L. 94-273 amending 10 U.S.C. 7439.

Dated: June 25, 1984.

John A. Richards,  
Director, Office of Industrial Resource  
Administration.

[FR Doc. 84-17319 Filed 6-23-84; 8:45 am]  
BILLING CODE 34510-07-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-21079; S7-24-34]

#### Two-Tier Tender Offer Pricing and Non-Tender Offer Purchase Programs—Advance Notice of Possible Commission Actions

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comment.

SUMMARY: The Commission is studying two-tier pricing in tender offers and non-tender offer purchase programs. This review has evolved from recommendations proposed to the Commission by its Advisory Committee on Tender Offers. The Commission is requesting public comment on these

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Control zone, Aviation safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

#### Portland, Oregon—[Amended]

By deleting the words, " \* \* and within 3 miles each side of the 119° and 299° bearing from the "LAKER LOM" and replacing with the words, " \* \* and within 2 miles north and 3 miles south of the 299° bearing from the LAKER LOM (lat. 45° 32' 29" N., long. 122° 27' 40" W) extending from the 5-mile radius to the LOM, excluding the portion within the Troutdale, Oregon, Control Zone when it is effective."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Seattle, Washington, on December 18, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-324 Filed 1-4-85; 8:45 am]

BILLING CODE 4910-13-M

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[Docket No. 41266-4166]

#### 15 CFR Part 377

#### Removal of the Short Supply Validated Licensing Requirement on Exports of Linear Alpha Olefins and Other Acyclic Organic Compounds

**AGENCY:** Office of Industrial Resource Administration, International Trade Administration, Department of Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The International Trade Administration, having solicited and reviewed public comments and consulted with other agencies of the Government, has decided to remove linear alpha olefins and other acyclic organic compounds from the list of refined petroleum products subject to validated licensing for export. This rule implements the decision. As a result, these commodities may now be exported under general license G-NNR, unless they are derived from petroleum produced from a Naval Petroleum Reserve. (In a related issuance

published today, ITA is soliciting comment on a proposal to revise the list of commodities currently subject to Naval Petroleum Reserves Production Act requirements.)

**DATES:** This rule is effective January 7, 1985. Comments must be received by February 6, 1985.

**FOR FURTHER INFORMATION CONTACT:** John Richards, Director, Office of Industrial Resource Administration, International Trade Administration (Telephone: 202/377-4506).

**SUPPLEMENTARY INFORMATION:** On June 29, 1984, (49 FR 26751) an advanced notice of proposed rulemaking was published in the *Federal Register* requesting public comment on the removal of the validated licensing requirement for linear alpha olefins and other similar commodities. Fourteen comments were received from the public. All comments supported the removal of the validated licensing requirement of linear alpha olefins. Six of the commenters wrote in support of the removal of the validated licensing requirement on comparable commodities, known collectively as acyclic organic compounds. Most commenters confirmed that linear alpha olefins and comparable commodities do not have likely energy end-uses. They recommend that the validated licensing requirement be lifted.

The International Trade Administration, in consultation with other U.S. agencies, has determined that commodities that are not likely to be used as an energy source should be removed from the list of refined petroleum products that require a validated license for export. As a result, linear alpha olefins and comparable commodities described as acyclic organic compounds are shifted from Commodity Group N to Group Q set out in Supplement No. 2 to Part 377. These commodities are added to the list of hydrocarbons already a part of Group Q. Commodities in Group Q may be exported under General License G-NNR, unless they are derived from petroleum produced from a Naval Petroleum Reserve.

As of the effective date the licensing requirement for these commodities is removed. However, this change does not affect any enforcement actions involving violations of the licensing requirement that may have occurred while it was in effect.

This rule is issued as an interim final rule, but comments will be considered in developing final regulations. It has been determined that a general notice of proposed rulemaking, as set out in Section 553 of the Administrative

Procedure Act (5 U.S.C. 553), is unnecessary because the public has had an opportunity to provide comments on this action in response to the advanced notice of proposed rulemaking, and those comments all favor removal of one or more validated licensing requirements. It has also been determined that the requirement of 5 U.S.C. 553(d) for a 30 day delay in effective date is inapplicable to this action because it relieves a restriction (5 U.S.C. 553(d)(1)). In view of the finding that notice and comment are unnecessary, the Regulatory Flexibility Act does not apply (5 U.S.C. 603).

The period for submission of comments will close on February 6, 1985. All comments received before the close of the comment period will be considered by the Department. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured.

All public comments will become a matter of public record, and will be available for public inspection and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning this rule will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

It has been determined that this action will have no significant impact on the human environment.

ITA has determined that this regulation is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises

in domestic or export markets. Therefore, a Regulatory Impact Analysis will not be prepared.

This rule reduces a burden under the Paperwork Reduction Act by eliminating the need for a validated license. The record keeping requirement associated with this rule has been cleared under OMB control no. 0625-0104.

**List of Subjects in 15 CFR Part 377**

**Exports.**  
Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

**PART 377—[AMENDED]**

1. In Supplement No. 2 to Part 377, Group N is revised to read as follows:  
Supplement No. 2 to Part 377 Petroleum and Petroleum Products Subject to Short Supply Licensing Controls

\* \* \* \* \*

<i>Group N</i>		
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475.3500.....	Naphthas, but excluding specially naphthas which are packaged and shipped in drums or containers not exceeding 55 U.S. gallons per container and which will be exported in such drums or containers.	Bbl.
475.6781.....		

\* \* \* \* \*

2. In Supplement No. 2 to Part 377, Group Q is amended by revising the entry—

431.0290.....	Acetylene.....	Lb.
to read—		
431.0295.....	Acyclic organic compounds, n.s.p.f..	Lb.

by revising the entry—

431.0290.....	High purity hydrocarbons, and blends of hydrocarbons used for engine calibration, fuel certification and other laboratory applications in quantities of 10,000 gallons or less	
475.2520.....		
475.2560.....		
to read—		
475.2520.....	High purity hydrocarbons, and blends of hydrocarbons used for engine calibration, fuel certification and other laboratory applications in quantities of 10,000 gallons or less	
475.2560.....		

and by inserting an entry reading—

431.0270.....	Linear alpha olefins (C-6 to C-30 range).	Lb.
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after the entry reading—		
431.0260.....	Tetrapropylene.....	Lb.

3. Supplement No. 3 to Part 377 is amended by revising the entry—

431.0290.....	Acetylene, and other hydrocarbons, n.s.p.f.	
to read—		
431.0295.....	Acyclic organic compounds, n.s.p.f. and by inserting	
the entry—		
431.0270.....	Linear alpha olefins (C-6 to C-30 range)	
after the entry reading—		
431.0250.....	Propylene	

**Authority:** Secs. 203, 206, Pub. L. 95-223, as amended (50 U.S.C. 1702, 1704); E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Sec. 103, Pub. L. 94-163 as amended (42 U.S.C. 8212); E.O. 11912 of April 13, 1978 (41 FR 15825, as amended); Section 201(10), Pub. L. 94-258 amending 10 U.S.C. 7430.

Dated: January 2, 1985.  
**John A. Richards,**  
*Director, Office of Industrial Resource Administration.*  
[FR Doc. 85-330 Filed 1-4-85; 8:45 am]  
**BILLING CODE 3510-DT-M**

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**  
[Release No. 34-21583; File No. S7-787]

**Designation of National Market System Securities**

**AGENCY:** Securities and Exchange Commission.  
**ACTION:** Adoption of final rule amendments.

**SUMMARY:** In response to a petition from the NASD, the Commission is adopting amendments to its rule governing the designation of securities qualified for trading in a national market system. These amendments substantially increase the number of securities that are eligible for designation as National Market System Securities.

**EFFECTIVE DATE:** January 22, 1985.  
**FOR FURTHER INFORMATION CONTACT:** Andrew E. Feldman, Esq., (202) 272-2388, Room 5190, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:**

**I. Summary**

The Securities and Exchange Commission ("Commission") today is

adopting amendments to Rule 11Aa2-1 ("Rule")<sup>1</sup> under the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> which establishes procedures by which certain securities are designated as qualified for trading in the National Market System ("NMS Securities"). There are currently 1104 NMS Securities. The principal effects of NMS designation at this time are that designated OTC securities are subject to last sale reporting and firm quote requirements. Six months ago, the Commission proposed amendments to the Rule in response to a petition by the National Association of Securities Dealers, Inc. ("NASD"), and solicited comment thereon. Those amendments would have expanded the Rule's qualification standards, and increased the number of over-the-counter ("OTC") securities eligible for NMS designation.

In the proposal release, the Commission noted that its monitoring of trading in NMS Securities has shown that last-sale reporting had benefited the markets for those securities. The Commission also stated that it preliminarily believed that a substantial expansion of the NMS criteria may be appropriate. The Commission today adopts the amendments proposed by the NASD. These amendments make a total of approximately 2500 OTC securities eligible for NMS designation.

**II. Background**

Section 11A(a)(2) of the Act directs the Commission "to facilitate the establishment of a national market system," and empowers the Commission to designate by rule "the securities or classes of securities qualified for trading in the national market system."

On February 17, 1981, the Commission adopted the Rule to provide criteria and procedures by which certain securities traded exclusively in the OTC market were to be designated as NMS Securities.<sup>3</sup> The Rule employs a two-tiered approach for NMS designation.<sup>4</sup>

<sup>1</sup> 17 CFR 240.11Aa2-1 See Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992 ("Rule 11Aa2-1 Adoption Release").

<sup>2</sup> 15 U.S.C. 78a et seq., as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. 94-29 (June 4, 1975), 89 Stat. 97 [1975], U.S. Code Cong. & Ad. News 97.

<sup>3</sup> For a more extensive discussion of the background of Rule 11Aa2-1, see Securities Exchange Act Release No. 15928 (June 15, 1979), 44 FR 38912, 28912-14 ("Rule 11Aa2-1 Proposal Release").

<sup>4</sup> Only OTC securities for which quotation information is disseminated in the NASD's electronic interdealer quotation system ("NASDAQ") are eligible for designation. The Rule, moreover, provides for the removal of the NMS designation "[i]f such security becomes listed and

Continued

**APPENDIX F:  
Exporting Residual Fuel from California**

[3128-01]

## Title 10—Energy

CHAPTER II—FEDERAL ENERGY  
ADMINISTRATION<sup>1</sup>PART 211—MANDATORY PETRO-  
LEUM ALLOCATION REGULATIONSPART 212—MANDATORY  
PETROLEUM PRICE REGULATIONSFurther Amendments to Entitlements  
Program for Crude Oil Produced in  
California

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts three modifications to its December 8, 1977 amendments to the domestic crude oil entitlements program as that program relates to crude oil produced in California. First, California upper tier crude oil, as well as lower tier crude oil, receives certain additional entitlements benefits. Second, the benefits are no longer a uniform amount for all crude oil below a certain (26°) gravity threshold. Instead, they are graduated, with the adjustment being relatively less for higher gravity crude oils and relatively more for lower gravity crude oils. Finally, the burden of offsetting entitlement cost increases is not limited to imported and Alaska North Slope crude oil run in California refineries, but is spread nationwide among all participants in the entitlements program. The purpose of these amendments is to better equalize the after-entitlements costs to refiners of controlled and uncontrolled crude oil in California, and in this fashion to provide greater incentives for refiners to purchase price-controlled California crude oil at prices that will enhance the potential for maximum domestic crude oil production.

**DATES:** The amendments adopted hereby are effective for crude oil receipts (for refiners purchasing California crude oil) and crude oil runs to stills commencing on June 1, 1978, and will be reflected in entitlement notices commencing with the August 1978 notice. Comments on the proposed revised Form ERA-49 appended to this notice are due by July 17, 1978, 4:30 p.m.

**ADDRESS:** Send comments to: Department of Energy, Public Hearing

<sup>1</sup>Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

Management, Room 2313, Box UG, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION  
CONTACT:

Deanna Williams (DOE Reading Room), Department of Energy, Room 2107, Washington, D.C. 20461, 202-566-9161.

Frank Kelly (Media Relations), Economic Regulatory Administration, 2000 M Street NW., Room 6308E, Washington, D.C. 20461, 202-254-8690.

Edwin Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310, Washington, D.C. 20461, 202-254-7200.

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, NW., Room 6128I, Washington, D.C. 20461, 202-254-8660.

Michael Paige (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 5136, Washington, D.C. 20461, 202-566-9565.

## SUPPLEMENTARY INFORMATION:

## I. Background.

## II. Amendments adopted.

## A. In General.

B. Graduated Entitlement Obligation Reductions for Lower Tier and Upper Tier California Crude Oil.

1. Adjustments for Upper Tier Crude Oil.

2. Basis for Selection of Graduated Adjustments

3. Entitlements Reporting.

4. Crude Oil Subject to Adjustments.

C. Spreading of Offsetting Entitlements Costs on a Nationwide Basis.\*

D. Effective Date of Amendments.

## III. Additional matters.

A. Sales of Residual Fuel Oil Outside the West Coast.

B. Sales of California Crude Oil Outside California.

C. Increased Fees and Quotas for Imports into PADD V.

D. Release of Lower Tier Heavy California Crude Oil Production to Upper Tier Status.

## I. BACKGROUND

On December 8, 1977, we promulgated certain amendments to the crude oil entitlements program to reduce the entitlements obligations of refiners purchasing low-gravity lower tier crude oil produced in California (42 FR 62897, December 14, 1977). The purpose of these amendments was generally to remove the apparent disincentive that the entitlements program was creating for refiners to purchase heavy lower tier California crude oil at prices that would encourage maximum levels of production.

Specifically, we reduced entitlements obligations of refiners purchas-

ing lower tier California crude oil of 25.9° API gravity or less by \$1.74 per barrel. This adjustment was based upon our assessment that, for a representative low-gravity lower tier California crude oil (20° Huntington Beach crude oil), this amount constituted the effective entitlement "penalty," i.e., the amount by which the effective after-entitlement acquisition cost to refiners of such lower tier crude oil exceeded the after-entitlement acquisition cost in the same region of uncontrolled domestic crude oil in the same gravity category. The adjustment was intended generally to remove the apparent depressing effects of our entitlements regulations on the prices paid for this category of our domestic production. It was intended that, by thus lowering the after-entitlements acquisition costs of this crude oil, the pre-entitlements purchase price of such crude oil would rise to more normal levels and so encourage continued production that otherwise was threatened to be shut in.

The adjustments thus accomplished were offset in the entitlements program by imposing increased entitlements burdens upon imported and Alaska North Slope (ANS) crude oil run in California refineries.

