Past is Precedent:
Executive Power to Authorize Crude Oil Exports

Prepared by Minority Staff for Ranking Member Lisa Murkowski
U.S. Senate Committee on Energy & Natural Resources
March 3, 2014

Introduction

The federal government enacted a general prohibition on the export of crude oil during the energy shortages and price spikes of the 1970s. As a result of the unconventional fossil fuel revolution in recent years, however, energy production in the United States is at record levels, and crude oil production in particular is rising rapidly.

According to the Energy Information Administration, production in the Bakken and Eagle Ford formations each exceeded one million barrels per day at certain points in 2013.[1] The International Energy Agency has warned, however, that the mismatch between growing supplies of so-called "light tight oil" (and condensates) and a U.S. refining system geared towards processing heavy crude oil poses a threat to this resurgence in production.[2] This expected collision has called into question the general prohibition on crude oil exports, which shuts off U.S. supply from overseas markets.

The executive branch retains the statutory authority to authorize crude oil exports. In fact, presidents from both political parties have found limited exports to be in the national interest on multiple occasions. This report summaries this history and reprints the relevant documents from the White House and the Department of Commerce for the public.

Restrictions on Petroleum Products

In January 1981, President Reagan issued an executive order that removed price and allocation controls over petroleum products and crude oil. In October 1981, the Department of Commerce eliminated "quantitative restrictions" on the export of refined petroleum products, such as gasoline and diesel, stating:

> "Free trade will benefit the balance of payments, take advantage of transportation efficiencies and allow the U.S. to respond quickly to its potential international responsibilities."

These documents are available in Appendix A.

[1] EIA, *Short-Term Energy Outlook* (February 2014), p. 5.
[2] IEA, *Oil Market Report* (21 January 2014), pp. 23-26; *Oil Market Report* (18 January 2013), pp. 22-26.

Canadian Consumption

In June 1985, President Reagan issued a finding that exports to Canada for consumption in Canada would be in the national interest. The finding referred to "substantial benefits" that would result from expanded crude oil trading, noting:

> "These benefits would include the increased availability of reliable energy sources, economic efficiencies, and material enhancements to the energy security of both countries."

The finding instructed the Secretary of Commerce "to take all other necessary and proper action to expeditiously implement this decision." It was followed by a final rule.

These documents are available in Appendix B.

Exports from Alaska's Cook Inlet

In November 1985, Secretary of Commerce Malcolm Baldrige determined that exports from Alaska's Cook Inlet would be in the national interest. The finding stated:

> "The benefits that will ensue from these exports include increased incentives for investment in the exploration and development of domestic crude oil, transportation efficiencies, and material enhancements to the energy security of our allies. This initiative will also encourage other countries to remove trade barriers to U.S. goods and services. It does not affect our energy security as we retain the flexibility to react to changes in the world's available oil supply."

Department of Commerce documents are available in Appendix C.

Additional Exports to Canada

In December 1988, President Reagan issued a finding that additional exports of crude oil to Canada – specifically, 50,000 barrels per day from Alaska – would be in the national interest. The Department of Commerce followed this decision with an interim rule in January 1989 and a final rule in March 1990.

These documents are available in Appendix D.

California Heavy Crude

In October 1992, President Bush issued a finding that exports of 25,000 barrels per day of heavy crude oil from California would be in the national interest. The final rule, published by the Department of Commerce during the Clinton administration in March 1995, stated:

> "This final rule revises the licensing requirements and procedures that apply to exports of California heavy crude oil by removing a number of significant

> restrictions, e.g., the prohibition against transportation crude oil by pipeline over rights-of way granted pursuant to the Mineral Leasing Act of 1920 and the requirement that any export of crude oil must be offset by importing an equal or greater volume of crude oil of equal or higher quality."

These documents are available in Appendix E.

Alaskan North Slope Crude Oil

In April 1996, President Clinton issued a finding that exports of Alaskan North Slope crude would be in the national interest. The statement read:

> "Permitting this oil to move freely in international commerce will contribute to economic growth, reduce dependence on imported oil, and create new jobs for American workers. It will not adversely affect oil supplies or gasoline prices on the West Cost, in Hawaii, or in the rest of the nation."

The finding followed the passage of Public Law 104-58, which authorized such exports subject to a presidential determination. A final rule was published by the Department of Commerce in May 1996.

These documents are available in Appendix F.

Conclusion

The historical record is clear that the executive branch retains the authority to permit crude oil exports under certain conditions. In fact, this was done on several occasions by successive administrations. The president has always acted with or through the Department of Commerce; in the cases of the U.S.-Canada Free Trade Agreement and Alaskan North Slope exports, the executive branch has collaborated with Congress. Even statutes that generally prohibit the export of crude oil contain provisions that permit the president to authorize exports under certain conditions.

Acknowledgments

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

APPENDIX A:
Restrictions on Petroleum Products

Presidential Documents

Executive Order 12287

Decontrol of Crude Oil and Refined Petroleum Products

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 751 *et seq.*), and notwithstanding the delegations to the Secretary of Energy in Executive Order No. 11790, as amended by Executive Order No. 12038, and in order to provide for an immediate and orderly decontrol of crude oil and refined petroleum products, it is hereby ordered as follows:

Section 1. All crude oil and refined petroleum products are exempted from the price and allocation controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended. The Secretary of Energy shall promptly take such action as is necessary to revoke the price and allocation regulations made unnecessary by this Order.

Sec. 2. Notwithstanding Section 1 of this Order;

(a) All reporting and record-keeping requirements in effect under the Emergency Petroleum Allocation Act, as amended, shall continue in effect until eliminated or modified by the Secretary of Energy. The Secretary of Energy shall promptly review those requirements and shall eliminate them, except for those that are necessary for emergency planning and energy information gathering purposes required by law.

(b) The State set-aside for middle distillates (Special Rule 10, 10 CFR Part 211, Subpart A, Appendix A) shall remain in effect until March 31, 1981.

(c) The special allocation of middle distillates for surface passenger mass transportation (Special Rule 9, 10 CFR Part 211, Subpart A, Appendix A) shall remain in effect until March 31, 1981.

(d) The Buy-Sell lists and orders issued prior to this Order under the Buy-Sell Program and the Emergency Buy-Sell Program (10 CFR 211.65) shall remain in effect according to their terms and the Secretary of Energy may issue such further orders as may be necessary to give effect to lists and orders issued prior to this Order.

(e) The Canadian Allocation Program (10 CFR Part 214) shall remain in effect until March 31, 1981.

Sec. 3. The Secretary of Energy may, pursuant to Executive Order No. 11790, as amended by Executive Order No. 12038, adopt such regulations and take such actions as he deems necessary to implement this Order, including the promulgation of entitlements notices for periods prior to this Order and the establishment of a mechanism for entitlements adjustments for periods prior to this Order.

Sec. 4. The Secretary of Energy is authorized to take such other actions as he deems necessary to ensure that the purposes of this Order are effectuated.

Sec. 5. Because advance notice of and public procedure on the decontrol provided by this Order would be likely to cause actions that could lead to economic distortions and dislocations, and would therefore be contrary to the public interest, this Order shall be effective immediately.

THE WHITE HOUSE,
January 28, 1981.

Ronald Reagan

Editorial Note: The President's statement of January 28, 1981, on signing Executive Order 12287, is printed in the Weekly Compilation of Presidential documents (vol. 17, no. 4).

[FR Doc. 81-3646
Filed 1-28-81; 4:38 pm]
Billing code 3195-01-M

basis points above an average of the rate on 26 week Treasury bills for the previous four weeks. This action is consistent with recent actions of the Depository Institutions Deregulation Committee and will permit credit unions to be more competitive in periods of declining interest rates.

The Board has also removed all dividend ceilings and the 14 day minimum maturity on IRA/Keogh accounts (Section 701.35(h)(6)). Additionally, the NCUA Board has authorized Federal credit unions to permit transfers from existing accounts into these new accounts without penalty. This will provide credit unions the flexibility to design IRA/Keogh accounts which best meet their needs and the needs of their customers. Federal credit unions should note that in order to avoid treatment of an account as a "demand deposit" under Federal Reserve Regulation D (with attendant reserve requirements) the account should carry an original maturity or required notice period of at least 14 days, or the credit union should reserve the right to require at least 14 days written notice of intended withdrawal.

Regulatory Flexibility Act

The NCUA Board certifies that these rules will not have a significant economic impact on a substantial number of small credit unions because the rules will increase management flexibility and enhance their competitive position. Therefore, a regulatory flexibility analysis is not required pursuant to 5 U.S.C. 605(b).

Effective Date

The final rule increasing the dividend ceiling on regular shares and share drafts and increasing the floor on the dividend ceiling for share certificates are made effective in less than 30 days because it relieves a restriction, 5 U.S.C. 553(d)(1).

Accordingly, 12 CFR 701.35(h) is amended as set forth below.

Dated: September 30, 1981.

(12 U.S.C. 1757(6), 1766(a))

Rosemary Brady,

Secretary of the Board.

1. Section 701.35(h) is amended by revising paragraphs (1), (2), and (4) and by adding paragraph (6) as set forth below:

§ 701.35 [Amended]

* * * * *

(h) *Maximum Dividend Rate.*

* * * * *

(1) 12% on a share or share draft account.