However, in the December 8 notice we recognized the need to monitor and further review developments in the California crude oil market, and we undertook to hold further hearings on these matters in the first quarter of calendar year 1978. In addition, we received information indicating that, while some postings for California crude oil increased in response to the amendments, in general prices for California crude oil remained depressed and substantial volumes of crude production continued to be threatened with imminent shut-in.

Accordingly, on February 22, 1978, we issued a further Notice of Proposed Rulemaking, in which we sought to assess the impact of our December 8 amendments and also to determine whether and what additional actions might be taken to resolve the California crude oil problem in a more comprehensive and final manner (43 FR 8150, February 28, 1978). We identified a wide variety of issues and possible actions upon which data and comments were sought, in an effort to obtain a basis for finally resolving a very complex problem. These issues and actions are discussed in the ensuing sections of this notice.

In response to the February notice, we received a total of 56 written comments. In addition, we held a public hearing pursuant to our notice in Huntington Beach, California, on March 30 and 31, 1978, at which a total of 41 persons made oral presentations. These comments and oral presentations have been fully considered in

reaching the decisions reflected in today's amendments, and will be discussed in the ensuing sections of this notice in connection with the matters to which they relate.

II. AMENDMENTS ADOPTED

A. *In General.* In general, the amendments adopted hereby provide that the entitlements obligations of refiners who in a given month receive (as evidenced by adjusted crude oil receipts) lower tier crude oil produced in California having a weighted average gravity of 18° shall be reduced by an amount equal to \$2.38 per barrel. For crude oil below 18° gravity, the adjustment will be \$2.38 plus \$.09 per barrel for each degree (or fraction thereof) that such weighted average gravity falls below 18°. Lower tier crude oil above 18° gravity will receive an adjustment of \$2.38 minus \$.09 per barrel for each degree above 18°. In addition, the entitlements obligations of refiners who in a given month receive upper tier crude oil produced in California having a weighted average gravity of 18.0 shall be reduced by an amount equal to \$1.45 per barrel plus \$.09 for each degree (or fraction thereof) that such weighted average gravity falls below 18°, and increased by \$.09 for each degree above 18°. This graduated system of calculating entitlement adjustments replaces in its entirety the system which was adopted in the December 8 notice and reflected in 10 CFR 211.67(a)(4) prior to today's amendments. New §211.67(a)(4) now reflects the graduated adjustments. These revised entitlements benefits will be effective for refiners' crude oil receipts in June 1978 and subsequent months.

In addition, the costs to the entitlements program resulting from the reduction of entitlements obligations to such refiners of California crude oil are being spread among all participants in the entitlements program. Thus, §211.67(a)(4) as adopted today contains no provision for a special imposition of compensating burdens upon any particular type of crude oil. Rather, the calculation of the "national domestic crude oil supply ratio" set forth in §211.62 is being amended to reflect the additional entitlements issued pursuant to new §211.67(a)(4).

The specifics of and bases for these and related conforming amendments are discussed below.

B. *Graduated entitlement obligation reductions for lower tier and upper tier California crude oil.* In response to the comments and data we have obtained in this proceeding, and based upon our analysis of the data contained in such comments and in recent public California crude oil postings, we have determined that a graduated system of "per degree" entitlement adjustments should be adopted in lieu of

the prior system of providing a uniform adjustment for crude oil falling below a single specified threshold. In this connection, we have determined that it is also necessary and appropriate to: (1) provide entitlement adjustments for upper tier California crude oil; and (2) extend the entitlement adjustments to lower tier California crude oil having a gravity of up to 44° API and to upper tier crude oil with a gravity of up to 35° API, rather than limiting the adjustment to crude oil of less than 26° API gravity.

Under the system adopted today, a refiner purchasing California crude oil will calculate the *weighted average gravity* of both upper tier California crude oil and lower tier California crude oil included in that refiner's adjusted crude oil receipts (as defined in §211.62) in the month in question. The refiner must separately report the number of barrels of such upper tier or lower tier crude oil and the weighted average gravity thereof in the entitlements report for that month.

The entitlements issued to a refiner reporting receipts of lower tier California crude oil will be increased by an amount equal to the number of barrels of lower tier California crude oil included in its adjusted receipts multiplied by a fraction, the numerator of which is \$2.38, plus or minus \$.09 times the number of degrees (counting any remaining fractional degree as a whole degree) that the weighted average gravity either falls below or exceeds, respectively, 18° API, and the denominator of which is the entitlement price for the month in which such additional entitlements are issued. The entitlements issued to a refiner reporting receipts of upper tier California crude oil will be increased by an amount equal to the number of barrels of upper tier California crude oil included in its adjusted receipts multiplied by a fraction, the numerator of which is \$1.45 plus or minus \$.09 for each degree (counting any remaining fractional degree as a whole degree) that the weighted average gravity either falls below or exceeds, respectively, 18° and the denominator of which is the entitlements price for the month in which such additional entitlements are issued. However, in no event will the dollar value of additional entitlements issued to a refiner for either upper tier or lower tier California crude oil exceed the amount of the entitlement obligation that attaches to such crude oil under the entitlements program.

Refiners are to measure the weighted average gravity of price-controlled California crude oil included in their receipts by multiplying the number of barrels of a particular pricing tier of California crude oil received in a particular sale by the gravity thereof, adding them to the results of calculat-

ing the gravity of every other receipt of the same pricing tier of California crude oil in the same month in the same fashion, and dividing that sum by the total number of barrels of that pricing tier of California crude oil received by the refiner in that particular month. This is done separately for both upper tier and lower tier crude oil produced in California and included in the refiner's receipts for the month in question.

The adjustments are illustrated in the following table:

Weighted average gravity of upper tier/lower tier California crude oil in refiner's monthly receipts (°API)	Lower tier per barrel adjustment	Upper tier per barrel adjustment
45.0 and above.....	0	0
44.0 to 44.9.....	\$0.04	0
43.0 to 43.9.....	.13	0
42.0 to 42.9.....	.22	0
41.0 to 41.9.....	.31	0
40.0 to 40.9.....	.40	0
39.0 to 39.9.....	.49	0
38.0 to 38.9.....	.58	0
37.0 to 37.9.....	.67	0
36.0 to 36.9.....	.76	0
35.0 to 35.9.....	.85	0
34.0 to 34.9.....	.94	\$0.01
33.0 to 33.9.....	1.03	.10
32.0 to 32.9.....	1.12	.19
31.0 to 31.9.....	1.21	.28
30.0 to 30.9.....	1.30	.37
29.0 to 29.9.....	1.39	.46
28.0 to 28.9.....	1.48	.55
27.0 to 27.9.....	1.57	.64
26.0 to 26.9.....	1.66	.73
25.0 to 25.9.....	1.75	.82
24.0 to 24.9.....	1.84	.91
23.0 to 23.9.....	1.93	1.00
22.0 to 22.9.....	2.02	1.09
21.0 to 21.9.....	2.11	1.18
20.0 to 20.9.....	2.20	1.27
19.0 to 19.9.....	2.29	1.36
18.0 to 18.9.....	2.38	1.45
17.0 to 17.9.....	2.47	1.54
16.0 to 16.9.....	2.56	1.63
15.0 to 15.9.....	2.65	1.72
14.0 to 14.9.....	2.74	1.81
13.0 to 13.9.....	2.83	1.90
12.0 to 12.9.....	2.92	1.99
11.0 to 11.9.....	3.01	2.08
10.0 to 10.9.....	3.10	2.17
9.0 to 9.9.....	3.19	2.26
8.0 to 8.9.....	3.28	2.35
7.0 to 7.9.....	3.37	2.44
6.0 to 6.9.....	3.46	2.53

As discussed below, we believe that these measures should remove any disincentives the entitlements program may be creating for the purchase of heavy controlled California crude oil, whether upper tier or lower tier.

1. *Adjustments for upper tier crude oil.* In our February notice, we indicated that we had received information that the entitlements program may be a cause of depressed California upper tier prices as well as for California lower tier prices, and we requested comments upon whether entitlements relief similar to that provided for lower tier crude oil should be provided to upper tier crude oil as well. We also requested comments upon what the amount of any such adjustment should be.

A substantial number of persons commented on this issue, most of

whom indicated that the entitlements program was indeed causing similar problems for upper tier crude oil as exist for lower crude oil, and that prompt remedial action should be taken. Several commenters indicated that the threat of shut-in production is as real and imminent with respect to certain upper tier production as has been true for lower tier production. There was evidence that some upper tier crude oil is now selling at several dollars below ceiling prices. A number of commenters also pointed out that our actions in December had decreased the value of upper tier crude oils relative to lower tier crude oils of the same gravity category.

Based upon the comments received and our analysis of the data available to us (discussed below), which indicate that the entitlement "penalty" for upper tier California crude oil is significant, we are persuaded that it is necessary to reduce entitlement obligations for upper tier California crude oil. We have concluded that we cannot fully resolve the difficulties for continued California crude oil production that appear to be caused by the entitlements program unless we also address the penalties on upper tier crude oil. While the reduction of penalties for lower tier crude oil is necessary in any event, such reduction if implemented alone would continue to have a depressing effect upon upper tier prices and production, because such upper tier production would become substantially less valuable to refiners in relation to lower tier production of the same gravity. In view of the evidence indicating that some upper tier production is already threatened with shut-in, this could create a substantial disincentive for the continued production of upper tier crude oil.

2. *Basis for selection of graduated adjustments.* In adopting the adjustments set forth herein, our methodology was to utilize the particular price and cost data submitted by commenters, plus a variety of public postings, for California production from the eight largest fields that have current postings and sales at each of the pricing tiers (upper tier, lower tier, and stripper). Those eight fields are: Wilmington, Midway Sunset, Kern River, Huntington Beach, San Ardo, South Belridge, Ventura, and McKittrick. Together, they represent 50.5 percent of daily California crude oil production (including adjacent federal offshore properties) in October 1977 and 47.7 percent of the year-end 1976 reserves in the State of California and adjacent federal offshore properties. These fields represent a spectrum of gravity of from 8° to 36°.

In order to establish a baseline from which adjustments would be measured, we took postings for uncontrolled (stripper well) crude oil pro-

duced from these fields, plus price data for imported crude oil in California (where available on a volumetrically significant basis), and calculated the average after-entitlements acquisition costs of such uncontrolled crude oils and correlated these costs at each different degree of gravity represented in the sample. We did the same for both upper tier and lower tier crude oil in the eight fields comprising the sample. We then plotted the after-entitlements cost differentials between lower tier and uncontrolled crude oil and between upper tier and uncontrolled crude oil at the pertinent gravity points. We found that the progression of these differentials for both lower tier and upper tier production was essentially linear—that is, although not all degrees of gravity were represented in the sample, there appeared to be a relatively constant rate of change in the differentials for crude oil in each of the price-controlled tiers from one degree of gravity to the next. We also concluded that it would be reasonable to extrapolate beyond the 36° high point represented in the sample to 44°, the point at which a divergence is no longer apparent.

Using this methodology, we were able to determine that the divergence at 18°, the estimated median gravity of California crude oil, between after-entitlements costs of *upper* tier and the average of uncontrolled crudes is \$1.45, and increases or decreases by approximately \$.09 per degree below or above that point, respectively. Comparing costs of *lower* tier and the average of uncontrolled crudes, we found that a divergence occurs at 18° of \$1.45 per barrel and also increases or decreases by approximately \$.09 per degree below and above that point, respectively.

Based upon this analysis, we decided that we should adopt the "per degree" adjustments described above rather than gross adjustments based upon broader ranges of gravity. We have concluded that this method is preferable to an adjustment scheme with increments of 5 degrees or more which was discussed as an alternative in the February 22 notice, because it will avoid the creation of any artificial regulatory inducements to alter supply mixes simply in order to move over a major threshold into higher adjustment categories. It should also avoid any significant depression in the value of controlled California crudes above any adjustment threshold simply as a result of large gravity adjustments below that threshold.

Most commenters on this issue advocated a system which would both account for the existence of entitlements penalties at gravities above the December 8 rule's 26° cutoff and would also reflect the higher penalties experienced by producers of very low grav-

ity crude oil. Some producers selling crudes above 25.9° indicated that one effect of granting the single quantum adjustment for all lower tier crudes below the 26° threshold in the December 8 rule was to cause a severe depression of the value of crudes just above the threshold, because crudes slightly below the threshold received a large relative benefit that their crude oil did not obtain, although the difference in quality between the two crudes was not that great. Adoption of a graduated "per degree" adjustment should prevent this result.

A majority of commenters recommended against the adoption of a sulphur content entitlement adjustment, indicating that appropriate gravity adjustments would in and of themselves tend to account for any such variations. Based on the comments and testimony received, we have concluded that a sulphur content adjustment in addition to a gravity adjustment is not required, because sulphur content is not a significant independent factor in the pricing of California crude oil. In addition, in view of the paucity of information indicating the extent to which sulphur is taken into account in current postings, to attempt to incorporate a sulphur differential would introduce unnecessary complexity. Thus, we are not adopting entitlements adjustments based upon sulphur content.

3. *Entitlements reporting.* As indicated previously, refiners are to report the weighted average gravity of all upper tier California crude oil and (separately) the weighted average gravity of all lower tier California crude oil included in their adjusted crude oil receipts in the month for which they are reporting crude oil runs to stills. Attached to this notice as an Appendix is a proposed revision to the entitlements reporting form (Form ERA-49), including draft instructions, that will facilitate the reporting of such information. You may submit comments on this proposed revision to the address indicated in the "Addresses" section of this notice on or before July 17, 1978.

Should a revised form not be available in time for reporting of crude oil runs and receipts for the month of June 1978, refiners should nevertheless clearly and affirmatively set forth the required data on the form actually used, and specifically certify such data, in order to receive the additional entitlements credits provided in today's amendments.

In order to permit refiners to calculate their weighted average gravity for lower and upper tier California crude oil and to certify the same in entitlements reports, we have also amended the provisions of 10 CFR 212.131 to require first sellers and resellers of such crude oil to separately certify to their

purchasers the gravity (weighted average, if commingled) of such crude oil sold to that purchaser.

**4. Crude oil subject to adjustments.** It was called to our attention in this proceeding that there is crude oil production occurring outside the territorial limits of the State of California which ought to be provided the same adjustments as have been provided to production occurring within the State of California, viz. production from federal leases on the Outer Continental Shelf (OCS) off the coast of California. This crude oil is produced from the same geological producing basins as that produced in California, is generally of the same quality as that produced in California, and is transported to California after production and must compete in the same crude oil markets as crude oil produced in California. If the adjustments adopted today were given only to production occurring within the State of California proper, this OCS crude oil could suffer an unwarranted competitive detriment relative to California production.

Accordingly, we have determined that crude oil production eligible for the adjustments adopted today should include such OCS production. Thus, the definitions of California upper tier crude oil and California lower tier crude oil in § 211.62, which are subject to the adjustments of § 211.67(a)(4), include crude oil produced from the OCS offshore California.

Some producers of crude oil in the State of Nevada also requested inclusion in the entitlements relief provided in the rule adopted today. The principal basis offered for such inclusion was that some of the products refined from such crude oil compete in the California area market. Upon examination of the underlying facts, we have determined that it would be inappropriate to include Nevada production within the scope of the amendments adopted today, inasmuch as all such production is transported to and refined in Utah and Wyoming, and is subject only tangentially, if at all, to the unusual market conditions that affect California crude oil production. Some of the Nevada production in question has received exception relief that has increased its effective well-head price. To the extent Nevada well-head prices remain below those of similar grades of crude oil elsewhere in the country, this can be attributed primarily to the high costs of transporting such oil, largely by truck, to the points where it is refined.

**C. Spreading of offsetting entitlements costs on a nationwide basis.** In our February notice, we specifically solicited comments upon the possibility of distributing the burden of the California crude oil entitlement adjustments on a nationwide basis, or on

other alternative bases, rather than limiting the burden to imported and ANS crude oil runs in California refineries. A substantial majority of the comments received in this proceeding supported the proposal to distribute the costs associated with the entitlement adjustments for California crude oil on a nationwide basis, rather than limiting them to ANS and imported crude oils processed in California refineries, as the regulations provided prior to their amendment today. A number of comments indicated that the December 8 rule limiting the offsetting burden to ANS and imported crude oils processed in California refineries has had serious adverse effects, especially on small and independent California refiners. Evidence was adduced that some of those California refiners that are dependent in the short run upon ANS or imported crude oils for their feedstocks because of such factors as location, refinery configuration, and historic sources of supply, are being unduly penalized and placed at a significant competitive disadvantage vis-a-vis other refiners under the current system of distributing the cost of the entitlement adjustments for California crude oil. There is also evidence that, rather than providing an incentive for such firms to make the refinery conversions necessary to process California crude oils, the current operation of the penalty on ANS and imported crudes in some cases has had the opposite effect because of a weakened competitive and/or cash flow position attributable to the penalty. Finally, many commenters indicated that a partial reason that postings had not increased in response to our December 8 rule-making as much as had been expected was the fact that refiners with mixed-source feedstocks had no particular short-term incentive to pass on the benefits, since their net cash position after accounting for the penalty was the same as or worse than before the amendments and since their ability to convert to California feedstocks was limited in the short term. They argued that relieving them of the special penalty would enhance their cash flow, facilitate refinery retrofit operations to process California crude oil, and provide a net cash benefit would then be passed on to the producers.

A number of commenters also argued that spreading the costs of the adjustments across the entire entitlements program on a nationwide basis would be consistent with the manner in which costs associated with special entitlement benefits confined to limited geographical areas have in the past been distributed.

The two alternative proposals for distributing the burden of the entitlement adjustments set forth in the February 22 Notice—distributing the

burden to all crude runs in California refineries or exempting small and independent refiners from the existing burden—received little support among the commenters. We have concluded that limiting the burden to California refineries in any fashion would tend to perpetuate the apparent counter-productive effects of the manner in which the offsetting burdens were distributed under our December 8 rule. Because it is our purpose in promulgating these amendments to decisively and effectively remove disproportionate entitlements penalties from California crude oil, we have determined not to limit the offsetting burdens to California refineries.

Some commenters contended that the offsetting burdens should be retained in California, on the theory that the region that benefits should also absorb the burden and on the premise that localizing the burdens will at least provide some long-term incentives to retrofit refineries to process heavy California crudes. However, we have determined, on review of the submissions, that the foregoing considerations militating against localizing the burdens outweigh the factors in favor of such localization. We note that the burden on any given refiner under the provisions adopted today (about \$.06 per barrel) would be substantially smaller than they would be on California refiners if the burdens were limited to the much smaller base of imported and ANS crudes run in California. The consequent hardships and potential economic and competitive distortions are thus substantially less under the amendments adopted today than they would be under the alternative of retaining the burdens in California.

Based on the submissions in this proceeding and the considerations discussed above, we have determined that the existing provision confining the costs of the entitlement adjustments for California crude oil to ANS and imported crude oils processed in California refineries is not having the intended effect of encouraging the purchase of California crude oil at prices that will provide sufficient incentives for continued production, while it unduly penalizes California refiners and consumers. Therefore, we are amending the regulations by deleting present § 211.67(a)(4)(ii) and adopting in its place a provision (a change to the definition of "national domestic crude oil supply ratio" in § 211.62) which applies the offsetting entitlement reduction among all participants in the entitlements program.

In light of these amendments, we are also deleting the special exchange provisions of § 211.67(g)(6). These special provisions are required only for those months with respect to which the offsetting entitlements burdens

were imposed only upon ANS and imported crude oil attributable to California refiners under the December 8 rule. Because the offsetting burdens are no longer so limited, the special exchange provisions are not required for receipts commencing in the month of June 1978. However, the provisions of § 211.67(g)(6) will, like the provisions of § 211.67(a)(4) prior to their amendment today, govern entitlements issuances for the months of January 1978 through May 1978.

**D. Effective date of amendments.** For the reasons discussed below, we have determined that the amendments adopted hereby should be effective for crude oil receipts and runs to stills commencing on June 1, 1978. In this connection, and to the extent that the Administrative Procedure Act might otherwise require that the effective date be suspended for crude oil receipts and runs occurring within a thirty-day period following issuance of this rule, we find that good cause exists for waiving the thirty-day waiting period and for making these rules effective June 1, 1978. If we do not act promptly to provide entitlements relief to upper tier production and to extend entitlements adjustments on a graduated basis to crude oil above 26°, there is a danger that some of this production may be shut in. However, we have also concluded, for the reasons stated below, that insufficient grounds exist for making these amendments generally retroactive to receipts and runs occurring in months prior to June 1978.

Several commenters urged that the amendments adopted, and particularly the spreading of burdens on a nationwide basis (if adopted), be made retroactive to January 1, 1978, the effective date of the December 8, 1977 amendments first establishing the entitlements adjustments and related burdens for heavy California crude oil. These commenters recited the fact that the December 8 amendments had caused serious economic and competitive distortions, and had unfairly penalized those refiners (and particularly small and independent refiners) that were primarily dependent upon imported and ANS crude oil feedstocks. Our review of the matters raised in this proceeding convinces us that our December 8 method of imposing the burdens has had such an effect, and that the need to rectify these hardships and inequities and competitive distortions is sufficiently urgent to warrant waiving the thirty-day waiting period ordinarily required by the Administrative Procedure Act.

While we should act expeditiously to prevent the incurrence of new obligations of this nature, and in this manner relieve the mounting pressures upon California refiners and producers, we are unable to conclude that

relief from obligations already incurred will be generally necessary or appropriate. In many cases entitlements transactions will already have been closed, and in cases where this is not yet true the relevant purchase transactions between producer and refiner will have been consummated. Providing retroactive relief would therefore necessitate additional future entitlements adjustments, and in many cases the retroactive benefits, which are ultimately intended to benefit California crude oil producers, might not be passed through to such producers. Under these circumstances, we have determined that such retroactive adjustments are not generally warranted. Any firm affected by the offsetting entitlement burden on imported or ANS oil to the point where it has incurred severe financial hardship may apply to the Office of Hearings and Appeals for such individual exception relief on a retroactive basis as may be appropriate.

By making these amendments effective June 1, 1978, we will not be substantially disturbing prior transactions. Because refiners report their runs and receipts for the entire month after the close of that month for entitlements purposes, refiner reports for all June runs and receipts should reflect knowledge of and the effects of these amendments. Similarly, any month-end settlements between producers and refiners will have the opportunity to reflect the effect of these amendments.

Accordingly, the amendments adopted today are effective for crude oil receipts and runs to stills commencing on June 1, 1978. The provisions as they existed prior to today's amendments will govern entitlements issuances with respect to adjusted runs and receipts occurring in the months of January 1978 through May 1978.

### III. ADDITIONAL MATTERS

**A. Sales of residual fuel oil outside the west coast.** In our February notice we requested comments concerning the possibility of taking certain actions to expand the market for the residual fuel oil that is commonly produced from heavy California crude oils, and in this fashion to make such California crude oils more attractive to refiners. Among the alternatives being considered was the removal of the current entitlement penalty which is imposed upon domestically produced residual fuel oil sold in the East Coast refining market. We are separately issuing a notice of proposed rulemaking dealing with the East Coast residual fuel oil issue generally, in which we have proposed to remove the current entitlement penalty on such domestic residual fuel oil. In addition, in that proceeding we are requesting comments as to the appropriateness

and implications of adopting further regulatory actions (e.g., additional entitlements benefits to offset higher transportation costs) to improve the competitive posture of West Coast refiners in the East Coast market and thus possibly further facilitate the movement of residual fuel oil from the West Coast to East Coast markets. In view of these developments, we have determined not to take any specific action concerning the direct application of the entitlements program to California residual fuel oil in this proceeding. In determining whether to adopt the proposal set forth in the general East Coast residual fuel oil rulemaking or to proceed with additional regulatory actions of the kind described, one consideration among others would be the impact upon the production of California crude oil.

However, we have concluded that permission to export California residual fuel oil on a temporary and case-by-case basis may be an effective and appropriate action to relieve some of the pressures on California crude oil production, at least in some cases, and to provide California refiners with increased flexibility to meet peak demands for gasoline and other light products in the coming months. We believe such exports would be consistent with the purposes of the Emergency Petroleum Allocation Act if the applicant for an export license can generally demonstrate that the export will provide the refiner with additional flexibility to increase its crude oil runs. We will, in conjunction with the Department of Commerce, formulate a general statement of policy which will set forth the general considerations and criteria under which such exports might be permitted. This policy will be applied on a case-by-case basis to determine whether a particular export transaction can and should be permitted under all of the facts and circumstances.

We were requested by several commenters to remove the current restriction in the entitlements regulations that in effect causes the refiner to lose the benefits of domestic price controls and of the entitlements program for that residual fuel oil which is exported. We have decided not to take such action, since it would effectively export the benefits of domestic price controls that are intended exclusively for the U.S. market. Moreover, such additional incentive does not appear to be necessary to stimulate the volumes of exports that will relieve any current oversupply situation.

**B. Sales of California crude oil outside California.** The February notice requested comments upon whether we should adopt a general policy of encouraging sales of California crude oil in markets other than California, including the possibility of exports, as a

way of opening up new markets sufficient to sustain California crude oil production, and if so by what means and under what conditions and circumstances.

The comments received in this proceeding were divided, and have impressed upon us the complexity of the problem and the number of competing considerations involved. Many commenters felt that the foreign market for such crude oil or products was not substantial, while others asserted that a liberalized export policy would aid substantially. On the other hand, there may be cases in which domestic crude oil refiners outside California would be willing to receive and process heavy California crude oil, if the operation of our general regulations could be modified to make such a transaction financially attractive to such refiners. Among the relevant economic factors would be the higher transportation costs to distant refineries, of which the general entitlements regulations do not take account.

Based upon all available information, we have concluded that it is necessary and appropriate to expand the market for California crude oil outside California. However, we have determined that it would be inappropriate to permit the export of California crude oil, inasmuch as such an action would be counter-productive to the long-term goal of developing domestic refinery capacity to process domestic crude oil production and of thus promoting domestic energy self-sufficiency. Instead, we have determined that it will be appropriate to provide case-by-case exception relief to those domestic refiners outside California who are generally willing to process California crude oil, where such relief is required in order to expand the domestic market for California crude oil, where the producers of such crude oil would be likely to shut in such production in the absence of such relief; and where the California crude oil would displace imported crude oil.

The DOE will establish a program to provide economic incentives for the transportation of California crude oil to refineries outside of California. These incentives will be provided in any specific case where it is shown that relief is necessary to offset high transportation and other costs and where there is a danger that continued production of the crude oil would be uneconomic. In making the latter determination the Department will give appropriate weight to whether the crude oil is currently selling below posted prices.

Therefore, the Office of Hearings and Appeals is today issuing a notice that it will hold a public hearing and receive comments on establishing criteria it would apply to provide exception relief to refiners outside the State

of California in order to carry out the above objectives. These criteria will allow the Office of Hearings and Appeals to process expeditiously applications filed by individual refiners.

**C. Increased fees and quotas for imports into PADD V.** In our February notice we incorporated and solicited comments upon a proposal advanced by the State of Alaska intended to relieve the pressures upon West Coast domestic production created by imports, by either imposing stringent quotas or imposing substantial increased import license fees upon crude oil imported into Petroleum Administration for Defense District (PADD) V. Under the Alaska proposal, refiners would receive a refund of or credit against the fee to the extent that they engage in refinery retrofit operations to create increased capacity to process heavy domestic crude oil. The general purpose would be to create disincentives for continuing the high level of imports into PADD V and positive incentives to expand heavy crude oil refining capacity.

A substantial majority of comments opposed this proposal. A number of commenters objected to the strictly regional impact of this proposal, and questioned the legality of imposing such a fee on other than a uniform nationwide basis. Also, commenters pointed out that such a system would have the same counter-productive effects as the December 8 rule had in allocating entitlements burdens to refiners running imported and ANS crudes, and would have an unfairly disproportionate impact and aggravate competitive imbalances among refiners having different crude feedstocks.

The DOE is continuing to study the Mandatory Oil Import Program, in order to determine whether recommendations should be made to the President concerning changes in the program. We will give further consideration to the desirability and feasibility of variations of the kind suggested by Alaska in connection with this review. However, in view of the complexity of this issue and the need to give it further analysis, we have determined to take no action on the Alaska proposal in this proceeding.

**D. Release of lower tier heavy California crude oil production to upper tier status.** The proposal put forward in our February notice to "release" a certain portion of lower tier heavy California production to upper tier status, and thus promote producers' ability to effectively realize their lower tier ceiling prices, received very little support from commenters. It appears that one of the reasons for this lack of support was that, as indicated previously, upper tier crude oil as well as lower tier crude oil is suffering from entitlement penalties, and that releasing lower tier crude oil to upper tier

status would therefore not be a realistic long-term solution to the overall problem. Of course, we have taken what we believe to be effective action to alleviate the upper tier problem as well in the amendments adopted today. However, in view of the lack of support for this alternative, and because we believe that the other actions taken today should serve substantially to relieve entitlements-induced pressures upon heavy California production, we have determined to take no action on this alternative.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91 E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective June 1, 1978.