(2) On a share certificate account, the following schedule shall apply:

(i) Effective October 1, 1981, the maximum dividend rate shall equal the greater of 12% or the average 2½ year yield for United States Treasury securities as most recently announced prior to the date of issuance of the certificate. Effective August 1, 1981, there shall be no dividend ceiling for share certificates with a qualifying period of 4 years or more;

(ii) Effective August 1, 1982, there shall be no dividend ceiling on share certificates with qualifying periods of 3 years or more. For share certificates with qualifying periods of less than 3 years, the maximum dividend rate shall equal the greater of 12% or the average 2 year yield for United States Treasury securities as most recently announced prior to the date of issuance of the certificate;

(iii) Effective August 1, 1983, there shall be no dividend ceiling on share certificates with qualifying period of 2 years or more. For share certificates with qualifying periods of less than 2 years, the maximum dividend rate shall equal the greater of 12% or the rate on 52 week United States Treasury bills as most recently announced prior to the date of issuance of the certificate;

(iv) Effective August 1, 1984, there shall be no dividend ceiling on share certificates with qualifying periods of 1 year or more. For share certificates with qualifying periods of less than 1 year, the maximum dividend rate shall equal the greater of 12% or the rate on 13 week United States Treasury bills as most recently announced prior to the date of issuance of the certificate;

(v) Effective August 1, 1985, there shall be no dividend ceiling on share certificates.

* * * * *

(4) To the extent that paragraph (h) (2) of this section would impose a lower maximum dividend rate, a Federal credit union may pay, on share certificates of $10,000 or more having a fixed term of 26 weeks or more, up to a rate equaling the higher of one quarter per cent above the rate on 26 week United States Treasury bills as most recently announced prior to the date of issuance of the certificate or one quarter percent above the average rate on 26 week Treasury bills over the four weeks prior to the date of issuance of the certificate. In the case of a rate determined pursuant this subsection, however, compounding of dividends is not permitted and the dividend rate may be rounded off only by rounding down.

* * * * *

(6) On an Individual Retirement Account or Keogh Plan share account or share certificate representing an investment of retirement funds pursuant to § 724.1, a rate determined by money market conditions. In the case of a share certificate, the maximum 14 day qualifying period limitation set forth in § 701.35(d)(1) does not apply. For the purpose of permitting members to transfer their funds to these accounts from other share certificates existing as of November 1, 1981, Federal credit unions may waive the mandatory penalty provision of subsection (e)(2).

[FR Doc. 81-28994 Filed 10-5-81; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 372, 376, 377 and 399

Elimination of Quantitative Limitations on Exports of Refined Petroleum Products

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

ACTION: Final rule.

SUMMARY: This rule removes quantitative restrictions on the export of all refined petroleum products. It has been determined that foreign demand will not have a serious inflationary impact on the domestic economy, and quantity limitations are no longer necessary to protect domestic supply from excessive drain of materials. Validated licensing requirements continue in effect for all refined petroleum products.

EFFECTIVE DATE: Effective date of action: October 2, 1981. (4 pm)

FOR FURTHER INFORMATION CONTACT: Robert F. Kan, Manager, Short Supply Program, Resource Assessment Division, Office of Industrial Resource Administration, U.S. Department of Commerce, P.O. Box 7138, Washington, D.C. 20044 (Telephone: 202-377-3795).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Department of Commerce has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. App. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose any new information collection burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* It is estimated that the elimination of quantitative restrictions on the export of refined petroleum products will result in a *decrease* of 2,250 reporting hours for affected exporting firms.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation." As provided for in Section 8(b) of the Executive Order, an exemption to the requirement for the preparation of a Regulatory Impact Analysis was obtained from the Director, Office of Management and Budget on October 1, 1981.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

Background

On December 13, 1973 the Department announced (38 FR 34442) that validated export licenses would be required for the export of crude petroleum, gasoline, kerosene, jet fuel, distillate and residual fuel oils, butane, propane and natural gas liquids. That Notice also advised exporters that in order to be eligible to receive shares of the quotas to be established on commodities other than crude petroleum, statements of past participation in exports were to be submitted in a manner specified.

On January 23, 1974 (39 FR 3672, January 29, 1974) the Department expanded upon the procedures for issuing export licenses for quota and nonquota petroleum products and included carbon-black feedstock oil among the products subject to validated licensing. Since petroleum and petroleum products became subject to strict quantitative control, minimal changes have been made to the program; however, at all times exports of refined petroleum products continued to be authorized along historic lines to maintain normal relations with our trading partners. From the start of the program of controls, the export of crude oil was embargoed. Various refinements have been made to the Regulations over the years to reflect changes in the statutes, but these changes have not affected the embargo status of crude oil.

Restrictions on the exports of crude and refined petroleum products were renewed on a quarterly basis until July 1977 when the Department announced that controls would be maintained without quarterly renewals until specifically modified or rescinded.

Regulatory Changes

In line with the President's action on January 28, 1981 to lift the remaining price and allocation controls on crude oil, gasoline and propane, the Secretary of Commerce has adopted the recommendations of an interagency Task Force that quantitative export limitations on refined petroleum products are no longer warranted.

The consensus of the "Task Force on Export Control of Refined Petroleum Products" chaired by the Department of Commerce, and participated in by the Departments of State, Treasury, Labor and Energy, and the U.S. Special Trade Representative, is that the lifting of quantitative export restrictions on all refined petroleum products will be in the national interest. It was further determined that the domestic economy is no longer threatened by an excessive drain of scarce petroleum supplies and that foreign demand will not cause a serious inflationary impact on the economy. Furthermore, it has been determined that with an adequate supply of crude petroleum and U.S. refineries operating below normal capacity, U.S. consumers will benefit directly from the export of petroleum products because exports will permit U.S. refiners greater flexibility in product output. The task force also advised that it anticipates the potential export market generally would be limited to spot situations resulting in increased U.S. refinery efficiency.

Free trade will benefit the balance of payments, take advantage of transportation efficiencies and allow the U.S. to respond quickly to its potential international responsibilities.

Therefore, quantitative export restrictions are no longer required for the following refined petroleum products: Aviation gasoline, gasoline, jet fuel, keosene, distillate fuel oil, residual fuel oil, butane, propane, butane-propane mix, and naphthas. This relaxation of controls does not apply to other foreign policy or national security controls which may affect these products.

Validated license requirements on carbon-black feedstock and asphalt are being removed. Licensing of these products were originally imposed because of their possible energy end-use.

Carbon-black feedstock oil as a petrochemical feedstock in the manufacture of carbon black may now be exported under a general license, *G-NNR*. If this product is exported as residual fuel oil, the validated licensing requirement applies. Asphalt, which was placed under validated licensing control on April 1, 1977, to guarantee non-energy only exports, may now be exported using General License *G-NNR*. If, however, the product, either alone or blended, is to be exported for fuel usage, as residual fuel oil, it will require a validated export license prior to shipment.

On September 29, 1975, short supply controls were extended to cover manufactured gas and synthetic natural gas in view of a potential domestic natural gas shortage and the possibility of substitution for natural gas or liquefied petroleum gas or natural gas liquids. In view of the impracticability of this happening, and the availability of natural gas, artificial gases may now be exported using General License *G-NNR*.

As required by section 7(e) of the Export Administration Act of 1979, a validated export license will be required prior to the export of refined petroleum products. Requirements for the filing of applications for such licenses are listed below.

Licenses may be issued for shipments to all destinations with which the U.S. has normal trading relations. These changes have been made in recognition of the need to provide maximum flexibility to U.S. industry in re-entering the world petroleum product trade. Applications for 250,000 bbls or more of any refined petroleum product in any fiscal year will require Congressional review necessitating a 30-day delay in processing, as required by section 7(e) of the Act. Exporters will be notified upon making application if their request to export will be subject to the statutory 30-day.

As a result of these changes General License *G-PCC* is no longer necessary, and thus has been removed.

This rule does not alter the general restriction on the export of crude petroleum. This regulation simply restructures the existing regulatory language without substantive change and places in regulatory format the existing provisions of section 7(d) of the Export Administration Act of 1979 concerning Alaskan North Slope Crude Oil.

Exporters are advised that license applications will be reviewed on a case-by-case basis and will be acted upon

favorably barring any overriding national interest considerations. Also, exporters are placed on notice that if there is an interruption in the international supply of crude oil or other action resulting in a drastic change in the U.S. or world petroleum supply situation, quantitative restrictions *may be* re-imposed.

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

PART 371—GENERAL LICENSES

1. 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 under short supply control, unless the export is authorized under the provisions of General Licenses *G–NNR, GLV, SHIP STORES, PLANE STORES, RCS, G–FTZ* or *GUS;*

* * * * *

§ 371.8 [Reserved]

2. Section 371.8 is removed and reserved.

3. Section 371.9(b) is revised to read as follows:

§ 371.9 General License SHIP STORES.

* * * * *

(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)(2), or it may consist of other documentation establising 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 in appropriate cases, audits of exporters' files may be conducted 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.* Any petroleum commodity identified 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)(3). Crude petroleum may be exported only under a validated license issued pursuant to § 377.6(d)(1).

4. Section 371.10(b)(2) is revised to read as follows:

§ 371.10 General License PLANE STORES.

* * * * *

(b)(1) *Restrictions on Petroleum and Petroleum Products for Use on Aircraft.* [Reserved]

(2) No export of any petroleum product listed in Supplement No. 3 to Part 377 may be made under this general license unless 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)(2), 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 in appropriate cases, audits of exporters' files may be conducted 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 *PLANE STORES.*

5. Section 371.12(e) is revised to read as follows:

§ 371.12 General License RCS; Shipments to U.S. or Canadian Vessels, Planes and Airline Installations or Agents.

* * * * *

(e) *Restrictions on petroluem 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)(2), 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 in appropriate cases, audits of exporters' files may be conducted 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.* 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)(3). Crude petroleum may be exported only under a validated license issued pursuant to § 377.6(d)(1).

6. Section 371.13 is amended by adding a new paragraph (c) to read as follows:

§ 371.13 General License GUS; Shipments to Personnel and Agencies of the U.S. Government.

* * * * *

(c) *Petroleum exports.* The provisions of this § 371.13 do not apply to the products listed in Supplement No. 3 to Part 377 unless, in addition to meeting the other requirements of § 371.13, the exporter, prior to exporting such products, has assembled the documentary evidence described in § 371.16 establishing that the product was not derived from a Naval Petroleum Reserve. Crude petroleum may be exported only under a validated license issued pursuant to § 377.6(d)(1).

7 Section 371.16(b) is revised to read as follows:

§ 371.16 General License G–NNR; Shipments of Certain Non-Naval Reserve Petroleum Commodities.

* * * * *

(b) Prior to the export of a commodity under this General License *G–NNR,* the exporter must have assembled documentary evidence establishing that the commodity was not produced from a Naval Petroleum Reserve. Such documentary evidence may take the form of the affidavit prescribed in § 377.6(e)(2), 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 in appropriate cases, audits may be conducted of exporters' records 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 *G–NNR.* Any commodity listed in Petroleum Commodity Group Q which does not meet the conditions for export under General License *G–NNR, GLV, SHIP STORES, PLANE STORES, RCS* or *GUS*

may be exported only under a validated license issued pursuant to § 377.6(d)(3).

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

8. Section 372.9(d)(3) is revised to read as follows:

§ 372.9 Issuance of validated licenses.

* * * * *

(d) * * *

(3) *Special provisions.* If special provisions for any commodity include terms regarding the validity period of an individual export license, these will be found in Part 376.

* * * * *

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

9. Section 376.9(c)(5) is revised to read as follows:

§ 376.9 Ship stores, plane stores, supplies, and equipment.

* * * * *

(c) * * *

(5) *Additional information.* State the reasons why a general license is inapplicable to the proposed export unless the reasons are already indicated elsewhere on the application or on an attachment. If additional space is required, an attachment may be used. Also state the gross registered tonnage (GRT), type of main engines and rated horsepower, daily fuel consumption rate, total fuel capacity, and fuel supply on board, indicating specifically the number of days running supply from the port where additional supplies are requested. In the case of aircraft, state make and model. In addition, the affidavit required by § 377.6(e)(2) must accompany the application.

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

10. Section 377.6 is revised to read as follows:

§ 377.6 Petroleum and petroleum products.

The following provisions supplement the regular requirements for submitting an export license application (see Part 372).

(a) *Consignee in country of ultimate destination.* Where shipments are contemplated to be made to consignees in more than one country, the phrase "Various—see attached list" shall be entered in Item 7 of Form ITA-622P (Rev. 7-81).

(b) [Reserved].

(c) [Reserved].

(d) *Issuance of export licenses.* Petroleum Commodity Groups, as identified in the following paragraphs, are defined in Supplement No. 2 to Part 377. Submit each application for a validated license to export a commodity from one of these groups to the Office of Export Administration, Attn: Short Supply Program, Resource Assessment Division, U.S. Department of Commerce, P.O. Box 7138, Washington, D.C. 20044. Include with each license application the documentation required by § 377.6(e). Applications will be considered subject to the appropriate provisions of this section.

(1) *Group A.* The export from the United States of crude petroleum and partly refined petroleum is permitted only as provided in this paragraph. Applications to export Group A commodities shall include evidence of an order as described in § 372.6, and the documentation described in § 377.6(e)(1) and (2). Different situations exist depending upon the source of the crude oil and the nature of the proposed export transaction. Applications will be approved if it is established to the satisfaction of the Department of Commerce that the export is consistent with the national interest and the purposes of the Energy Policy and Conservation Act *and one* of the following conditions is met:

(i) *Alaskan North Slope Crude.* Pursuant to section 7(d) of the Export Administration Act of 1979, Alaskan North Slope Crude Petroleum may be exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the U.S., provided:

(A) Such exchange will result, through convenience or increased efficiency of transportation, in lower prices for consumers of petroleum products in the U.S.,

(B) Within 3 months following the initiation of such exchange, the transaction results in (*1*) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an exchange, and (*2*) not less than 75 percent of such savings in costs must be reflected in wholesale and retail prices of products refined from such imported crude oil.

Note.—Paragraphs 377.6(d)(1) (ii) through (vii) below apply to all crude oil, including Alaskan North Slope Crude oil.

(ii) *Temporary exports.* The Group A commodity is being exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state, and shall re-enter the United States in the same form.

(iii) *Equivalent importation.* The export will result directly in the importation into the United States of an equal or greater quantity of that same commodity. This kind of transaction is carried out for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state.

(iv) *Naval Petroleum Reserve Origin.* The Group A commodity to be exported meets the following conditions:

(A) The commodity was produced from a Naval Petroleum Reserve;

(B) The commodity has not been and will not be transported by pipeline over a Federal right-of-way granted pursuant to Section 28(u) of the Mineral Leasing Act of 1920; *and*

(C) The President makes and publishes an express finding that the export—

(*1*) Will not diminish the total quantity or quality of petroleum available to the United States;

(*2*) Is in the national interest; *and*

(*3*) Is in accord with the Export Administration Act of 1979.

(v) *Transported over rights-of-way granted under the Mineral Leasing Act.* The Group A commodity has been or will be transported by pipeline over rights-of-way granted under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), and the President—

(A) Makes and publishes an express finding that the export—

(*1*) Will not diminish *the total quantity or quality* of petroleum available to the United States;

(*2*) Will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners;

(*3*) Will be made only under contracts that may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened; and

(*4*) Is in the national interest and in accordance with the provisions of the Export Administration Act; *and*

(B) Reports the finding described in (A) above to the Congress as an energy action as defined in Section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) and either—

(*1*) A 60-calendar day period during which both Houses of Congress are in continuous session, as defined in Section 551 of that Act, has elapsed and neither House has passed a resolution disapproving the findings; or

(*2*) Each House of Congress has passed a resolution approving such finding or affirmatively stating in

substance, that such House does not object to such findings.

(vi) *Corresponding importation of the same commodity.* The Group A commodity was not produced from the Naval Petroleum Reserves and was not and will not be transported by pipeline over rights-of-way granted pursuant to Section 28(u) of the Mineral Leasing Act of 1920, and the export is part of an overall transaction which—

(A) Will result directly in the importation into the United States of an equal or greater quantity and an equal or better quality of the same commodity;

(B) Will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs to refiners;

(C) Will take place only under contracts that may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened;

(D) Will be in the national interest;

(E) Will be in accordance with the Export Administration Act and the purposes of the Energy Policy and Conservation Act;

(F) For compelling economic or technological reasons that are beyond the control of the applicant, the commodity cannot reasonably be processed within the United States; and

(G) The Group A commodity to be imported into the United States would not be available for import if the export had not taken place.

(vii) *Corresponding importation of refined commodities.* The Group A commodity was not produced from the Naval Petroleum Reserves, and was not and will not be transported by pipeline over rights-of-way granted under Section 28 of the Mineral Leasing Act of 1920, and will be exported as part of an overall transaction which—

(A) Will result directly in the importation into the United States of a quantity and quality from other Petroleum Commodity Groups that is not less than the quantity and quality of commodities that would be derived from the refining of the commodity for which an export license is sought;

(B) The commodities imported into the United States will be sold at prices no higher than the lowest price at which they could have been sold if the export had not taken place and the Group A commodities had been refined at the nearest U.S. refinery capable of processing it within a reasonable period of time; and

(C) For compelling economic or technological reasons that are beyond the control of the applicant, the Group A commodity cannot reasonably be processed within the United States.

(2) *Groups B, C, D, E, F, G, K, L, M and N.* An application for a validated license to export a commodity from Petroleum Commodity Groups B, C, D, E, F, G, K, L and M shall include evidence of an order as described in § 372.6 and the documentation described in § 377.6(e)(2). An application for a validated license to export a commodity from Petroleum Commodity Group N must be submitted with evidence of an order, as described in § 372.6, and the documentation required by § 377.6(e)(2) and (3). Applications will be considered on individual merits and be acted upon favorably barring any overriding national interest considerations.

(3) *Petroleum and petroleum products produced from the Naval Petroleum Reserves or which have been exchanged therefor.* (i) The export of those commodities listed in Supplement No. 3 to Part 377 which were produced or derived from the Naval Petroleum Reserves or which became available for export as a result of an exchange of a Naval Petroleum Reserves-produced or derived commodity, is prohibited pursuant to the provisions of 10 U.S.C. 7430(e) as provided in § 377.6(d)(1).

(ii) Applications for a validated license to export those commodities listed in Supplement No. 3 to Part 377 which were produced or derived from the Naval Petroleum Reserves, or which became available for export as a result of an exchange for a Naval Petroleum Reserves-produced or derived commodity, other than a commodity belonging to Petroleum Commodity Group A which is subject to the provisions of § 377.6(d)(1), will be considered under the provisions of this paragraph if submitted with evidence of an order, as described in § 372.6, and the supporting documentation described in § 377.6(e) (4) and (5). A validated license to export such a commodity may be issued only if it is demonstrated to the satisfaction of the Department of Commerce[1]

(A) That the commodity will be exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, *or*

(B) That the commodity is being exported temporarily for convenience or increased efficiency of transportation across parts of an adjacent foreign state and will re-enter the United States, *or if*

(C) The President has made and published an express finding that such export will not diminish the total quality or quantity of petroleum available to the United States and that such export is in the national interest and is in accord with the Export Administration Act of 1979.

(e) *Documentation.* An application for a validated license to export petroleum and petroleum products must be submitted on Form ITA-622P, Application for Export License. The exporter *must submit* with the application, documentary evidence of an order as described in § 372.6(a) (1) and (2), and one or more to the following documents, as required by the appropriate paragraph of § 377.6(d).