Issued in Washington, D.C., June 15, 1978.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

1. Section 211.62 is amended by revising the definition of "California lower tier crude oil," by adding a definition of "California upper tier crude oil," and by revising the definition of "national domestic crude oil supply ratio" in appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

"California lower tier crude oil" means crude oil produced in California (or produced from federal lands off the shore of California) that is subject to the lower tier ceiling price rule set forth in § 212.73 of Part 212 of this chapter.

"California upper tier crude oil" means crude oil produced in California (or produced from federal lands off the shore of California) that is subject to the upper tier ceiling price rule set forth in § 212.74 of Part 212 of this chapter.

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate, adjusted crude oil receipts of all refiners, decreased by a number of barrels of old oil equal to the number

of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(4) and the number of entitlements issuable under § 211.67(a)(5), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and thirty percent (30%) of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

oil included in the crude oil receipts of that refiner, and the weighted average gravity (calculated as a single figure for the entire month) of such California lower tier crude oil included in such crude oil receipts.

(7) The estimated volume (to the best of the knowledge of the certifying officer) of California upper tier crude oil included in the crude oil receipts of that refiner, and the weighted average gravity (calculated as a single figure for the entire month) of such California upper tier crude oil included in such crude oil receipts.

(8) Such other information as the ERA may request.

2. Section 211.66 is amended by revising paragraph (h) to read as follows:

§ 211.66 Reporting requirements.

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of August 1978, each refiner shall file with the ERA a report certifying the following information as to the second month prior to the month in which the report is filed:

(1) The estimated volume (to the best of the knowledge of the certifying officer) of old oil included in the crude oil receipts of that refiner.

(2) The estimated volume (to the best of the knowledge of the certifying officer) of upper tier crude oil included in the crude oil receipts of that refiner.

(3) Any permitted or required adjustments to the estimated volumes of old and upper tier crude oil included in the crude oil receipts of that refiner.

(4) The volume of crude oil runs to stills of that refiner, taking into account, and specifying the amount of, the adjustments provided for in § 211.67(d).

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph shall be derived from the landed costs set forth in such reports.

(6) The estimated volume (to the best of the knowledge of the certifying officer) of California lower tier crude

3. Section 211.67 is amended by deleting paragraph (g)(6), and by revising paragraphs (a)(1) and (a)(4) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.* (1) For each month, commencing with the month of June 1978, each refiner shall be issued a number of entitlements by the ERA equal to the number of barrels of crude oil included in the total volume of that refiner's crude oil runs to stills for that month multiplied by the national domestic crude oil supply ratio for that month, subject to the entitlement adjustment for small refiners set forth in paragraph (e) of this section and the entitlement adjustments in subparagraph (a)(4) of this section.

(4) For each month, commencing with the month of June 1978, the number of entitlements issued under paragraph (a) (1) of this section to each refiner shall be increased by: (i) the number of barrels of California lower tier crude oil included in its adjusted crude oil receipts in that month multiplied by a fraction, the numerator of which is \$2.38 plus or minus \$.09 for each degree API gravity (or fraction thereof) by which the weighted average gravity of all California lower tier crude oil included in that refiner's adjusted crude oil receipts in that month either falls below or exceeds, respectively, 18 degrees API, and the denominator of which is the entitlement price for that month; and (ii) the number of barrels of California upper tier crude oil included in its adjusted crude oil receipts in that month multiplied by a fraction, the numerator of which is \$1.45 plus or minus \$.09 for each degree API gravity (or fraction thereof) by which the weight average gravity of all California upper tier crude oil included in that refiner's adjusted crude oil receipts in that month either falls below or exceeds, respectively, 18 degrees API, and the de-

nominator of which is the entitlement price for that month: *Provided*, That the dollar value of additional entitlements issued under this subparagraph (4) shall not exceed the dollar value of the obligation (as calculated under paragraph (b) of this section) for the crude oil with respect to which such additional entitlements are issued. The refiner shall calculate and report the weighted average gravity of California lower tier crude oil and California upper tier crude oil separately, and in calculating such weighted average gravities shall (A) determine the gravity of such crude oil for each receipt of such crude oil in that month on the basis of the gravity of such crude oil at the time it becomes a receipt, and (B) determine a single monthly weighted average gravity for such crude oil by weight averaging (on a volumetric basis) all of such individual receipts in that month.

4. Section 212.131 is amended by revising paragraphs (a)(2)(i), (a)(3)(i), and (b)(i) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a) \* \* \*

(2) *Non-stripper well properties.* (i) with respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—

(A) Lower tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline; and

(C) Crude oil transported through the trans-Alaska pipeline.

With respect to any property which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(2)(i) may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude

oil in 1975, and, if applicable either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76: *Provided, However,* That the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

\* \* \* \* \*

(3) *Unitized properties.* (1) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) Lower tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil

transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline, if any; and

(D) Imputed Stripper well crude oil, if any, determined pursuant to § 212.75(b).

With respect to any unitized property for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of this paragraph (a)(3)(i) may be complied with by a one-time written certification to the purchaser of—

(1) The monthly unit base production control level, determined pursuant to § 212.75(b);

(2) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) The number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(4) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b): *Provided, however,* That the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

\* \* \* \* \*

(b)(1) Each seller of domestic crude oil, other than a producer of domestic

crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) Lower tier ("old") crude oil (separately identifying California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(ii) Upper tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) Crude oil transported through the trans-Alaska pipeline;

(iv) Stripper well crude oil; and

(v) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil has been determined in accordance with Subpart L of this part.

ECONOMIC REGULATORY ADMINISTRATION Washington, D.C. 20461		FOR ERA USE ONLY  ACCESSION NUMBER: <input style="width: 50px;" type="text"/>	
DOMESTIC CRUDE OIL ENTITLEMENTS PROGRAM REFINERS MONTHLY REPORT ERA-49		DATE: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> YEAR MONTH DAY	
This report is mandatory under Public Laws 93-159, 94-183, and 93-275 as amended.			
<b>1. REPORTING FIRM IDENTIFICATION INFORMATION:</b> <span style="float: right;">Check If Any Change In Identification Data <input type="checkbox"/></span>			
a. Name <input style="width: 90%;" type="text"/>			
b. Street/Box/RFD <input style="width: 90%;" type="text"/>			
c. City <input style="width: 80%;" type="text"/>		d. State <input style="width: 20px;" type="text"/>	
e. ZIP Code <input style="width: 40px;" type="text"/>			
f. Name of Contact Person <input style="width: 80%;" type="text"/>		g. Telephone (Including Area Code) <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/> - <input style="width: 20px;" type="text"/>	
h. Reporting Firm Short Name <input style="width: 80%;" type="text"/>			i. Amendment Number <input type="checkbox"/>
2. a. DATE OF REPORT: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> YEAR MONTH DAY		b. REPORTING PERIOD: <input style="width: 20px;" type="text"/> / <input style="width: 20px;" type="text"/> YEAR MONTH	
<b>3. CERTIFICATION</b> I CERTIFY THAT THE INFORMATION SUBMITTED ON AND WITH THIS FORM IS FACTUALLY CORRECT, COMPLETE AND IN ACCORDANCE WITH ERA REGULATIONS (TITLE 40, CODE OF FEDERAL REGULATIONS) AND THE INSTRUCTIONS TO FORM ERA-49.			
a. Name and Title of Certifying Official <input style="width: 80%;" type="text"/>		b. Signature <input style="width: 80%;" type="text"/>	c. Date Certified <input style="width: 20px;" type="text"/>
THE U.S. CODE, (CRIMES AND CRIMINAL PROCEDURES), SECTION 1001, MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION.			
<b>4. CRUDE OIL RECEIPTS</b>			
CATEGORY OF CRUDE OIL (A)	TOTAL VOLUME (BARRELS) (D)	TOTAL COST (E)	WEIGHTED AVERAGE COST PER BARREL (F)
10109 Old Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10119 Calif. Low-Gravity Old Oil Receipts.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10199 Calif. Low-Gravity New Oil Receipts.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10209 New Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10219 Stripper Well Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10229 Tertiary Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10239 Other Domestic Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10259 Calif. ANS Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10269 Alaskan N. Slope (PAD5).....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10279 Alaskan N. Slope (PAD1-4).....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10289 Synthetic Crude.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10299 Naval Petroleum Reserve.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10309 Imported Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10319 Calif. Imported Oil.....	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>
10399 TOTAL CRUDE OIL RECEIPTS (Sum all lines except 10119, 10259, and 10319)	<input style="width: 80%;" type="text"/>	\$ <input style="width: 80%;" type="text"/> . 0 0	\$ <input style="width: 80%;" type="text"/>

<p><b>ECONOMIC REGULATORY ADMINISTRATION</b> Washington, D.C. 20461</p> <p><b>DOMESTIC CRUDE OIL ENTITLEMENTS PROGRAM</b> <b>REFINERS MONTHLY REPORT</b></p> <p>ERA-49</p>	<p><b>FOR ERA USE ONLY</b></p> <p>ACCESSION NUMBER: <input style="width: 100px;" type="text"/></p> <p>DATE: <input style="width: 30px;" type="text"/> / <input style="width: 30px;" type="text"/> / <input style="width: 30px;" type="text"/> YEAR MONTH DAY</p>
<p>REPORTING FIRM SHORT NAME:</p> <input style="width: 100%; height: 20px;" type="text"/>	<p>DATE OF REPORT: <input style="width: 30px;" type="text"/> / <input style="width: 30px;" type="text"/> / <input style="width: 30px;" type="text"/> YEAR MONTH DAY</p> <p>REPORTING PERIOD: <input style="width: 30px;" type="text"/> / <input style="width: 30px;" type="text"/> YEAR MONTH</p>

**9. CALIFORNIA LOW-GRAVITY OLD OIL RECEIPTS**

(A)	WEIGHTED AVERAGE GRAVITY (B)	SUBTOTALS (VOLUME IN BARRELS) (C)	TOTALS (VOLUME IN BARRELS) (D)
60119 For Own Account At Own Refineries.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
60129 For Non-Refiners At Own Refineries.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
60139 For Own Account At Other Refiners.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
60219 Adjustments.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
60399 Adjusted Monthly Receipts (60119 + 60129 + 60139 + 60219).....	<input style="width: 60px;" type="text"/>		
60409 FOR ERA USE ONLY	<input style="width: 60px;" type="text"/>	Net Correction From Prior Month Amended Reports	<input style="width: 150px;" type="text"/>
60499	<input style="width: 60px;" type="text"/>	Corrected Monthly Receipts For Calculations	<input style="width: 150px;" type="text"/>

**10. CALIFORNIA LOW-GRAVITY NEW OIL RECEIPTS**

63119 For Own Account At Own Refineries.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
63129 For Non-Refiners At Own Refineries.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
63139 For Own Account At Other Refiners.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
63219 Adjustments.....	<input style="width: 60px;" type="text"/>	<input style="width: 150px;" type="text"/>	
63399 Adjusted Monthly Receipts (63119 + 63129 + 63139 + 63219).....	<input style="width: 60px;" type="text"/>		
63409 FOR ERA USE ONLY	<input style="width: 60px;" type="text"/>	Net Correction From Prior Month Amended Reports	<input style="width: 150px;" type="text"/>
63499	<input style="width: 60px;" type="text"/>	Corrected Monthly Receipts For Calculations	<input style="width: 150px;" type="text"/>

## RULES AND REGULATIONS

## ITEM No. 9, CALIFORNIA OLD OIL RECEIPTS

In Column B of the line items specified below, enter the weighted average API gravity rounded downward to the nearest whole degree, i.e., 27.9 gravity would be entered as 27.

In *line 60119, Column (C)*, enter the total volume of California old crude oil, in actual barrels, received for your account at own refineries for the reporting period.

In *line 60129, Column (C)*, enter the total volume of California old crude oil, in actual barrels, received for processing at own refineries for nonrefiners for the reporting period.

In *line 60139, Column (C)*, enter the total volume of California old oil, in actual barrels, received for processing for your account by other refiners.

## ADJUSTMENTS

In *line 60219, Column (C)*, enter the volume of California old adjustments, in

actual barrels, to receipts of oil for your own account at your own refineries during the reporting period. If the adjustments are negative, indicate with a minus sign in the left most position of the field and zero fill. Do not include corrections resulting from internal errors.

In *line 60399, Column (D)*, enter the volume, in actual barrels, of the total adjusted monthly receipts for the reporting period.

## ITEM No. 10, CALIFORNIA NEW OIL RECEIPTS

In Column B of the line items specified below, enter the weighted average API gravity rounded downward to the nearest whole degree, i.e., 27.9 gravity would be entered as 27.

In *line 63119, Column (C)*, enter the total volume of California new crude oil, in actual barrels, received for your account at own refineries for the reporting period.

In *line 63129, Column (C)*, enter the total volume of California new crude oil, in actual barrels, received for processing at own refineries for nonrefiners for the reporting period.

## ADJUSTMENTS

In *line 63219, Column (C)*, enter the volume of California new adjustments, in actual barrels, to receipts of oil for your own account at your own refineries during the reporting period. If the adjustments are negative, indicate with a minus sign in the left most position of the field and zero fill. Do not include corrections resulting from internal errors.

In *line 63399, Column (D)*, enter the volume, in actual barrels, of the total adjusted monthly receipts for the reporting period.

[FR Doc. 78-17061 Filed 6-16-78; 11:25 am]

payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Civil Aeronautics Board forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

The bond shall cover the following charters:<sup>1</sup>

Surety company's bond No. \_\_\_\_\_  
Date of flight departure \_\_\_\_\_  
Place of flight departure \_\_\_\_\_

This bond is effective the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The Surety shall not be liable hereunder for the payment of the damages hereinbefore described which arise as the result of any contract, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular charter described herein give written notice of claim to the charter operator or, if he is unavailable, to the Surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular charter covered by this bond except for claims filed within the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

PRINCIPAL

Name \_\_\_\_\_  
By: Signature and title \_\_\_\_\_  
Witness \_\_\_\_\_

SURETY

Name \_\_\_\_\_  
By: Signature and title \_\_\_\_\_  
Witness \_\_\_\_\_

Only corporations may qualify to act as surety and they must meet the requirements set forth in §380.34(d) of part 380.

[FR Doc. 78-23160 Filed 8-16-78; 8:45 am]

<sup>1</sup>These data may be supplied in an addendum attached to the bond.

[6320-01]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-130; Amdt. No. 25 to Part 389]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Public Charter Rule

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in SPR-149, issued contemporaneously, the Board is amending its charter regulations to replace the ABC, OTC, ITC, TGC, and SGC with a new Public Charter rule (14 CFR Part 380). The regulation governing filing fees is amended to reflect the immediate addition of the Public Charter.