(1) A sworn affidavit, signed by an authorized representative of the exporter, which demonstrates (in conjunction with such supporting evidence as may be required by the Department of Commerce) that the applicable criteria of § 377.6(d)(1) are satisfied;

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

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* nor will not be 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, do *not* and will 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.

(c) 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.

(d) 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

[1] Natural gas and liquefied natural gas (L.N.G.), and synthetic natural gas commingled with natural gas require export authorization from the U.S. Department of Energy. See § 370.10(g).

exported, and have been assured by that person that these statements are correct.[1]

The individual who made these representations to me is:

(Name) ————, (Title) ———— of (Company) ————, and he communicated these assurances to me on (Date) ———— (Signature) ————"

(3)(i) 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 of the end-use; 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.

(4) A sworn affidavit, signed by the exporter or his authorized representative, together with such supporting evidence as may be appropriate, setting forth either—

(i) The facts necessary to establish that the conditions prescribed in § 377.6(d)(3)(ii)(A) or (B) have been met; *or*

(ii) The reasons why the exporter believes that the President should be asked to make and publish an express finding that the proposed export will not diminish the total quantity or quality of petroleum available to the United States, and that such export is in the national interest and is in accordance with the Export Administration Act of 1979.

(5) If the Export Control Commodity Number preceding the commodity description in the Commodity Control List (Supplement No. 1 to § 399.1) is followed by the code letter "A," include the documentation required by Part 375 of these regulations for the country of ultimate destination.

(f) [Reserved].

(g) *Validity period.* A license issued pursuant to this § 377.6 is subject to the same validity period limitations as other individual validated licenses (see § 372.9 (d)).

(h) *Confidentiality.* Any documentation required from the exporter under this section will be treated as confidential information under Section 12(c) of the Export Administration Act of 1979.

(i) *Congressional Review.* Applications to export more than 250,000 barrels of any refined petroleum product to any destination in a single fiscal year will be subject to a 30-day processing delay. Applications *not* subject to this reporting requirement include:

(1) Foreign origin products which are in-transit through the United States, and have not been entered for consumption.

(2) Temporary exports where the product will move in-transit or to temporary storage outside the United States and will be returned to the U.S.

(3) Product exchanges in equal quantity for efficiencies of transportation.

(4) Processing of products (including fractionation) with all the products to be returned to the United States.

[1] This information may be submitted immediately after the export has taken place, if not known at time of application.

Supplement No. 2 to Part 377 [Amended]

11. Supplement No. 2 to Part 377 is amended as follows:

a. By revising the heading "Petroleum Products Subject to Validated Licensing and Historical Quotas" to read "Petroleum Products Subject to Validated Licensing in Accordance with § 377.6(d) (2) and (3).

b. By removing the heading "Petroleum Products Subject to Validated Licensing But Not Quotas."

c. By removing Petroleum Commodity Groups H, J, and R.

d. By removing Petroleum Commodity Groups N–1, N–2, and N–3, and inserting in lieu thereof the following:

GROUP N

431.0290	Naphthas, but excluding specialty 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.
475.3500		
475.6781		

e. By revising the heading prior to Petroleum Commodity Group Q to read "Petroleum Products Subject to Provisions of Either § 371.16 or § 377.6(d)(3)", and inserting 475.1505 above entry 475.1515 and inserting in numerical order by Schedule B Numbers, the following entries:

475.1505	Synthetic natural gas [8]	M Cu. Ft.
475.1570	Gas, manufactured	M Cu. Ft.
475.6710	Carbon black feedstock oil	Bbl.
511.2500	Petroleum asphalt	S. Ton.
521.1120	Paving mixtures, bituminous, based on asphalt and petroleum	$ Value.

[8] Natural gas and liquefied natural gas (L.N.G.), and synthetic natural gas commingled with natural gas, require export authorization from the U.S. Department of Energy. See § 370.10(g).

f. By removing the paragraphs entitled "Quantities", "Base Periods" and "Submission Dates" and that portion of Supplement No. 2 entitled "Quarterly Country Quotas"

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Supplement No. 1 to § 399.1 [Amended]

12. Entry No. 1702A of the Commodity Control List, Supplement No. 1 to § 399.1 is amended by revising the parenthetical sentences to read as follows:

1702A	Hydraulic fluids	Bbl	POSTVWYZ	500	MG	1

(See § 377.6(d)(3) and §§ 377.6(e) (4) and (5) for special documentation requirements. Also see § 371.5(d) for special provisions regarding shipments under General License *GLV.*)

(Secs. 5, 7, 13, 15, Export Administration Act of 1979, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*); sec. 103, Pub. L. 94–163 (42 U.S.C. 6212); sec. 101 Pub. L. 93–153 amending (30 U.S.C. 185); sec. 201 (10), Pub. L. 94–258, 90 Stat. 309, amending 10 U.S.C. 7430; 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 Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: September 30, 1981.

Bo Denysyk,

Deputy Assistant Secretary for Export Administration, International Trade Administration.

[FR Doc. 81-29043 Filed 10-5-81; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX B:
Canadian Consumption

Federal Register
Vol. 50, No. 117
Tuesday, June 18, 1985

Presidential Documents

Title 3—

The President

Presidential Findings of June 14, 1985

United States-Canadian Crude Oil Transfers

On March 18, 1985, at the Quebec Summit, I joined Prime Minister Mulroney in endorsing a Trade Declaration with the objective of liberalizing energy trade, including crude oil, between the United States and Canada. Both Governments recognized the substantial benefits that would ensue from broadened crude oil transfers and exchanges between these two historic trading partners and allies. These benefits would include the increased availability of reliable energy sources, economic efficiencies, and material enhancements to the energy security of both countries. Following this Declaration, Canada declared that it would permit Canadian crude oil to be freely exported to the United States effective June 1, 1985.

Before crude oil exports to Canada can be authorized, I must make certain findings and determinations under statutes that restrict exports of crude oil. I have decided to make the necessary findings and determinations under the following statutes: Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212); section 28 of the Mineral Lands Leasing Act of 1920, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185); and section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) (crude oil transported over the Trans-Alaska Pipeline or derived from the Naval Petroleum Reserves is excluded).

I hereby find and determine that exports of crude oil under these statutes are in the U.S national interest, and I further find and determine that such U.S. crude oil exports to Canada—

- will not diminish the total quantity or quality of petroleum available to the United States;
- will not increase reliance on imported oil;
- are in accord with provisions of the Export Administration Act of 1979; and
- are consistent with the purposes of the Energy Policy and Conservation Act.

Therefore, such domestic crude oil may be exported to Canada for consumption or use therein.

These findings and determinations shall be published in the **Federal Register.** I direct the Secretary of Commerce to take all other necessary and proper action to expeditiously implement this decision.

Ronald Reagan

THE WHITE HOUSE,
June 14, 1985.

[FR Doc. 85-14782
Filed 6-17-85; 9:35 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 122
Tuesday, June 25, 1985

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 50698-5098]

Exports of Crude Oil to Canada for Consumption or Use Therein

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: On June 14, 1985, President Reagan determined that crude oil exports to Canada are in the national interest and made the necessary findings under the Energy Policy and Conservation Act, the Mineral Lands Leasing Act, and the Outer Continental Shelf Lands Act to permit exports to Canada of crude oil subject to those statutory restrictions (50 FR 25189, June 18, 1985). To implement this determination, Part 377 of the Export Administration Regulations is being revised to permit crude oil exports to Canada for consumption or use therein, provided that it was not transported via the Trans-Alaska Pipeline and was not produced from Naval Petroleum Reserves.

EFFECTIVE DATE: June 25, 1985.

FOR FURTHER INFORMATION CONTACT: Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, DC 20230, Telephone: 202/377-3984.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Since this rule pertains to a foreign affairs function of the United States, the proposed rulemaking procedures and the delay in effective date required under the Administrative Procedures Act are inapplicable.

2. This rule contains a collection of information requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The collection of this information has been approved by the Office of Management and Budget (OMB control number 0625-0001).

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because a notice of proposed rulemaking is not required to be published. Accordingly, no initial or final Regulatory Flexibility Analysis has or will be prepared.

4. Since this rule pertains to a foreign affairs function, it is not a rule within the meaning of section 1(a) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 377

Exports.

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

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); 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); and Presidential Findings (50 FR 25189, June 18, 1985)

2. Accordingly, the Export Administration Regulations (15 CFR Part 368-399) are amended by adding § 377.6(d)(1)(viii) as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(viii) *Exports to Canada for consumption or use therein.* The Group A commodity was not produced from the Naval Petroleum Reserves and was not and will not be transported by pipeline over rights-of-way granted pursuant to Sec. 203 of the Trans-Alaska Pipeline Authorization Act and is being exported to Canada for consumption or use therein.

* * * * *

Issued: June 20, 1985.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 85-15284 Filed 6-24-85; 8:45 am]

BILLING CODE 3510-25-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33-6588; IC-14575; File No. S7-1007]

Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of forms, rule amendments, and publication of guidelines.

SUMMARY: The Commission is adopting: (1) Form N-3, a new registration form for certain separate accounts registered under the Investment Company Act of 1940 as management investment companies, and certain other separate accounts; (2) Form N-4, a registration form for certain separate accounts registered under the Investment Company Act of 1940 as unit investment trusts, and certain other separate accounts; and (3) related rule amendments. The Commission is also publishing staff guidelines for the preparation of Forms N-3 and N-4. The Commission is adopting the foregoing to integrate and codify disclosure requirements for insurance company separate accounts that offer variable annuity contracts and to shorten and simplify the prospectus provided to investors, while making more extensive information available for those who request it. Separate accounts will be permitted to use existing registration forms during a transition period of approximately one year.