DATES: Adopted: August 14, 1978. Effective: August 15, 1978, and January 1, 1979, as indicated.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: A full explanation of the issues involved in this rulemaking is set forth in SPR-149, in this issue of the FEDERAL REGISTER. Some of the changes in part 389 reflecting the issuance of the new part 380, Public Charters, are effective immediately. The Board finds that because these amendments create no significant additional burden for any member of the public and public benefit will be derived from putting them into effect without delay, an immediate effective date is in the public interest.

The existing parts 371, 372a, 373, 378, and 378a, which will be superseded by part 380, will be revoked. The revocation is effective January 1, 1979, along with the corresponding amendments to part 389, as indicated below.

AMENDMENTS

The Board amends 14 CFR part 389 as follows:

A. The following change is effective August 15, 1978.

In §389.25, paragraphs (h) and (j) are amended and a new paragraph (y) is added, to read:

§380.25 Schedule of filing and license fees.

(h) Exemptions from section 401, waivers of parts 207, 208, 371, 372, 372a, 373, 378, 378a, and 380, and spe-

cial operating authorizations. The filing fee for an application (1) for an exemption under section 416(b) or section 101(3) of the Act from the provisions of section 401 of the Act (except an application dealing with a specific number of charters) or (2) for a waiver of parts 207, 208, 371, 372, 372a, 373, 378, 378a, or 380 (except an application dealing with a specific number of charters), or (3) for a special operating authorization under section 417 of the Act, is \$300.

(j) Exemptions or waivers for the performance of a specific number of charters. The filing fee for an exemption under section 416(b) or section 101(3) of the Act from the provisions of section 401 of the Act, or a request for a waiver of parts 207, 208, 371, 372, 372a, 373, 378, 378a, or 380, for the performance of a specific number of charters (one-way or round trip) is \$100 plus \$10 for each charter (one-way or round trip) described, subject to a maximum fee of \$300.

(y) Public Charters. The filing fee for each Public Charter prospectus filing under §380.25 of this chapter is \$50.

B. The following change is effective January 1, 1979.

In §389.25, Schedule of filing and license fees, paragraphs (l), (m), (n), (o), and (x) are revoked and reserved.

(Secs. 101(3), 204, 401, 403, 404, 407, 411, 416, 1002; 72 Stat. 737, 743, 754, 758, 760, 766, 769, 771, 788 (49 U.S.C. 1301, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1482).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR  
Secretary.

[FR Doc. 78-23173 Filed 8-16-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Establishment of a Temporary Procedure for Licensing Exports of Residual Fuel Oil From the West Coast

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

**ACTION: Final rule.**

**SUMMARY:** These regulations establish a temporary procedure under which residual fuel oil refined on the west coast from California-origin crude petroleum may be licensed for export from the west coast without regard to the export quotas currently in effect. This temporary program is one of a number of actions announced by the Department of Energy on June 15, 1978, to stimulate the market for heavy, high-sulfur California crude oil and, through increased refinery utilization, to aid west coast refiners in meeting peak demands for gasoline and other light petroleum products.

**EFFECTIVE DATE OF ACTION:** August 16, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-3795.

**SUPPLEMENTARY INFORMATION:** On February 28, 1978, the Department of Energy announced a number of proposed actions to encourage increased production of heavy California crude oil. Included was a program for the export of residual fuel oil refined on the west coast.

The Department of Energy, with Department of Commerce participation, held public hearings on these proposed actions in Huntington Beach, Calif., on March 30 and 31. After reviewing the testimony submitted at these hearings, the Secretary of Energy announced several actions designed to stimulate the market for heavy, high-sulfur crude oil produced in California. These actions include various changes in the Department of Energy's domestic crude oil entitlements program; a new program to expand domestic markets for California crude oil by providing economic incentives for its transport to refineries in other sections of the country; and a temporary Department of Commerce program to authorize exports of residual fuel oil refined on the west coast from California-origin crude petroleum.

In explaining these actions, the Department of Energy made the following observations:

The California crude oil market has been depressed for the past 2 years or more for a variety of reasons. Much California crude oil is heavy and sour (i.e. high sulfur) and, when refined, produces substantial quantities of high-sulfur residual fuel oil. The latter is difficult to market on the west coast, where demand is greatest for lighter products such as gasoline, due both to the availability of alternative

sources of energy and because stringent environmental controls on sulfur dioxide emissions restrict the use of high-sulfur residual fuel oil.

This problem has been compounded in recent months by a combination of developments. The landing on the west coast of increasing quantities of North Slope Alaskan crude oil has decreased the demand for California crude. The statutorily mandated increase in crude oil production at the Elk Hills Naval Petroleum Reserve has also decreased demand for other California-origin crude. This led to a number of wells being shut in and to a drop in production of California crudes of approximately 30,000 barrels a day between November 1977 and March 1978. Since both North Slope Alaskan and some Elk Hills crudes are also heavy and sour, their refining yields substantial quantities of high-sulfur residual fuel oil.

At the same time, a relatively mild winter, increased supplies of natural gas, and abundant quantities of hydroelectric power in the wake of heavy rains have combined to reduce California utilities' demand for residual fuel oil by more than 50,000 barrels per day in the latter half of 1977 below the levels of the previous year. As a consequence, stocks of both residual fuel oil and crude oil on the west coast reached abnormally high levels early this year.

The inability of California refiners to market all their residual fuel oil output has resulted in a reduction of total crude oil runs, thus contributing to the decline in California crude oil production. The reduction in crude oil runs has also had the effect of depleting inventories of lighter products such as gasoline, thus requiring expensive movements of gasoline into California from the gulf and east coasts.

Based on the above considerations, the Department of Energy has concluded that a temporary program for the export of residual fuel oil refined on the west coast from California-origin crude petroleum would contribute to an increased demand by refiners for heavy California crude oil and also make available the necessary storage capacity to allow California refiners to increase their crude oil runs and thus their output of gasoline and other light products. The Department of Energy has accordingly recommended to the Department of Commerce the establishment of a temporary program to authorize such exports from the west coast outside the present quota system, subject to the following conditions:

(1) The export will likely permit the refiner(s) of the residual fuel oil which will be exported to increase the refiner(s) crude oil runs or, alternatively, will likely contribute to the ob-

jectives of this temporary program by permitting an increase in west coast crude oil runs generally, thus stimulating the market for heavy, high-sulfur California crude oil; and

(2) The refiner(s) of the residual fuel oil will report the export to the Department of Energy for purposes of adjustment of the volume of the refiners' crude oil runs to stills pursuant to 10 CFR 211.67(d)(2), and the export transaction will result in the standard barrel-for-barrel crude oil run adjustment being made under the Department of Energy's domestic crude oil entitlements program for the quantity of residual fuel oil exported.

After studying the Department of Energy recommendations and supporting rationale, and after consultation with other appropriate Federal agencies, the Department of Commerce has concluded that, under current conditions, the recommended temporary program is in the national interest. The Department has further determined that the recommendations are consistent with the Export Administration Act and the purposes of the Energy Policy and Conservation Act. However, the Department intends to keep this temporary program under continuing review. It will periodically reevaluate in consultation with the Department of Energy its effectiveness in achieving the objectives of the program announced by the Department of Energy on June 15. It will also continue to evaluate the need for the continuation of this program in light of the national interest.

Applications for licenses to export residual fuel oil which do not qualify under this temporary program because the fuel oil was not refined from California-origin crude oil or because they do not otherwise meet one or more of the criteria for approval may be submitted under the unique hardship provision of section 377.3 of the Export Administration Regulations. Among the factors which will be considered in reviewing applications submitted under the unique hardship provisions are the extent to which the applicant's asserted hardship has been caused or aggravated by the California crude oil problem and the extent to which the export would contribute to the objectives of the Department of Energy's program to alleviate the current California crude oil situation.

This action is taken without notice of proposed rulemaking and opportunity for comment because section 8 of the Export Administration Act provides an exemption from the notice of proposed rulemaking and opportunity for comment provisions of the Administrative Procedures Act. Also, because the Department of Energy has already invited public comment and, with Department of Commerce participation,

held public hearings on this issue on March 30 and 31, 1978, in Huntington Beach, Calif., further public comment has been determined not to be necessary. Nevertheless, written comments on the regulations announced herein are solicited on a continuing basis. Interested parties are encouraged to submit written comments, views, and data concerning the regulations to the U.S. Department of Commerce, Office of Export Administration, Attention: Short Supply Division, Room 1617A, 14th and Constitution Avenue NW., Washington, D.C. 20230. All such material should be submitted in quintuplicate.

Accordingly, the Export Administration regulations (15 CFR part 368 et seq.) are amended as follows:

§ 377.6 [Amended]

1. A new § 377.6(d)(11) is established to read as follows:

(d) \* \* \*

(11) *Residual fuel oil refined on the west coast from California-origin crude petroleum.* (i) In response to a recommendation from the Secretary of Energy for a temporary period of exports of residual fuel oil refined on the west coast from California-origin crude petroleum, applications to export such residual fuel oil will be considered outside the quota system established in this part 377 if they are accompanied by the supporting documentation required by § 377.6(e)(11) and the applicant (whether or not the refiner) establishes to the satisfaction of the Office of Export Administration that all the following conditions are met:

(A) The residual fuel oil was refined in a west coast State (California, Oregon, or Washington) from California-origin crude petroleum (other than crude petroleum originating in the Elk Hills or Buena Vista Naval Petroleum Reserves);

(B) The export will take place from the west coast;

(C) The residual fuel oil has a sulfur content of 1 percent or more;

(D) The export will likely permit the refiner(s) of the residual fuel oil which will be exported to increase the refiner(s) crude oil runs or, alternatively, will likely contribute to the objectives of this temporary program by permitting an increase in west coast crude oil runs generally, thus stimulating the market for heavy high-sulfur California crude oil;

(E) The refiner(s) of the residual fuel oil will report the export to the Department of Energy for purposes of adjustment of the volume of the refiners' crude oil runs to stills pursuant to 10 CFR 211.67(d)(2), and the export transaction will result in the standard

barrel-for-barrel crude oil run adjustment being made under the Department of Energy's domestic crude oil entitlements program for the quantity of residual fuel oil exported pursuant to this § 377.6(d)(11);

(F) There is no demonstrated domestic need for the residual fuel oil within the marketing area usually served by the refiner of the product to be exported; and

(G) The export is not otherwise inconsistent with the objectives of the petroleum export control program and the national interest.

(i) Applications which do not meet all the foregoing conditions will be considered either under paragraph (d)(2) of this section, if applicable, but only to the extent of the exporters' quota share for petroleum commodity group G or under the unique hardship criteria set forth in § 377.3 above. Among other factors which will be considered in granting export licenses under the unique hardship provisions of § 377.3 are the extent to which the applicant's asserted hardship has been caused or aggravated by the California crude oil problem and the extent to which the export would contribute to the objectives of the Department of Energy's program to alleviate the current California crude oil situation.

(iii) Each applicant for a residual fuel oil export license under this § 377.6(d)(11) who is receiving entitlement relief from the Department of Energy shall simultaneously submit a copy of each export license application he files under this § 377.6(d)(11) with the Office of Export Administration to:

The Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

2. A new § 377.6(e)(11) is established as follows:

(e) \* \* \*

(11) *Residual fuel oil refined on the west coast from California-origin crude petroleum.* An application for a validated license to export residual fuel oil refined on the west coast from California-origin crude petroleum without regard to quota restrictions, or under the unique hardship criteria of § 377.3, must be accompanied by the following:

(i) The same documentation required by § 377.6(e)(2);

(ii) An independent inspector's certificate of analysis establishing the sulfur content of the residual fuel oil to be exported (With approval of the Office of Export Administration, submission of this certificate may be deferred until after the export has taken place in order to permit the analysis to be conducted after the residual fuel oil

has been loaded aboard the exporting carrier.);

(iii) An affidavit from the refiner of the commodity to be exported naming the refiner(ies) in which the commodity was produced and setting forth the following additional information:

(A) The specific California-origin crude oil feedstocks (other than feedstocks from the Elk Hills or Buena Vista Naval Petroleum Reserves) and quantities thereof run in that refinery, and the residual fuel oil the refiner estimates to have been produced from each during the preceding 90 days, together with an explanation of the refiner's method of allocating his residual production among his different crude feedstocks. (The purpose of this request is to establish that the residual fuel oil to be exported is allocable to California-origin crude oil of non-naval petroleum reserve origin.); and

(B) The total quantity of residual fuel oil produced in that refinery during the preceding 90 days which, to the best of the refiner's knowledge and belief, has already been sold into or for export.

In the event that the residual fuel oil to be exported is taken from a commingled inventory from more than one refinery, affidavits should be submitted from as many refiners of the commodity to be exported as necessary to establish that that portion of the commingled inventory to be exported was refined on the west coast from California-origin crude petroleum (other than crude petroleum from the Elk Hills or Buena Vista Naval Petroleum Reserves).

(iv) A signed statement by the applicant listing and attaching copies of (a) each Department of Energy decision and order applicable specifically to the applicant's or the refiner's treatment under the domestic crude oil entitlements program or to the applicant's or the refiner's production of or trade in residual fuel oil, and (b) each pending application therefor; and

(v) An affidavit sworn to by an authorized representative of the applicant firm stating either that, to the best of his knowledge and belief, there are no domestic buyers within the refiner's usual marketing area prepared to purchase the commodity at the current domestic price therefor adjusted in accordance with usual industry practice for transportation costs or why the applicant believes that, notwithstanding such readiness of a domestic buyer to purchase, the Office of Export Administration should determine that the proposed export would be in the national interest and consistent with national energy policy.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,  
Acting Deputy Assistant  
Secretary for Trade Regulation.

[FR Doc. 78-23246 Filed 8-16-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities  
Exchanges

CHAPTER II—SECURITIES AND  
EXCHANGE COMMISSION

[Release No. 34-15028]

PART 200—ORGANIZATION; CON-  
DUCT AND ETHICS; AND INFOR-  
MATION AND REQUESTS

Delegation of Authority to the Director  
of the Division of Enforcement

AGENCY: Securities and Exchange  
Commission.

ACTION: Final rule.

**SUMMARY:** The Commission is amending its rules of organization to delegate to the Director of the Division of Enforcement authority to approve applications for relief from disqualification by individuals who have previously been allowed to reenter the securities business by the Commission, provided that the conditions of the new employment are substantially similar to those of the previously approved employment. This will facilitate and expedite the processing of such applications.

**EFFECTIVE DATE:** August 3, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Michael F. Perlis, Esquire, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1650.

**SUPPLEMENTARY INFORMATION:** In the past, the Commission has at times, in its discretion, granted applications for reentry into the securities business for individuals it has previously barred from such business or some aspects thereof. By doing this, the Commission has recognized that situations may exist where, in light of changed circumstances and after the passage of time, it may appear appro-

priate to the Commission to permit a disqualified individual to have the disqualification lifted if, in general, the applicant can make a showing satisfactory to the Commission that reentry into the securities business would be consistent with the public interest.

In the case of a disqualified individual seeking employment with a broker or dealer, once such relief has been granted by the Commission the bar is removed only so long as the individual remains in the employ of that firm in the capacity and under the conditions of supervision specified in the application which has been approved. In the event the firm seeks to change either the nature of such employment or the conditions of supervision, prior Commission approval must be sought. Moreover, if the individual seeks employment with another broker or dealer, both the individual and the new firm employer must submit a new application and again obtain Commission approval prior to such employment.

The Commission has found that these disqualified individuals who have been conditionally allowed to reenter the securities business by the Commission may seek employment with other brokerage firms in the course of their professional careers, under substantially similar conditions of employment. The Commission is accordingly required to consider at numerous times whether to approve substantially the same conditions of employment, with different firms, for the same individual.

This amendment, delegating the authority to the Director of the Division of Enforcement to approve applications for relief from disqualification by individuals who have previously been allowed to reenter the securities business by the Commission, provided the conditions of employment are substantially similar to those previously approved by it, will greatly facilitate and expedite the processing of such applications. The Commission believes that the factors considered by it in its initial approval of an individual's employment offer sufficiently clear guidance to warrant a delegation of its authority in this regard to the Director of the Division of Enforcement. The instant delegation of authority will not affect rule 19h-1 applications or the role of the Division of Market Regulation thereunder.

Accordingly, the Commission is today amending its rules regarding the delegation of authority in order to permit the Director of the Division of Enforcement to approve such reentry applications where the conditions of the new employment are substantially similar to those applied to the old employment previously approved by it.

The Commission finds that this amendment relates solely to agency organization, procedure, or practice and that notice and public procedure in accordance with 15 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. Accordingly, 17 CFR 200.30-4 is amended, effective immediately, by adding a new paragraph (5) which reads as follows:

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

(a) \* \* \*

(5) To approve applications for relief from disqualification by individuals who have previously been allowed to reenter the securities business by the Commission, provided that the conditions of the new employment are substantially similar to those of the previously approved employment.

By the Commission.

SHIRLEY E. HOLLIS,  
Assistant Secretary.

AUGUST 3, 1978.

[FR Doc. 78-23116 Filed 8-17-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE,  
DEPARTMENT OF THE TREASURY

[T.D. 78-291]

PART 4—VESSELS IN FOREIGN AND  
DOMESTIC TRADES

Delay in Effective Date for Mandatory  
Use of Cargo Declaration  
Forms in Connection With Vessel  
Arrivals or Departures

AUGUST 14, 1978.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Delay in effective date for use of cargo declaration forms.

**SUMMARY:** Treasury Decision 77-255 provided for the mandatory use as of September 1, 1978, of newly-developed cargo declaration forms in connection with vessel arrivals or departures. Because a number of ocean carriers have advised Customs that mandatory use of the forms as of September 1, 1978, would work a hardship on them, Customs has agreed to delay the mandatory effective date until January 1, 1979. This action will give carriers ad-

Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980)).

Issued in Washington, D.C. on January 14, 1981.

William V. Skidmore,

Director, Office of Export Administration.

[FR Doc. 81-1904 Filed 1-19-81; 8:49 am]

BILLING CODE 3510-25-M

## 15 CFR Part 377

### Short Supply Controls; Establishment of Criteria for Consideration of Applications for Exceptions

**AGENCY:** Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

**ACTION:** Interim Rule with Invitation to Comment.

**SUMMARY:** These regulations establish the basis for the consideration of applications for exceptions to the regulations governing exports of commodities subject to short supply export controls. They are intended to supplement the regulations under which short supply control programs are administered without significantly altering applicable program policies.

**DATES:** These rules are effective on publication, but may be revised after comments are received. Comments must be received by the Department by March 23, 1981.

**ADDRESS:** Written comments (five copies) should be sent to: Mr. Robert F. Kan, Special Assistant to the Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, DC 20044, (202) 377-3984.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert F. Kan, Special Assistant to the Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, DC 20044, (202) 377-3984.

**SUPPLEMENTARY INFORMATION:** On September 25, 1974, the Department published regulations establishing standards for the consideration of applications for relief from short supply export controls on grounds of unique hardship. These regulations, contained in § 377.3, remain in effect. With limited exceptions, they have been the sole basis on which relief from short supply controls have been granted.

Since publication of those regulations, the Department has administered short supply export control programs covering ferrous scrap (in 1973-74) and petroleum and petroleum products, and a statutorily mandated control program

covering western red cedar. In administering these programs, it has noted that certain applications have presented persuasive reasons, not explicitly contemplated by the unique hardship criteria, for considering the issuance of an export license outside the quota system. In the Department's experience, the express provisions of this unique hardship criteria have tended to be particularly applicable to the period immediately following the institution of export controls, but after controls have been in place for a considerable period of time, the hardship criteria have been less applicable to the kinds of cases which might warrant consideration for the granting of an exception to the regulations. Therefore, the Department has concluded that it should provide by regulation a basis for the consideration of exceptions to short supply export controls on grounds other than those specified in the provisions on unique hardship.

The Department has also noted that the types of exceptions applications filed under short supply programs tend to vary significantly according to the commodity under control. Consequently, while this rule establishes certain general criteria applicable to all short supply export control programs, irrespective of the commodity involved, it also enumerates factors more particularly applicable to the petroleum control program.

Hardship and exceptions applications for western red cedar are already provided for in the regulations. It is anticipated that specific factors for the consideration of applications for exceptions involving other commodities that may be made subject to short supply export control in the future will be issued at the appropriate time.

The establishment of these criteria for the consideration of exceptions cases does not represent a change of policy by the Department and does not reflect any change in the Department's administration of current control programs, including the petroleum short supply and the western red cedar programs. Exporters are placed on notice that applications for licenses considered under these criteria are likely to be approved only under exceptional circumstances.

This rule also revokes the special exception under the petroleum regulations applicable to residual fuel oil refined on the West Coast from California-origin crude petroleum. The circumstances which gave rise to the establishment of that special exception no longer exist. Furthermore, should an

application be filed which heretofore would have been considered under that special rule, it may now be considered under the new exceptions criteria established herein.

### Rulemaking Procedure and Invitation to Comment

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedures Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12861, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close March 23, 1981. However, in order that they may be given maximum consideration, persons wishing to comment are urged to submit their comments as soon as possible. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda (in five copies) which will also be a matter of public record and will be available for public review and copying.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C., 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the Export Administration Regulations, 15 CFR 368 *et seq.*, are revised as follows:

1. Section 377.2 is amended by inserting a new paragraph (c)(2) and renumbering the present paragraphs (c)(2) and (3) as (c)(3) and (4).

**§ 377.2 Past participation in exports licensing method.**

\* \* \* \* \*

(c) Submission of Statement of Past Participation.

\* \* \* \* \*

(2) Unique or unusual factors. If there are any unique or unusual factors affecting an exporter's history of exports during the base period—such as commencement or termination of export activity, disruption of exports due to strikes, acts of God, or seasonal variations or supply-demand cycles impacting his level of exports—which an exporter believes should be taken into consideration in the allocation of quotas, these should be succinctly stated in a letter to be considered with the Past Participation Statement.

\* \* \* \* \*

2. Section 377.3 is amended by revising the section's title, retitling and renumbering subsection (a) as paragraph (a)(1), inserting a new paragraph (a)(2), and inserting a new subsection (c).

**§ 377.3 Unique hardship and exceptions.**

(a) *General.* (1) Unique Hardship \* \* \*

(2) *Exceptions.* If an applicant seeks an exception, on grounds other than unique hardship, to quota limitations or other restrictions on export imposed for reasons of short supply, he must specifically cite this subsection in his

application and state the precise reason(s) why he believes an exception is warranted. Each such application will be considered on a case-by-case basis and will be approved only in exceptional circumstances and only if the Office of Export Administration determines that granting of the requested exception would be consistent with the national interest and the purposes of the applicable short supply control program.

\* \* \* \* \*

(c) Standards for Exceptions Cases. In making a determination with respect to an application for an exception, the Office of Export Administration will consider, in addition to the general guidelines of § 377.3(a)(2):

(1) Factors such as the following, to the extent that they are relevant to a particular case:

(i) Whether, for specific economic or technological reasons, the particular materials to be exported cannot be practicably processed or utilized within the United States;

(ii) The impact of the proposed export on the adequacy of domestic supply;

(iii) The probable impact on the domestic economy, including consumer and wholesale prices (nationally, regionally, or sectorally);

(iv) The extent to which the proposed country of destination engages in equitable trade practices with respect to the United States and treats the United States equitably in times of short supply;

(v) The extent to which the proposed export would advance or impair specific U.S. policy objectives (including those set forth in statutes or in any international agreement to which the United States is a party);

(vi) The extent to which the exceptions request arises from unique circumstances and is unlikely to be repeated;

(vii) The extent to which the circumstances giving rise to the exceptions request were within the control of the applicant; and

(viii) Any additional factors applicable to the particular commodity to be exported, as set forth elsewhere in this Part 377.

(2) What effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

3. Section 377.6 is amended by revising the present subsection (d)(10) and removing subsection (e)(10).

**§ 377.6 Petroleum and petroleum products.**

\* \* \* \* \*

(d) Issuance of Export Licenses

\* \* \* \* \*

(10) *Exceptions Cases.* An application for a validated license to export a petroleum commodity, other than crude petroleum, submitted under Section 377.3(a)(2) will be considered under the standards for exceptions cases set forth in § 377.3(c) and under the following factors, if applicable:

(i) Whether there is a practicable domestic market for the commodity;

(ii) The level of domestic stocks of the commodity proposed for export, both nationally and in the area from which the export would take place, in relation to normal levels;

(iii) Whether the applicant, for bona fide business reasons other than export,

(A) Refined (or fractionated),

(B) Purchased, or

(C) Is contractually obligated to purchase the commodity proposed for export;

(iv) Whether the commodity will be only temporarily exported (e.g., for convenience or increased efficiency of transportation) and will reenter the United States;

(v) Whether the export would be part of a two-way transaction with Canada or Mexico, which has not yet begun, involving the import of an equal quantity of the same commodity, to be initiated under either of the following circumstances:

(A) To meet an emergency shortage in the importing country, or

(B) To relieve a temporary lack of practicable storage facilities in the exporting country.

(vi) If the proposed export is represented as an exchange, the extent to which:

(A) The commodity to be imported is otherwise available for purchase on the world market so that the export is not necessary for the import to take place, and

(B) The export-import transaction would result in a net gain or loss of energy, as measured in quantity and/or BTU content, to the United States.

(vii) Whether the export would be part of a transaction involving a temporary import, which has not yet begun, to be carried out for convenience or increased efficiency of transportation; and

(viii) The effect of the export (or combined export-import transaction in the case of an exchange) on wholesale and consumer prices in the United States.

\* \* \* \* \*

**Drafting Information**

The principal authors of these rules are Converse Hettinger, Director, Short Supply Division, Office of Export Administration; Robert F. Kan, Special

Assistant, Short Supply Division, Office of Export Administration; Roman W. Sloniewsky, Deputy Assistant General Counsel for Domestic Commerce, Department of Commerce; Pete M. Dalmat, Attorney-Advisor, Office of General Counsel, Department of Commerce; and Robin B. Schwartzman, Special Advisor to the Under Secretary for International Trade.

(Secs. 7, 15 and 21, Pub. L. 96-72, 50 U.S.C. App. 2401 et seq.; sec. 103, Pub. L. 94-163, 42 U.S.C. 6212; E.O. 12214, (45 FR 29783, May 6, 1980); Department Organization Order 10-3, (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Dated: January 14, 1981.

Eric L. Hirschhorn,  
Deputy Assistant Secretary for Export Administration.

[FR Doc. 81-1983 Filed 1-15-81; 11:45 am]  
BILLING CODE 3510-25-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 250

[Release No. 35-21881; File No. S7-845]

#### Rules Exempting Certain Acquisitions by Electric Utility Companies and Exempting Such Companies as "Holding Companies"

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

**SUMMARY:** The Commission is adopting Rule 14, which exempts from the requirements of sections 9(a)(2) and 10 of the Public Utility Holding Company Act of 1935 ("Act") the acquisition by one or more electric utility companies of securities of a power supply company as defined in the rule. The Commission is also adopting Rule 15, a related rule, to provide an exemption from regulation as a "holding company" under section 3(a)(2) of the Act for an electric utility company that makes any such acquisitions. The rules eliminate the need for case-by-case consideration of projects by electric utility companies that would not be subject to regulation under the Act but for the fact that a separate company is employed to provide additional capacity to generate or transmit electric energy.

**EFFECTIVE DATE:** January 21, 1981.

**FOR FURTHER INFORMATION CONTACT:** Aaron Levy, Director, Division of Corporate Regulation (202) 523-5691, Grant G. Guthrie, Associate Director (202) 523-5156, or James E. Lurie, Special

Counsel (202) 523-5683, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is adopting Rules 14 and 15. The first exempts from Commission review and approval under sections 9(a)(2) and 10 of the Act acquisitions by one or more electric utility companies (hereinafter referred to as "participating" or "sponsoring companies") of securities of defined electric generation or transmission companies (hereinafter referred to as "power supply companies"). Rule 15 exempts pursuant to section 3(a)(2) of the Act companies that as a result of the acquisitions become holding companies. An electric utility company that also distributes gas at retail is an "electric utility company" as defined in section 2(a)(3) of the Act and under these rules.

When electric utility companies acquire the voting securities of a separate company organized to construct or operate electric generation or transmission facilities, one or more of the sponsoring companies may become "holding companies" within the meaning of section 2(a)(7)(A) of the Act.<sup>1</sup> Such acquisitions may require Commission approval under sections 9(a)(2) and 10 of the Act<sup>2</sup> if the acquiring company is an "affiliate" of another utility company within the meaning of section 2(a)(11)(A) of the Act and will become an affiliate of a power supply company by acquiring five percent or more of its voting securities.<sup>3</sup>

Electric utilities are increasingly relying on joint ownership of large new base-load generating plants and related transmission facilities in an effort to spread the risks associated with escalating costs of plant and equipment. It permits unaffiliated utilities to share the benefits of efficient new facilities that are too large for any one utility to construct for its own needs. The organization of a separate power supply

<sup>1</sup> A "holding company" is defined in section 2(a)(7)(A) as "any company which directly or indirectly owns, controls, or holds with power to vote, 10 per centum or more of the outstanding voting securities of a public utility company \* \* \*". A "holding company" and its subsidiaries must register under section 5 of the Act, unless exempt under section 3(a) of the Act.