DATE: The amended rules will be effective July 25, 1985. The new forms and guidelines will be available for registration of separate accounts and for

APPENDIX C:
Exports from Alaska's Cook Inlet

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 evaulation 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.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Tallassee, AL—[Revoked]

By revoking the title and text.

Issued in East Point, Georgia, on December 16, 1985.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 85-30405 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 51298-5198]

Exports of Crude Oil Derived from Alaska's Cook Inlet.

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

ACTION: Notice of proposed rulemaking.

SUMMARY: On November 6, 1985, the Secretary of Commerce, with the concurrence of the Secretaries of State, Energy, and Treasury, determined that permitting the export of crude oil derived from Alaska's Cook Inlet is in the national interest and consistent with the purposes of he Energy Policy and Conservtion Act.

Accordingly, the Department of Commerce proposes to revise Part 377 of the Export Administration Regulations (EAR) to permit exports of crude oil derived from Cook Inlet.

Only crude oil derived from state waters in Alask's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this proposed rule.

DATE: Comments must be submitted on or before February 24, 1986.

ADDRESSES: Send written comments (three copies) to Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office Industrail Resource Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The public rulemaking docket may be inspected at the 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 November 6, 1985, Secretary of Commerce Malcolm Baldrige made the following national interest finding:

National Interest Findings for Exports of Crude Oil Derived from Alaska' Cook Inlet

This Administration has concluded that the national interest will be served by permitting the export of crude oil derived from Alaska's Cook Inlet. The benefits that will ensue from these exports include increased incentives for investment in the exploration and development of domestic crude oil, transportation efficiencies, and material enhancements to the energy security of our allies. This initiative will also encourage other countries to remove trade barriers to U.S. goods and services. It does not affect our energy security as we retain the flexibility to react to changes in the world's available oil supply.

Only crude oil derived from Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Production Act of 1976, Outer Continental Shelf Lands Act or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this initiative. The initiative thus applies to crude oil which is advantageously located for export trade and which is not subject to special statutory provisions on export.

Before any Cook Inlet crude oil may be exported, certain findings and determinations must be made under section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212). Accordingly, pursuant to authority delegated to the Secretary of Commerce by Executive Order 11912 (41 FR 15825), and based on the consultations with other appropriate U.S. Government officials, I hereby find and detemine that the export of crude oil derived from Alaska's Cook Inlet is in the national interest and consistent with the purposes of the Energy Policy and Conservation Act.

I have directed the International Trade Administration to initiate the necessary rulemaking procedures to implement this decision.

Malcolm Baldridge,

Secretary of Commerce.

This rule proposes to implement that decision by modifying section 377 of the Export Administration Regulations. Under the proposed rule, a new eligibility category would be created—Exports from Alaska's Cook Inlet. Each exporter would be required to submit a license application along with supporting information demonstating that the export qualifies under this new category. No export could be made without the Department of Commerce first issuing an individual validated license.

Only crude oil derived from state waters in Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this proposed rule. This excludes domestic crude oil derived from the North Slope or Outer Continental Shelf, or crude oil transported over a federal right-of-way.

Exporters should be aware that any licenses issued will have a term of not greater than one year. Moreover, they should also be aware that outstanding licenses are subject to revocation if

there is serious interruption to available U.S. oil supplies.

In connection with various rulemaking requirements, the Office of Industrial Resource Administration has determined that:

1. 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, preparation of a Regulatory Impact Analysis is not required, and neither a preliminary nor a final Regulatory Impact Analysis has been or will be prepared.

2. Consistent with section 103 of the Energy Policy and Conservation Act, these revisions are being issued in proposed form. Comments from the public on this proposed rule will be considered in formulating a final rule, if received no later than February 24, 1986. 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 or 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 provided above, or by calling (202) 377-3031.

3. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small businesses. This is because the proposed rule relieves a U.S. government prohibition on crude oil exports derived from Alaska's Cook Inlet and has no direct or indirect costs of compliance other than a routine licensing requirement. As a result, neither an initial nor final Regulatory Flexibility Analysis has been or will be prepared.

4. This rule contains collections of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq*). These collections have been approved by the Office of Management and Budget under control numbers 0625-0001 and 0625-0155.

List of Subjects in 15 CFR Part 377

Exports.

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

Acordingly, Part 377 of Title 15, Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 377 continues 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. 97-163, 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).

2. Section 377.6(d)(1)(ix) is added as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(ix) Exports from Alaska's Cook Inlet. The Group A commodity was derived from the state waters of Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act.[1]

* * * * *

Issued: December 20, 1985.

John A. Richards, Director,

Office of Industrial Resource Administration.

[FR Doc. 85-30515 Filed 12-24-85; 8:45 am]

BILLING CODE 3300-00-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 10, 12, 19 and 54

Proposal to Eliminate Certain Information Collection Requirements

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the directives of the Paperwork Reduction Act, Customs has reviewed its regulations in an attempt to reduce or eliminate obsolete or burdensome regulatory information collection requirements. That review revealed numerous collection requirements which Customs believes may no longer be necessary. This notice invites comments in regard to this matter before making a final decision as to the retention or deletion of these requirements.

DATE: Comments must be received on or before February 24, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to, and inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Herb Geller, Duty Assessment Division, (202-535-4161), or Pat Barbare, Office of Inspection and Control (202-566-8151), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

[1] On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from state waters in Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

PART 39—[AMENDED]

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulation (FAR) as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to Section 39.13 the following new airworthiness directive (AD):

Garrett Turbine Engine Company (formerly the AiResearch Manufacturing Company of Arizona): Applies to all Model TFE731-2, -3, and -3R turbofan engines installed is aircraft certified in all categories equipped with fan rotor discs, part number 3073436-1, -2, -3, and -4 and 3072162-1, -2, -3, and -4.

Compliance is required as indicated unless already accomplished.

To prevent failure of the fan rotor disc due to fatigue cracking, accomplish the following:

(a) For fan rotor discs with 4000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service before reaching 4100 total operating cycles.

(b) For fan rotor discs with more than 4000 but with 6000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service within the next 100 operating cycles or prior to reaching 6005 total operating cycles whichever occurs first.

(c) For fan rotor discs with more than 6000 but with 8000 or less operating cycles on the effective date of this AD, remove fan rotor disc from service within the next 5 operating cycles or prior to reaching 8001 total operating cycles whichever occurs first.

(d) For fan rotor discs with more than 8000 operating cycles on the effective date of this AD, remove fan rotor disc from service prior to further flight.

Notes: (1) An operating cycle is considered as any engine operating sequence involving an engine start, at least one acceleration to 80 percent or more low pressure rotor speed, and an engine shutdown. An alternate method of determining cycles is to consider each airplane landing as one cycle. Fan rotor discs which have had their cyclic lives calculated by any other method are to have their cyclic lives recalculated using one of the two methods specified above.

(2) It has come to the attention of the FAA that some life limit log cards in the engine log book were incorrectly filled out in that the "dash number" of the disc part numbers (i.e. -1/-2/-3-/-4) may have been left off. This should be corrected when the disc is next available to read the entire part number. All fan rotor discs are -1,-2, -3, -4, and are affected by this AD. Fan rotor discs may be returned to GTEC for evaluation. Shipping information is contained in Garrett Alert Service Bulletin No. TFE731-A72-3328 Revision 2 dated April 4, 1986.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Western Aircraft Certification Office, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007 may adjust the compliance time specified in this AD.

This amendment supersedes Priority Letter AD 86-04-02 issued February 14, 1986.

There are two effective dates for this superseding AD.

For those operators who received Priority Letter AD 86-04-02, the effective date of this AD is the date of the priority letter AD.

The effective date of this AD is June 16, 1986, for operators with fan rotor disc part number 3073436-4 or 3072162-4 installed and for operators who did not receive the priority letter AD.

Issued in Burlington, Massachusetts, on May 22, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-12476 Filed 6-3-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 51298-6092]

Exports of Crude Oil Derived From Alaska's Cook Inlet

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

ACTION: Final rule.

SUMMARY: This final rule modifies section 377 of the Export Administration Regulations by creating a new eligibility category under § 377.6(d)(1)—Exports of crude oil from Alaska's Cook Inlet. Each exporter is required to submit a license application along with supporting information demonstrating that the proposed export qualifies under this new category. No export can be made without the Department of Commerce first issuing an individual validated license. Exporters should be aware that any licenses issued will have a term of not greater than one year. Moreover, they should also be aware that outstanding licenses may be revoked if there is serious interruption to available U.S. oil supplies.

This rule is issued in final form following review and consideration of comments received in response to a proposed rule published on December 26, 1985 (50 FR 52798).

Only crude oil derived from state-owned submerged lands in Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, is eligible to be exported under this rule. This excludes domestic crude oil derived from the North Slope or Outer Continental Shelf, or crude oil transported over a federal right-of-way granted pursuant to the Mineral Lands Leasing Act or the Trans-Alaska Pipeline Authorization Act.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202/377-3984.

SUPPLEMENTARY INFORMATION: On December 26, 1985, the Department of Commerce published in the **Federal Register** (50 FR 52798) a notice requesting public comments on a proposed rule to revise Part 377 of the Export Administration Regulations (EAR) to permit exports of crude oil derived from Alaska's Cook Inlet. The proposed rule was intended to implement a finding made by Commerce Secretary Malcolm Baldrige on November 6, 1985 under section 103 of the Energy Policy and Conservation Act (EPCA), that the export of Cook Inlet oil was in the national interest and consistent with the purposes of EPCA ("national interest finding"). The Secretary's finding followed a decision by President Reagan contained in a Presidential Policy Directive, dated October 24, 1985, based on the recommendation of the Economic Policy Council, to use his administrative authority to permit the sale of Cook Inlet oil to other countries.