<sup>2</sup> Section 9(a)(2) provides: "Unless the acquisition has been approved by the Commission under section 10, it shall be unlawful for any person \* \* \* to acquire, directly or indirectly, any security of any public utility company, if such person is an affiliate [under section 2(a)(11)(A)] of such [public utility] company and of any other public utility or holding company, or will by virtue of such acquisition become such an affiliate."

<sup>3</sup> If any company owns five percent or more of the voting securities of one public utility company or of a holding company, it is an "affiliate" of that company within the meaning of section 2(a)(11)(A) of the Act.

company by one or more sponsoring utilities offers some advantages over joint ownership under a tenancy in common. The principal advantage is the ability to utilize "project financing," which allows the sponsoring utilities to finance the facility by the power supply company issuing long-term securities that are not subject to the mortgage bond indentures of the sponsoring companies and which provides flexibility with respect to the kind of security and the amount of debt used to finance the project. In addition, the proportionate interests of the participants in the new facility can be altered as load forecasts change and new participants in the project can be admitted by a transfer of the voting securities.

Over the years, the Commission has authorized, by order, the acquisition by electric utilities of equity interests in companies that would construct and operate generating facilities and sell power to the participating utilities or to a government agency.<sup>4</sup> On the basis of this experience, the Commission believes that an acquisition of a proportionate interest in a power supply company by an operating electric utility is not the kind of acquisition that the Commission need review and approve by order under section 10 in all cases. The requirement in Rule 14 that the energy produced be sold to the sponsoring utilities (except for sales to municipal and cooperative utilities) and the regulatory approvals relating to the financings of the power supply company satisfy the main objectives of section 10 without additional review by this Commission. Such an acquisition does not enlarge the service area of any sponsoring electric utility company, nor, in terms of the Act, frustrate effective local regulation of the sponsoring companies. It does no more than provide a sponsoring utility a source of supply to serve existing or future needs. These are the assumptions upon which the exemptions under Rules 14 and 15 are predicated.

The proposed rules were published for comment July 22, 1980 (HCAR No. 21661) (45 FR 49954, July 28, 1980). Twenty-nine

<sup>4</sup> See *Middle South Utilities, Inc.*, HCAR No. 18437 (June 4, 1974); *Maine Yankee Atomic Power Company*, 43 Sec. 764 (1968); *Vermont Yankee Nuclear Power Corporation*, 43 Sec. 693 (1968); *Connecticut Yankee Atomic Power Company*, 41 Sec. 705 (1963); *Southern Electric Generating Company*, HCAR No. 13210 (June 28, 1956); *Yankee Atomic Electric Company*, 36 Sec. 552 (1955); *Mississippi Valley Generating Company*, 36 Sec. 159 (1955); *Electric Energy, Inc.*, 34 Sec. 586 (1953); *Ohio Valley Electric Corporation*, 34 Sec. 323 (1952); *Central Illinois Public Service Company*, 32 Sec. 202 (1951); *Wisconsin River Power Company*, 27 Sec. 539 (1948).

**APPENDIX G:  
Licensing of Petroleum Coke Exports**

signed to each of the three present all-cargo carriers,<sup>3</sup> within which they may fly unlimited off-route charters. The proposal was to eliminate the areas of operations, raise the volume limits for cargo charters to 10 percent of base revenue all-cargo plane miles, apply the same more relaxed frequency restrictions as for passenger charters, and remove the regularity restrictions.

Congress has recently amended the Federal Aviation Act (Pub. L. 95-163), November 9, 1977) to allow the certification of carriers for interstate all-cargo service without restriction as to points served, thus in effect removing the "off-route" concept from interstate all-cargo service. The remaining restrictions on off-route cargo charters will therefore apply, for carriers so certified, only to overseas (except for Puerto Rico and the Virgin Islands) and foreign air transportation.

The all-cargo carriers objected to the proposal, on grounds that it would liberalize the cargo authority of the competing combination carriers while not providing them with sufficient compensating liberalization. They argued that the larger combination carriers and the unlimited supplemental carriers would provide overwhelming competition if the present restraints were loosened. The all-cargo carriers objected particularly to removing the "area of operations" concept from the rule, on grounds that if would be too limiting, that loss of the "first refusal" that the Board has given them within the areas of operations would be crippling, and that the base of plane mileage on which the volume is figured would be unacceptable decreased.<sup>4</sup>

The Board does not agree that liberalization of the restrictions on cargo charters would not be desirable. Applications for waivers of these restrictions have become very frequent, and they evidently are operating as a severe restraint on some carriers. As described above, the

volume restrictions for combination carriers' off-route charters, both passenger and cargo considered together, have been raised to 5 percent of the first 50 million base revenue plane miles, plus 2 percent of the remainder. On consideration of the comments received and developments since EDR-307 was issued, the Board is considering the issuance of a proposal to relax or eliminate restrictions on cargo charters by all-cargo carriers.

Since the off-route restrictions on combination carriers are being eased by this notice, an immediate relaxation of the limitations on all-cargo carriers is also called for to preserve some competitive parity between the two classes of carriers in the interim period pending final action on a new proposal. The volume restrictions on cargo charters by all-cargo carriers are therefore hereby raised to 10 percent of the base revenue plane miles for the previous calendar year, as proposed. The revocation of the regularity restrictions discussed above also applies, of course, to charters by all-cargo carriers.

Because this amendment relieves restrictions that would otherwise require carriers to modify their plans or seek waivers pending its effectiveness, it is found for good cause that an immediate effective date is in the public interest.

ISSUANCE OF AMENDMENT

In light of the foregoing, the Board hereby makes the following amendments, effective immediately, to 14 CFR Part 207, *Charter Trips and Special Services*:

1. Table of Contents is amended to reflect the title change of § 207.7a, as follows:

Sec. . . . .  
 207.7a Restriction on frequency of off-route charter trips and other special services in foreign air transportation.

2. Section 207.5 is amended to read as follows:

§ 207.5 Limitation on amount of charter trips which may be performed by combination carriers.

A combination carrier shall not, during any calendar year, perform off-route charter trips that in the aggregate exceed the total of 5 percent of the first 50 million, plus 2.5 percent of the remaining, base revenue plane-miles flown by it during the preceding year.

§ 207.6 [Amended]

3. In § 207.6, *All-cargo carrier: Limitations on amount of charter trips which may be performed*, the figure "2 percent" in the first sentence is amended to read "10 percent."

4. Section 207.7a is retitled and revised to read as follows:

§ 207.7a Restriction on frequency of off-route charter trips and other special services in foreign air transportation.

No air carrier shall perform off-route transatlantic or transpacific charter

trips, or any other off-route charter trips or special services between any pair of points in foreign air transportation, in excess of a total of eight flights in the same direction during any period of four successive calendar weeks. However, this section shall not be applicable to off-route cargo charters performed by an all-cargo carrier within its area of operations as set forth in § 207.6.

(Secs. 204, 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (49 U.S.C. 1324, 1371).)

PHYLLIS T. KAYLOR,  
 Secretary.

[FR Doc. 77-34627 Filed 12-1-77; 8:45 am]

[ 3510-25 ]

Title 15—Commerce and Foreign Trade  
 CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,  
 DEPARTMENT OF COMMERCE  
 PART 377—SHORT SUPPLY CONTROLS

Petroleum Coke, Calcined and Uncalcined; Deletion of Requirement for Certain Documentation to Accompany Export License Applications

AGENCY: Department of Commerce, Office of Export Administration.

ACTION: Final rule.

SUMMARY: These regulations remove an export license documentation requirement which has had the effect of impeding exports of petroleum coke, both calcined and uncalcined. Due to environmental restrictions in many U.S. jurisdictions which prevent the burning of petroleum coke as a fuel, and a consequent, current build-up of stock levels in the United States, the Department has determined that exports of both calcined and uncalcined petroleum coke may be permitted at this time without regard to the commodity's intended end use at foreign destinations.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

SUPPLEMENTARY INFORMATION: Export Administration Bulletin Number 160, of September 30, 1976 (41 FR 44155, Oct. 7, 1976) extended validated licensing control, but not quota restriction, to exports of petroleum coke, both calcined and uncalcined. Applications to export these commodities were required to be accompanied by either (a) a statement, in affidavit format, setting forth the proposed nonenergy end use and the name, location and type of facility of the ultimate end user, or (b) a certification that the total quantity of the commodity for which the applicant has submitted license applications during the current calendar quarter does not

<sup>3</sup> "(1) Within the 48 contiguous States—The Flying Tiger Line Inc.; Airlift International, Inc.; and Seaboard World Airlines, Inc.

(2) Between the 48 contiguous States and Europe—Seaboard World Airlines, Inc.

(3) Between the 48 contiguous States, on the one hand, and the Islands of the Caribbean, on the other—Airlift International, Inc.

(4) Between the 48 contiguous States and Asia as far west as longitude 70° east, including Japan and the Philippines, but not including Indonesia—The Flying Tiger Line Inc."

<sup>4</sup> "In one respect the carriers evidently had misinterpreted the existing rule, in arguing the eliminating the areas of operations would itself decrease their base mileage. Although the existing 14 CFR 207.6 provides that off-route charters flown within a carrier's area of operations are not counted against its volume limitation, such charters are nonetheless off-route, and do not contribute to base revenue plane-miles, defined in 14 CFR 207.1 as "revenue mileage operated by an air carrier in scheduled services, extra sections, and on-route charter trips or special services." (Italic supplied.)

exceed the applicant's average quarterly exports of such commodity during the period June 1, 1974 through June 30, 1976. This documentation requirement has had the effect of limiting exports of petroleum coke for energy end use to historical base period levels.

Based upon its continuing review of industry trends, and export data, production and domestic inventory levels of both calcined and uncalcined petroleum coke, and following consultation with other appropriate federal agencies, the Department has concluded:

(1) There is a current build up of stock levels of petroleum coke in the United States.

(2) Environmental restrictions in many U.S. jurisdictions prevent the burning of petroleum coke as a fuel because of its high sulfur dioxide emissions. And

(3) Under current market conditions, it is not economical to manufacture petroleum coke specifically for export in lieu of other liquid petroleum products, primarily residual fuel oil.

The Department has accordingly determined that exports of both calcined and uncalcined petroleum coke may be permitted at this time without regard to the commodity's intended end use at foreign destinations. The requirement that either an affidavit setting forth the end use or a certification with respect to the average quarterly level of base period exports accompany each application for a license to export these commodities is accordingly being deleted. However, in order to maintain vigilance over exports of these commodities and to assure that other petroleum commodities which are subject to export limitation are not exported under this designation, inadvertently or otherwise, exports of petroleum coke, both calcined and uncalcined, will remain subject to validated licensing and the requirement that an independent inspectors' certificate of analysis of the product to be exported accompany each license application.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended by revising Section 377.6(e) (7) to read as follows:

§ 377.6 Petroleum and petroleum products.

(e) \* \* \*

(7) *Group P.* An application for a validated license to export a commodity from Commodity Group P must be submitted with the same documentation required by § 377.6(e) (2), together with an independent inspector's certificate of analysis of the product to be exported.

**AUTHORITY:** Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); sec. 2, E.O. 11912, 41 FR 15825 (1976); sec. 201, Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7430); sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185); Department of Organization Order 10-3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and In-

ternational Business Administration Organization and Function Order 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended.

**NOTE.**—The Office of Export Administration has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

LAWRENCE J. BRADY,  
Acting Director,

Office of Export Administration.

[FR Doc. 77-34729 Filed 11-30-77; 3:02 pm]

[ 4110-03 ]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0233]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Bismuth Oxochloride; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** This document confirms the effective date of November 1, 1977, of an order concerning the use of bismuth oxochloride as a color additive in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

**DATE:** Effective date confirmed: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

**SUPPLEMENTARY INFORMATION:** A regulation published in the FEDERAL REGISTER of September 30, 1977 (42 FR 52394) added §§ 73.1162 and 73.2162 (21 CFR 73.1162 and 73.2162) to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of bismuth oxochloride in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)) by deleting "bismuth oxochloride" from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were

filed in response to the order of September 30, 1977. Accordingly, the amendments promulgated thereby became effective on November 1, 1977.

Dated: November 21, 1977.

JOSEPH P. HILE,  
Associate Commissioner for  
Compliance.

[FR Doc. 77-34448 Filed 12-1-77; 9:45 am]

[ 1505-01 ]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75F-0207]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Subpart C—Substances for Use as Components of Coatings

Correction

In FR Doc. 77-25655 appearing on page 44222 in the issue of Friday, September 2, 1977, in the 3rd column, in § 175.300(b) (3) (xx), the paragraph in small type, the 1st three lines should read:

"2-Ethylhexyl acrylate-ethyl acrylate copolymers prepared by copolymerization of 2-ethylhexyl acrylate and ethyl acrylate in a \* \* \*".

[ 1505-01 ]

[Docket No. 76 N-0070]

PART 177—INDIRECT ADDITIVES: POLYMERS ACRYLONITRILE COPOLYMERS USED TO FABRICATE BEVERAGE CONTAINERS; FINAL DECISION

Correction

In FR Doc. 77-27755 appearing on page 48528, in the issue of Friday, September 23, 1977 in the paragraph, "FOR FURTHER INFORMATION CONTACT:", the telephone number should read (301-443-3480).

On page 48534, in the middle column, the paragraph in small type, the citation in the last line should read, "Dandridge v. Williams, 397 U.S. 471, 486-87 (1968)".

In the next paragraph, the 3rd sentence should read, "The issue in this proceeding is not how acrylonitrile beverage bottles rank with other food containers in terms of safety, but whether acrylonitrile beverage containers are lawfully approved under the food additive provisions of the Act."

On page 48543, in the center column, paragraph 8, the citation in the 1st sentence should read, "21 U.S.C. 321(s) and 348".

[ 1505-01 ]

[Docket No. 77F-0108]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Specification for Dimyristyl Thiodipronate

Correction

In FR Doc. 77-27953, appearing on page 49452 in the issue of Tuesday, September 27, 1977, in § 178.2010(b) five

ed persons to show cause why it should not, subject to the approval of the President, adopt proposed amendments to Part 212 of its Economic Regulations (14 CFR Part 212) applicable to charter services of foreign scheduled air carriers.<sup>1</sup> The proposed amendments would have limited authorized charter operations by foreign scheduled air carriers to those performed between their homeland and the United States (i.e., Fifth Freedom Charters would not be permitted). Provision was made for a waiver of the prohibition in accordance with the provisions of a charter bilateral agreement between the United States and the country of which the carrier was a national, or on the basis of a demonstration of the existence of Fifth Freedom charter reciprocity in fact. In addition, foreign scheduled carriers' charter operations would have been made subject to the uplift ratio provision which is currently a condition of many foreign charter carrier permits. The requirement for prior Board approval of "off-route" charters would have been eliminated. The rule was opposed in part by several foreign air carriers and certain foreign governments, and generally supported by U.S. scheduled and charter carriers.

The Board has concluded that this rulemaking proceeding should be terminated. The Board's current policy with respect to charters as well as scheduled service is to expand competitive opportunities, with emphasis on the availability of competitive service to the traveling public. The general imposition of the proposed restrictions on Fifth Freedom charter operations of foreign scheduled carriers at this time would not enhance that policy. This is not to say that the Board must not be prepared, to the extent necessary for implementation of a liberal charter policy, to limit the Fifth Freedom charter authority of a particular foreign scheduled air carrier under circumstances where that carrier's government denies reciprocity through restrictions imposed upon U.S. carrier Fifth Freedom charter operations. However, the Board has ample authority under the current provisions of section 212.4 to impose restrictions upon a foreign scheduled carrier's on and off route charter operations, to the extent that the establishment of reciprocity and implementation of the Board's liberal charter policy should

<sup>1</sup>The Board did not consider that the proposed amendments would constitute an amendment to the outstanding foreign air carrier permits held by foreign scheduled carriers, but to the extent such carriers deemed the proposed amendments to constitute an amendment of their outstanding authority, the Board directed such carriers to show cause why their foreign air carrier permits should not be amended to be subject to Part 212 as it was proposed to be amended.

require such action. Similarly, we do not consider the imposition of an uplift ratio condition upon foreign scheduled carrier's charter operations is necessary or in the public interest at the present time.

The proposed rules would also have abolished the requirement of Part 212 for prior approval of off-route charters, although under the revised rules only charters between the homeland and off-route points in the United States would have been involved. By Orders 76-10-119, 77-10-120, and 78-12-175, the Board has granted blanket statements of authorization to perform off-route charters, subject to termination on 30 days' notice, for those foreign scheduled carriers whose operations in the past have demonstrated that the Board's standard for grant of off-route charters (including reciprocity) have been met, and where it could be anticipated that individual applications would be routinely granted. In light of this action, the Board finds no need, at the present time, to adopt that portion of the proposed rule which would have eliminated the requirement for an advance statement of authorization for individual off-route charter flights.<sup>2</sup>

In view of the above, the Board finds that it is in the public interest to formally terminate this proceeding.

Accordingly, the Civil Aeronautics Board terminates the proceeding in Docket 26509; EDR-264.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1978, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372).

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 79-5942 Filed 2-27-79; 8:45 am]

### [3510-25-M]

#### DEPARTMENT OF COMMERCE

Industry and Trade Administration

[15 CFR Part 377]

#### SHORT SUPPLY CONTROLS

Need for Validated Licensing of Petroleum Coke Exports

**AGENCY:** Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

**ACTION:** Request for public comment.

**SUMMARY:** The Department is considering removal of validated licensing requirements for exports of calcined and uncalcined petroleum coke and in-

<sup>2</sup>Under the proposed rules the Board had retained power under § 212.4 to require prior approval of individual charter flights.

vites public comment on the merits of such action.

**DATE:** Comments must be received by March 26, 1979.

**ADDRESS:** Send comments in ten copies to Office of Export Administration, Short Supply Division, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Converse Hettinger or Mr. Robert F. Kan, Office of Export Administration, Short Supply Division, (202) 377-3984 or (202) 377-3795.

#### SUPPLEMENTARY INFORMATION:

By rule published in the FEDERAL REGISTER on October 7, 1976 (41 FR 44155), the Department of Commerce placed validated licensing controls on exports of petroleum coke, both calcined and uncalcined "in order to assure: (a) That exports of this commodity are for non-energy use, or (b) that exports of this commodity do not increase to the extent additional coke manufacture becomes expedient at the expense (i.e. in lieu of the production) of liquid energy materials." Subsequently, this rule was modified by notice in the FEDERAL REGISTER on December 2, 1977 (42 FR 61253), which removed one of the export license documentation requirements established in the original rule which had had the effect of impeding exports of these commodities. The major references in the Export Administration Regulations regarding exports of petroleum coke are at §§ 377.6(d)(8) and 377.6(e)(7).

The Department, in consultation with the Department of Energy, is now considering modifying these regulations so as to remove the validated licensing requirement for exports of petroleum coke, both calcined and uncalcined, and to place them under General License. This action is being considered on the basis of preliminary indications that: (1) Such action would not contribute to a decrease in domestic energy supplies as the use of petroleum coke as a fuel within the United States is limited due to environmental restrictions; (2) it is in the national interest to encourage the expansion of coking facilities in domestic refineries so as to increase their capability to produce lighter petroleum products from heavy domestic crude oils, such as those produced in Alaska and California; and (3) petroleum coke stocks in the United States appear to exceed domestic needs, and refiners should thus not be subject to restrictions which could inhibit their ability to market this product abroad.

To assist the Department in its continuing evaluation of this matter, interested parties are encouraged to

submit written comments, views, or data concerning the accuracy of the tentative conclusions set forth above and desirability of the action under consideration. The Department is especially interested in receiving information bearing on the extent of usage of petroleum coke as a fuel in the United States, the extent to which the manufacture of coke for export could result in decreased production of other petroleum products suitable for use domestically as a fuel, and any other matters which are relevant to the decision under consideration.

The period for submission of comments on the action being considered will end as of the close of business on March 26, 1979. All comments (whether written or oral) received by the Department by close of business on March 26, 1979, will be considered by the Department in its final decision on this matter. All relevant comments on this subject received prior to the publication of this Notice will also be considered. However, no comments received after the close of the comment period will be accepted or considered by the Department.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered by the Department in making its decision.

All public comments on this subject to be considered will be made a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. In the interests of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

The public record concerning this subject will be maintained in the Industry and Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the

Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

The Department intends to reach a final decision on this matter within 60 days of the close of the comment period. This decision and any regulations necessary to implement it, together with a summary of the major comments received, will be published in the FEDERAL REGISTER.

It has been determined that this regulatory change, if adopted, is "not significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979), and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

AUTHORITY: Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E. O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

STANLEY J. MARCUSS,  
Deputy Assistant Secretary,  
for Trade Regulation.

[FR Doc. 79-5835 Filed 2-23-79; 12:07 pm]

[6570-06-M]

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

### PROCEDURAL REGULATIONS

706 Agencies; Proposed Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission proposes to amend its regulations on designation of one State agency so that it may handle employment discrimination charges filed with the Commission. Proposed is a State agency that requested deferral designation as provided under the authority of Title VII of the Civil Rights Act of 1964, as amended. The proposal would authorize the agency listed below to process charges deferred to it by the Commission.

DATES: Comments must be received by March 15, 1979.

ADDRESS: Comments should be sent to: Equal Employment Opportunity Commission, Office of Field Services (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Boyce Nolan, Equal Employment Opportunity Commission, Office of Field Services (State and Local), 2401 E Street, N.W., Washington, D.C. 20506, telephone 202/634-6894.

SUPPLEMENTARY INFORMATION: Pursuant to § 1601.71, Title 29, Chapter XIV of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 42, FR 55388, October 14, 1977, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agency listed below be designated as a "706 Agency", § 1601.70(a). The purposes of "706 Agency" designation is as follows: First, that the agency receive charges deferred by the Commission pursuant to Section 706(c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; and second, that the Commission accord "substantial weight" to the final findings and orders of the agency pursuant to Section 706(b) of Title VII of the Civil Rights Act of 1964, as amended. The proposed designation of the agency listed below is hereby published to provide any person or organization not less than 15 days within which to file written comments with the Commission as provided for under § 1601.71(i).

At the expiration of the 15 day period, the Commission may effect designation of the agency by publication of an amendment to § 1601.74(a).

With the limitation set forth in the Footnote below, the proposed "706 Agency" is as follows:

Colorado State Personnel Board<sup>1</sup>

Written comments pursuant to this notice must filed with the Commission on or before March 15, 1979. Signed at Washington, D.C. this 13th day of February, 1979.

For the Commission.

ELEANOR HOLMES NORTON,  
Chair, Equal Employment  
Opportunity Commission.

[FR Doc. 79-5914 Filed 2-27-79; 8:45 am]

<sup>1</sup>The Colorado State Personnel Board has been proposed as a 706 Agency for only those charges which relate to appointments, promotions, and other personnel actions that take place in the state personnel system. In addition, the Colorado State Personnel Board has been proposed as a 706 Agency for all of the above mentioned charges except charges which allege a violation of Section 704(a) of Title VII. For this type of charge it shall be deemed a "Notice Agency" pursuant to 29 CFR 1601.71(3).

Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Twigg, Union, Warren, Washington, Wayne, Webster, Woodford.

*Mississippi.* Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hancock, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

*Missouri.* Adair, Andrew, Atchinson, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

*Nebraska.* Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Butler, Cass, Cedar, Chase, Cherry, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Thomas, Valley, Webster, Wheeler, York.

*New Mexico.* Bernalillo, Chaves, Curry, Eddy, Lea, Mora, Roosevelt.

*South Dakota.* Jones, Stanley.

*Tennessee.* Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Davidson, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart,

Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

*Texas.* Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Hartison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Rufugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

*Utah.* Box Elder, Garfield.

*Puerto Rico.* Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

#### § 78.20 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

##### (a) Entire States.

Yellowstone National Park.

##### (b) Specific Counties Within States.

*Florida.* Highlands, Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

These amendments designating areas as Certified Brucellosis-Free Areas relieve restrictions presently imposed on cattle moved in interstate commerce. These restrictions are no longer

necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendments designating areas as Modified Certified Brucellosis Areas relieves restrictions presently imposed on cattle and bison moved from that area in interstate commerce. These restrictions are no longer necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 18th day of June 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-19462 Filed 6-21-79; 8:45 am]

BLLING CODE 3410-34-M

## DEPARTMENT OF COMMERCE

### Industry and Trade Administration

#### 15 CFR Part 377

#### Short Supply Controls; Removal of Validated Licensing Requirement for Exports of Petroleum Coke

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade

Administration, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** This action removes the validated licensing requirement for exports of petroleum coke, both calcined and uncalcined, in view of its abundant supply and limited energy use within the United States.

**EFFECTIVE DATE:** June 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. Converse Hettinger, Director, short Supply Division, Office of Export Administration, Department of Commerce, Washington, DC 20230 (telephone 202-377-3795).

**SUPPLEMENTARY INFORMATION:** By rule published in the Federal Register on October 7, 1976 (41 FR 44155), the Department of Commerce placed validated licensing controls on exports of petroleum coke, both calcined and uncalcined, "in order to assure: (a) That exports of this commodity are for non-energy use, or (b) that exports of this commodity do not increase to the extent additional coke manufacture becomes expedient at the expense (i.e. in lieu of the production) of liquid energy materials." This rule was later modified by notice in the Federal Register on December 2, 1977 (42 FR 61253), which removed one of the export license documentation requirements established in the original rule which had had the effect of impeding exports of these commodities. The major references in the Export Administration Regulations regarding exports of petroleum coke are at §§ 377.6(d)(8) and 377.6(e)(7).

Subsequently, by notice published in the Federal Register of February 28, 1979 (44 FR 11239), the Department announced that it was considering removing the validated licensing requirement for exports of petroleum coke, both calcined and uncalcined, because of preliminary indications that: (1) Such action would not contribute to a decrease in domestic energy supplies as the use of petroleum coke as a fuel within the United States is limited due to environmental restrictions; (2) it is in the national interest to encourage the expansion of coking facilities in domestic refineries so as to increase their capability to produce lighter petroleum products from heavy domestic crude oils, such as those produced in Alaska and California; and (3) petroleum coke stocks in the United States appear to exceed domestic needs, and refiners should thus not be subject to restrictions which could inhibit their ability to market this product abroad.

To assist the Department in completing its evaluation of the matter, this notice invited public comment on the merits of the proposed action, such comments to be received by March 26, 1979.

In response to this notice, comments were received from 18 firms, all supporting the Department's preliminary determinations cited above and all endorsing the proposed removal of the validated licensing requirement for exports of petroleum coke. No comments were received from any party opposing the proposed action.

Therefore, after reviewing these comments and after consultation with the Department of Energy—which has concurred in the action announced herein—the Department has determined that the present controls over exports of petroleum coke, both calcined and uncalcined, are no longer necessary and their removal is in the national interest. Because this action removes a current restriction on the export of petroleum coke it is being made effective immediately as of the effective date stated above.

Further, this action makes certain technical changes to the Regulations unrelated to petroleum coke by deleting certain sections which were applicable during a past time period and are no longer necessary.

It has been determined that these regulatory changes are "not significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979), and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are revised as follows:

1. Section 377.6(d)(8) Group P is deleted and § 377.6(d)(9) through (11) are renumbered consecutively.
2. Section 377.6(d)(12) is deleted.
3. Section 377.7(e)(7) is deleted and § 377.6(e)(8) through (11) are renumbered consecutively.
4. In Supplement No. 2 to Part 377 the sentence reading "Applications against non-historical quotas for butane (Commodity Group K) for fourth quarter 1978: Not later than close of business December 18, 1978." is deleted.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3, dated December 4,

1977, 42 FR 64721 (1977), as amended; and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977), as amended.)

Stanley J. Marcuss,

*Deputy Assistant Secretary for Trade Regulation.*

[FR Doc. 79-19443 Filed 6-19-79; 11:29 am]

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 162

[T.D. 79-160]

### Fines, Penalties, Forfeitures, and Liquidated Damages for Violations of the Customs and Navigation Laws, Amended

#### Correction

In FR Doc. 79-17245 appearing at page 31950 in the issue for Monday, June 4, 1979, make the following correction: On page 31957, in the third column, in § 162.51(a), in the 4th line, after the citation, "19 (U.S.C. 1613)," insert the word, "and".

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

#### 20 CFR Part 404

[Regulation No. 4]

### Federal Old-Age, Survivors, and Disability Insurance (1950- ); Reduction of Spouse's Benefits Due to Receipt of Government Pension

#### Correction

In FR Doc. 79-15621 appearing at page 29046 in the issue for Friday, May 18, 1979, on page 29047, third column, second line of § 404.408a(b), delete the word "to".

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