The State of Alaska estimates the 1986 crude oil production from state-owned submerged lands in Cook Inlet at approximately 40,000 barrels per day. This production has been declining, and is expected to continue to decline, at approximately 15 percent per year. The oil is produced by a number of companies and serves several U.S. markets, which are expected to continue to use some of the oil.

Without further development of Cook Inlet resources, it is estimated that no more than 20,000 barrels per day may be available for export and most likely only 4,000 to 5,000 barrels per day of state royalty oil may be exported. This

quantity would require only a few vessel sailings a year and would have a minimal impact on the shipping industry.

Comments

The Department received 32 comments in response to the notice of proposed rulemaking, including one comment which consisted of nine separate statements, for a total of 40 comments. All of the commentators addressed the substance of the decision to permit the export of oil from Alaska's Cook Inlet. Twenty-seven commentators favored and 13 commentators opposed such exports. Six of the commentators challenged the Secretary's national interest finding based on procedural grounds. Only four commentators addressed the proposed rule itself. These comments related to the definition of Cook Inlet oil and to the documentation requirements supporting export license applications.

The Office of the Governor of the State of Alaska commented on the definition of the area included under "Cook Inlet" in the proposed regulations recommending the phrase "state-owned submerged lands." The proposed regulations had used the term "state waters of Alaska's Cook Inlet". The final rule adopts the recommendation because "state-owned submerged lands" is a more precise term.

Two oil producers also commented on the definition of "Cook Inlet" suggesting inclusion of onshore Cook Inlet fields. Export from onshore fields in the Cook Inlet Basin would invoke other statutory export restrictions, most notably the Mineral Lands Leasing Act of 1920 as amended (MLLA). Therefore, that area is not included within the definition.

The Coalition to Keep Alaska Oil questioned the Department's ability to insure compliance with the MLLA. License applications submitted under § 377.6(d) of the EAR are subject to the documentation requirements of § 377.6(e). Section 377.6(e) requires: (1) Documentary evidence of an order as described in § 372.6(a)(1) and (2); (2) a sworn affidavit, signed by an authorized representative of the exporter, which demonstrates (in conjunction with such supporting evidence as may be required by the Department of Commerce) that the applicable criteria of § 377.6(d)(1) are satisfied; and (3) an affidavit, attesting that the crude oil has not been nor will be produced from a Naval Petroleum Reserve.

The affidavit required by item 2 must state that the crude oil to be exported was derived from state-owned submerged lands in Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act. The applicant also will be required to provide documented independent verification of the origin of the crude oil. The Department has the right under existing regulations to require any additional supporting documentation.

The remaining comments received did not address the proposed rule but rather the Secretary's national interest finding.

The comments that challenged the substance of the Secretary's finding alleged that: Exports would not increase incentives for investment in the exploration and development of domestic crude oil would not result in transportation efficiencies; and, would not materially enhance the energy security of our allies. The favorable comments received concluded that: Increased export market opportunities would provide economic incentives for domestic oil exploration and development; that transport of oil to Pacific Rim countries is more efficient than to the U.S. Gulf Coast; that allowing Pacific Rim allies to purchase oil from more-diverse sources strengthens their energy security; and, that removing restrictions on crude oil exports would provide an incentive for our trading partners to remove barriers to U.S. goods.

Comment that challenged the Secretary's national interest finding on procedural grounds asserted that EPCA and the Administrative Procedure Act require public notice and comment prior to the finding; that the notice of proposed rulemaking failed to disclose whether EPCA's "mandated" criteria were considered in making the finding; and, that the notice did not make public the substance of advice received from any government agency concerning the finding.

The notice of proposed rulemaking met all applicable statutory provisions relating to notice and comment requirements. Neither the language of the applicable statutory provisions, nor any reasonable interpretation of the language, imposes a notice and comment requirement with respect to the national interest finding. Furthermore, EPCA does not "mandate" criteria. It grants the Secretary broad discretion in making the finding subject only to the criteria that exemption be based on a "reasonable classification or basis" as the Secretary determines to be appropriate and consistent with the national interest and the purposes of EPCA. The basis for the Secretary's finding was included with the proposed rule. Finally, advice obtained from other agencies is not routinely placed in the public record so as to facilitate frank interagency communication in rulemaking decisions.

Another comment stated that the national interest finding was improper under the delegation provisions in section 2 of Executive Order 11912 because the rule did not state that the Secretary had consulted with the Secretary of Defense or other agencies. Section 2 of the Executive Order cites section 5(a) of the 1969 Export Administration Act. That section of the Act did not require consultation with the Secretary of Defense specifically but merely charged the Secretary to seek information and advice from other agencies. As stated with the proposed rule, the Secretary's decision was taken in "consultation with other appropriate U.S. Government officials" and, as noted above, after a decision by the President pursuant to a recommendation of the Economic Policy Council.

Finally, comments were received concerning the classification of the proposed rule as not a major rule under E.O. 12291, alleging that exports of oil would result in an annual impact on the economy of $100 million or more. The conclusion in the comment was based on the theoretical effects of Alaska oil exports in general and not Cook Inlet oil specifically. The Department confirms its conclusion that the readily forseeable impact of this rule is less than $100 million annually.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Industrial Resource Administration has determined that:

1. This final 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, preparation of a Regulatory Impact Analysis is not required, and neither a preliminary nor a final Regulatory Impact Analysis has been or will be prepared.

2. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this

final rule will not have a significant economic impact on a substantial number of small entities. This is because the rule relieves a U.S. government prohibition on crude oil exports derived from Alaska's Cook Inlet and has no direct or indirect costs of compliance other than a routine licensing requirement. As a result, neither an initial nor final Regulatory Flexibility Analysis has been or will be prepared.

3. This rule affects collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq*). These collections have been approved by the Office of Management and Budget under control numbers 0625–0001 and 0625–0155.

4. This rule is effective June 4, 1986 since it is a substantive rule that relieves a restriction on certain crude oil exports, and therefore is excepted under section 553(d)(1) of the Administrative Procedure Act (5 U.S.C. 553) from the requirement of a thirty (30) day delay in effective date.

List of Subjects in 15 CFR Part 377

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, Part 377 of Title 15, Code of Federal Regulations, is amended as follows:

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

1. The authority citation for Part 377 continues 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).

2. Section 377.6(d)(1)(ix) is added as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(ix) Exports from Alaska's Cook Inlet. The Group A commodity was derived from the state-owned submerged lands of Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act.[1]

* * * * *

Issued May 30, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86–12490 Filed 6–3–86; 8:45 am]

BILLING CODE 3510–DT–M

[1] On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–6645; File No. S7–38–84]

Definition of Annuity Contract or Optional Annuity Contract

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule.

SUMMARY: The Commission is adopting a rule, which establishes a "safe harbor" for certain forms of annuity contracts that will not be deemed subject to the federal securities laws. The Commission is also withdrawing its general statement of policy regarding the factors which should be considered in any determination of the status under the federal securities laws of certain contracts issued by insurance companies. The "safe harbor" rule enables a corporation subject to insurance regulation by any state to offer and sell a contract with reasonable assurance that it falls within the meaning of the phrase "annuity contract or optional annuity contract," as used in section 3(a)(8) of the Securities Act of 1933, provided that the rule's conditions are satisfied. The release also addresses several related matters.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Special Counsel, (202) 272–2061, or Joseph R. Fleming, Attorney, (202) 272–3017, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting rule 151 under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("Act") relating to certain types of annuity contracts issued by insurance companies, including what are generally known as guaranteed investment contracts.[1] Simultaneously, the Commission is withdrawing Securities Act Release No. 6051 (April 5, 1979) ("Release 6051"), 44 FR 21626 (April 11, 1979), an interpretative release concerning the availability of section 3(a)(8) of the Act to certain contracts issued by insurance companies. Rule 151 provides "safe harbor" from the federal securities laws for an "annuity contract or optional annuity contract," as those terms are used in section 3(a)(8) of the Act, that satisfies all of the rule's conditions. The rule specifies a three-prong test for determining whether an insurer is able to find refuge for its contract in the "safe harbor." The annuity or optional annuity contract must (1) be issued by a corporation (an "insurer") subject to the supervision of the state insurance commissioner, bank commissioner, or any agency or officer performing like functions; (2) include certain guarantees of principal and interest sufficient for the insurer to be deemed to assume the investment risk; and (3) not be marketed primarily as an investment. The general purpose of the rule is to provide greater certainty regarding the availability of section 3(a)(8) to certain annuity products and to facilitate the Commission's effective administration of its statutes. The Commission is also expressing its views on several ancillary items relating to the subject matter of the rule.

Rule 151 was proposed for public comment on November 21, 1984.[2] The original comment period closed February 15, 1985, but was subsequently extended to April 15, 1985.[3] In response

[1] The contracts included within this term are discussed in Securities Act Rel. No. 5838 (June 22, 1977) [42 FR 32861 (June 28, 1977)]. As relevant here, these contracts, generally speaking, are deferred annuities under which the purchaser agrees to pay money to an insurer (either in a lump sum or in installments) and the insurer promises to pay interest at a guaranteed rate for the life of the contract. In some contracts, the insurer may periodically pay discretionary excess interest over and above the guaranteed rate. In addition, virtually all of these contracts allow the purchaser to buy an annuity with the monies accumulated under the contract. Finally, these contracts are issued on either an individual or a group basis.

[2] The reasons for proposing rule 151 and the administrative history of the rule are set forth in Securities Act Release No. 6558 (November 21, 1984) ("proposing release") [49 FR 46750 (November 28, 1984)].

[3] *See* Securities Act Rel. No. 6586 (February 15, 1985) [50 FR 7186 (February 21, 1985)]. This extension of the comment period was made at the request of the insurance industry's principal trade association to give it more time to study and prepare comments on the proposed rule.

APPENDIX D:
Additional Exports to Canada

Federal Register
Vol. 54, No. 3
Thursday, January 5, 1989

Presidential Documents

Title 3—

The President

Presidential Findings of December 31, 1988

United States-Canada Free-Trade Agreement Regarding Certain Alaska Crude Oil and Naval Petroleum Reserves Petroleum

On September 28, 1988, I signed the United States-Canada Free-Trade Agreement Implementation Act of 1988. Section 305 of that Act implements Annex 902.5 of the United States-Canada Free-Trade Agreement that deals with trade in energy goods, including crude oil. Section 305(a) amends section 7(d) of the Export Administration Act of 1979, as amended, to permit the export to Canada of up to 50,000 barrels per day of crude oil that has been transported by pipeline over a right-of-way granted pursuant to Section 203 of the Trans-Alaska Pipeline Authorization Act ("TAPS crude oil").

On June 14, 1985, I made a finding that the exports of certain crude oil to Canada are in the national interest. Before exports of these 50,000 barrels per day of crude oil to Canada can be authorized, I must make certain additional findings and determinations. I have decided to make the necessary findings and determinations under the following statutes: Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212); Section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354); and 10 U.S.C. 7430(e).

To further implement Chapter Nine of the Free-Trade Agreement with regard to trade in energy goods, and as indicated in Chapter Nine of the Statement of Administrative Action that I transmitted to the Congress with the Free-Trade Agreement, I also am making these findings and determinations with regard to exports of petroleum (as defined in 10 U.S.C. § 7420(3)) from the Naval Petroleum Reserves, where proof is lacking that those exports are not derived from or commingled with petroleum from the Naval Petroleum Reserves.

I hereby find and determine that exports of petroleum under these statutes are in the U.S. national interest, and I further find and determine that such U.S. petroleum exports to Canada—

- will not diminish the total quality or quantity of petroleum available to the United States;
- will not increase reliance on imported oil;
- are in accord with provisions of the Export Administration Act of 1979, as amended; and
- are consistent with the purposes of the Energy Policy and Conservation Act.

Therefore, effective upon the entry into force of the Free-Trade Agreement for the United States, such domestic petroleum may be exported to Canada, exports of crude oil to be for consumption or use therein.

These findings and determinations shall be published in the **Federal Register.** I direct the Secretary of Commerce to take all necessary and proper action to expeditiously implement this decision.

Ronald Reagan

THE WHITE HOUSE,
December 31, 1988.

[FR Doc. 89-281
Filed 1-4-89; 9:36 am]
Billing code 3195-01-M

Mount Airy, NC—Mount Airy/Surry County, NDB-A, Amdt. 2
Whiteville, NC—Columbus County Muni, NDB RWY 5, Amdt. 3
Charleston, SC—Charleston AFB/Intl, VOR/DME or TACAN RWY 3, Amdt. 12
Charleston, SC—Charleston AFB/Intl, VOR/DME or TACAN RWY 15, Amdt. 13
Charleston, SC—Charleston AFB/Intl, VOR/DME or TACAN RWY 21, Amdt. 12
Charleston, SC—Charleston AFB/Intl, VOR/DME or TACAN RWY 33, Amdt. 12
Charleston, SC—Charleston AFB/Intl, RADAR-1, Amdt. 15

. . . *Effective February 9, 1989*

Windsor Locks, CT—Bradley Intl, VOR RWY 15, Orig.
Muncie, IN—Delaware County-Johnson Field, NDB RWY 32, Amdt. 10
Muncie, IN—Delaware County-Johnson Field, ILS RWY 32, Amdt. 7
Baltimore, MD—Martin State, NDB RWY 14, Amdt. 6
Baltimore, MD—Martin State, NDB RWY 32, Amdt. 6
Falls City, NE—Brenner Field, NDB-A, Amdt. 2
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 28, Amdt. 19
Cleveland, OH—Cleveland-Hopkins Intl, RADAR-1, Amdt. 31
Cleveland, OH—Cleveland-Hopkins Intl, RNAV RWY 10, Amdt. 10

. . . *Effective December 23, 1988*

Baltimore, MD—Martin State, VOR/DME or TACAN 1 RWY 14, Amdt. 4
Baltimore, MD—Martin State, ILS RWY 32, Amdt. 2
Baltimore, MD—Martin State, RNAV RWY 14, Amdt. 3

[FR Doc. 89-795 Filed 1-12-89; 8:45am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 777

[Docket No. 81269-8269]

Exports of Certain Alaska Crude Oil to Canada

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: Section 777.6(d)(1) of the Export Administration Regulations (EAR) permits the export of crude oil for use or consumption in Canada, except for crude oil transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (Alaska crude oil) and crude oil from the Naval Petroleum Reserves. This rule amends that section of the EAR to authorize the export of 50,000 barrels per day of Alaska crude oil to Canada. The amendment made by this rule implements Annex 902.5 of the United States-Canada Free-Trade Agreement which became effective on January 1, 1989.

EFFECTIVE DATES: This rule is effective January 13, 1989. Comments must be received by February 13, 1989.

ADDRESSES: Written comments (six copies) should be sent to: Rodney A. Joseph, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Room 1600, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT:

Rodney A. Joseph, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-8171.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1988, President Reagan signed the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Pub. L. 100-449). Section 305 of that Act implements Annex 902.5(3) of the United States-Canada Free-Trade Agreement that deals with trade in energy goods, including a provision to export up to 50,000 barrels per day of Alaska North Slope crude oil. In order to implement this provision, section 305(a) amends section 7(d) of the Export Administration Act of 1979, as amended, to permit the export to Canada of 50,000 barrels per day of crude oil that has been transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act. In addition, on December 31, 1988, President Reagan made certain findings and determinations under four other statutes that restrict exports of crude oil, specifically: section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212); section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354); and 10 U.S.C. 7430(e).

The Statement of Administrative Action that accompanied the Free-Trade Agreement to the Congress contained a description of all the actions that would be taken to implement the crude oil provision, including a change in the EAR to allow petroleum (crude or products) to be exported, even in the absence of proof that the petroleum is not commingled with products of the Naval Petroleum Reserves.

This interim rule amends § 777.6 of the Export Administration Regulations to provide for the licensing of the 50,000 barrels per day to Canada to be distributed quarterly among applicants on a pro rata basis. In accordance with the implementation Act, this interim rule requires that any ocean transportation of Alaska crude oil authorization under this rule be by vessels documented under section 12106 of Title 46, United States Code. Furthermore, this interim rule provides that an application must be submitted on Form BXA-622P, that an applicant must have title to or a contract to purchase the quantity stated on the application, that licensed quantities for four calendar quarters may be combined into one or more shipments, ant that the applicant cannot transfer the license to another person.

This rule establishes procedures and time limits for filing applications and the procedures to followed in approving quantities for export by applicants. For each calendar quarter, applications may be filed in February, May, August, and November preceding the quarter for which authorization will be requested. Applications will be issued prior to the beginning of a quarter. For the First Quarter of 1989, applications will be accepted until February 1, 1989. Validated licenses will be issued by February 15, 1989. The quantities authorized will be computed based on the total amount of oil permitted by this rule for the period February 15 through March 31.

The interim rule also contains a provision to ensure that petroleum exports are not disallowed because of lack of proof that those exports are not derived from or commingled with petroleum from the Naval Petroleum Reserves.

This rule is being issued in interim form to permit timely implementation of the terms of the Agreement, while providing for public comment prior to the development of the final regulations. Comments are encouraged on all aspects of this rule. Comments are particularly requested concerning the method for determining the quantity to be authorized for each validated license and how licensed quantities should be determined when a pro-rata share would be less than an economical shipment quantity.

Rulemaking Requirements and Invitation to Comment

1. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the

requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule contains a collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0027. The public reporting burden to apply for a short supply crude oil license is estimated to average 4 hours. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Administration, Bureau of Export Administration, Room 3889, Department of Commerce, Washington, DC 20230 and to the Office of Management and Budget Paperwork Reduction Projects, 0694–0005 and 0694–0027, Washington, DC 20503.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedures Act (5 U.S.C. 553), or by any other law, 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.

4. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these requirements because it involves a foreign affairs function of the United States in that it implements a part of the United States-Canada Free-Trade Agreement.

This rule is not subject to the requirements of section 13(b) of the Export Administration Act because it is not imposing new controls. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close February 13, 1989. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments 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. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of 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, the Department requires comments in written form. Oral comments must be followed by written memoranda, 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 Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4086, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 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 Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–2593.

5. This interim rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 777

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, and Reporting and recordkeeping requirements.

Accordingly, Part 777 of the Export Administration Regulations (15 CFR Parts 768 through 799) is amended as follows:

PART 777—[AMENDED]

1. The authority citation for 15 CFR Part 777 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 December 29, 1981, by Pub. L. 99–64 of July 12, 1985, by Pub. L. 100–180 of December 4, 1987, by Pub. L. 100–418 of August 23, 1988, and by Pub. L. 100–449 of September 28, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757), July 16, 1985); sec. 103, Pub. L. 94–163 of December 22, 1985 (42 U.S.C. 6212), as amended by Pub. L. 99–58 of July 2, 1985; sec. 101, Pub. L. 93–153 of November 16, 1973 (30 U.S.C. 185); sec. 28, Pub. L. 95–372 of September 18, 1978 (43 U.S.C. 1354); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976), as amended; secs. 201(1) and 201(11)(e), Pub. L. 94–258 of April 5, 1976 (10 U.S.C. 7420 and 7430(e)); Presidential Findings of June 14, 1985 (50 FR 25189, June 18, 1985) and December 31, 1988 (54 FR 271, January 5, 1989); and sec. 125, Pub. L. 99–64 of July 12, 1985 (46 U.S.C. 466(c)).

2. In § 777.6, paragraph (d) is amended by revising the introductory text, by revising the NOTE that follows paragraph (d)(1)(i)(B), and by adding a new paragraph (d)(1)(x), as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(d) *Issuance of Export Licenses.* Petroleum Commodity Groups, as identified in the following paragraphs, are defined in Supplement No. 2 to Part 777. Submit each application for a validated license to export a commodity from one of these groups to: Office of Export Licensing, ATTN: Short Supply, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

Include with each license application the documentation required by § 777.6(e). Applications will be considered subject to the appropriate provisions of this section.

(1) * * *

(i) * * *

(B) * * *

Note: Paragraphs 777.6(d)(1) (ii) through (vii) and (x) below apply to all crude oil, including Alaska North Slope crude oil.

* * * * *

(x) Exports of Certain Alaska Crude Oil to Canada. The Group A commodity will be exported under the following conditions:

(A) The commodity is domestically produced, has been transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans Alaska Pipeline Authorization Act (43 U.S.C. 1652), and is being exported to Canada for consumption, in Canada;

(B) Any ocean transportation of the commodity will be made by vessels documented for United States coastwise trade under 46 U.S.C. 12106. Only barge voyages between the State of Washington and Vancouver, British Columbia, and comparable barge movements across waters between the U.S. and Canada may be excluded from this requirement. The Department of Commerce will determine, in consultation with the Maritime Administration, whether such transportation is "ocean" transportation; *and*

(C) The export complies with the provisions contained in paragraph (f) of this section.

* * * * *

3. In § 777.6, paragraph (e)(2), is amended by revising the introductory text and the introductory text of the affidavit and by removing paragraph (d) of the affidavit and footnote 3 as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(e) *Documentation.* * * *

(1) * * *

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

AFFIDAVIT

"I, _____

(Name)

_____

(Title)

of _____

(Company)

HEREBY CERTIFY that to the best of my knowledge and belief the

_____

(Quantity)

bbls of _____

(Commodity)

* * * * *

4. In § 777.6, paragraph (f) is added to read as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(f) *Exports of Certain Alaska Crude Oil Pursuant to § 777.6(d)(1)(x).* An average of no more than 50,000 barrels per day of Alaska crude oil transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act for use or consumption in Canada will be authorized as follows:

(1) Authorization to export such Alaska crude oil will be granted on a quarterly basis. Applications will be accepted by the Office of Export Licensing *no earlier* than two months prior to the beginning of the calendar quarter in question, but must be received *no later* than the first day of the month preceding the calendar quarter. For example, for the calendar quarter beginning April 1 and ending June 30, applications will be accepted beginning February 1, but must be received no later than March 1.

(2) The quantity stated on each application must be the total number of barrels for the quarter—not a per day rate. This quantity must not exceed 50,000 barrels times the number of calendar days in the quarter.

(3) Each application shall include support documents providing evidence that the applicant has either:

(i) Title to the quantity of barrels stated in the application *or*

(ii) A contract to purchase the quantity of barrels stated in the application.

(4) The quantity of barrels authorized on each validated license for export during the calendar quarter will be determined by the Office of Export Licensing as a prorated amount based on:

(i) The number of licenses issued for the quarter;

(ii) The quantity requested on each license application; *and*

(iii) The total number of barrels that may be exported by all license holders during the quarter (50,000 barrels per day multiplied by the number of calendar days during the quarter).

(5) Applicant may combine their licensed quantities for as many as four consecutive calendar quarters into one or more shipments, *provided* that the validity period of none of the affected licenses has expired.

* * * * *

Dated: January 10, 1989.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 89-902 Filed 1-12-89; 8:45 am]

BILLING CODE 3510-DT-M

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 80858-8262]

Direct Investment Surveys; Change in Reporting Requirements for the Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends 15 CFR Part 806 by changing the reporting requirements for the BE-15, Annual Survey of Foreign Direct Investment in the United States. The survey is a mandatory survey conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act.

Under a proposed rule published earlier in the **Federal Register**, BEA had planned to raise the exemption level for the BE-15 survey—the level below which reports are not required—from $10 million to $20 million. Since publication of the proposed rule, BEA has received public comment opposing the raising of the exemption level. Under this final rule, the exemption level for the survey will remain at $10 million, but, in order to keep the reporting burden to a minimum, a short form will be instituted for reporting by foreign-owned U.S. affiliates between the $10 and $20 million levels.

EFFECTIVE DATE: This rule will be effective February 13, 1989.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: In the September 20, 1988, **Federal Register**, Volume 53, No. 182, 53 FR 36468, the Bureau of Economic Analysis published a notice of proposed rulemaking to raise the exemption level for the BE-15, Annual Survey of Foreign Direct Investment in the United States, from $10 million to $20 million, primarily to minimize the burden on respondents. Thereafter, a number of letters commenting on the proposed rule were received by BEA. One letter supported the increase in the exemption level on the grounds that it would have reduced the survey reporting burden without causing significant loss of data. The other letters opposed the increase in the exemption level on the grounds that it would have resulted in a deterioration of the database.

Because large affiliates account for a very high percentage of the foreign direct investment universe in value terms, the increase in the exemption level would not have significantly reduced the reliability of the data overall or for the vast majority of country, industry, and State cells published. However, it could have adversely affected the data for certain countries, industries, and States in which small investments account for a

Dated: March 13, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-6176 Filed 3-16-90; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 776

[Docket No. 91176-9276]

Expansion and Imposition of Foreign Policy Controls on Chemical Weapon Precursors; Technical Amendment

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule; technical amendment.

SUMMARY: An interim rule, with request for public comment, revising foreign policy controls on the export of certain chemical weapon precursors was published in the **Federal Register** on December 20, 1989 (54 FR 52017-52022). That rule expanded the number of countries to which a license is required for the export of 3 chemicals and imposed foreign policy controls on 10 additional chemicals. The rule also imposed new reexport licensing requirements for shipments of all U.S. origin precursor chemicals from third countries to Iran, Iraq, Syria and Libya.

On December 12, 1989, the Department of Commerce submitted a report to Congress in accordance with section 6 of the Export Administration Act, as amended, to support the imposition and expansion of controls. Where reference was made to the date of this report in the regulatory text of the published interim rule, the phrase "Notice to Congress" appeared instead of the date. This document corrects the rule by replacing "Notice to Congress", where it incorrectly appears in three paragraphs, with the date "December 12, 1989".

See the Corrections section of this **Federal Register** for additional corrections.

EFFECTIVE DATE: This rule is effective March 19, 1990.

FOR FURTHER INFORMATION CONTACT: Karen Spencer, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-4819.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule does not involve collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, 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.

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

List of Subjects in 15 CFR Part 776

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

PART 776—[AMENDED]

1. The authority citation for part 776 continues 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 December 29, 1981, by Pub. L. 100-418 of August 23, 1988; and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

§ 776.19 [Amended]

2. Section 776.19 is amended by revising the phrase "(Notice to Congress)" to read "December 12, 1989" in paragraph (f), in the first sentence of paragraph (g), and in the third sentence of paragraph (h).

Dated: March 8, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-5993 Filed 3-16-90; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 777

[Docket No. 81269-0014]

Exports of Certain Alaska Crude Oil to Canada

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule adopts—with certain minor changes based on public comments—the revisions made by the interim rule on Alaska crude oil that was published in the **Federal Register** on January 13, 1989 (54 FR 1249). The interim rule revised § 777.6 of the Export Administration Regulations (EAR), which contains short supply export controls on petroleum and petroleum products.

Section 777.6(d)(1) of the EAR currently permits the export of crude oil for use or consumption in Canada, except for crude oil transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (Alaska crude oil) and crude oil from the Naval Petroleum Reserves. The interim rule amended § 777.6 to authorize the export of 50,000 barrels per day of Alaska crude oil to Canada. This amendment implemented Annex 902.5 of the United States-Canada Free-Trade Agreement which became effective on January 1, 1989.

This final rule makes certain procedural changes that are based, in part, on the public comments received by the Department of Commerce on the interim rule. The most significant of these changes is the elimination of the Naval Petroleum Reserve affidavit requirement in § 777.6(e)(2). Those persons who submit applications to export crude oil pursuant to § 777.6 (d)(1)(vi) through (d)(1)(viii) or § 777.6(d)(1)(x) will no longer be required to submit an affidavit certifying that the oil is not from a Naval Petroleum Reserve. This change will reduce the paperwork burden on applicants.

EFFECTIVE DATE: This rule is effective March 19, 1990.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Industrial Resource Administration, Bureau of Export Administration, Telephone: (202) 377-4060.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1988, President Reagan signed the United States-Canada Free-Trade Agreement

Implementation Act of 1988 (P.L. 100-449). Section 305 of that Act implements Annex 902.5(3) of the United States-Canada Free-Trade Agreement that deals with trade in energy goods, including a provision to export up to 50,000 barrels per day of Alaska North Slope crude oil. In order to implement this provision, section 305(a) amends section 7(d) of the Export Administration Act of 1979, as amended, to permit the export to Canada of 50,000 barrels per day of crude oil that has been transported by pipeline over a right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act. In addition, on December 31, 1988, President Reagan made certain findings and determinations under four other statutes that restrict exports of crude oil, specifically: section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212); section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354); and 10 U.S.C. 7430(e).

The Statement of Administrative Action that accompanied the Free-Trade Agreement to the Congress contained a description of all the actions that would be taken to implement the crude oil provision, including a change in the EAR to allow petroleum (crude or products) to be exported, even in the absence of proof that the petroleum is not commingled with products of the Naval Petroleum Reserves.

The interim rule of January 13, 1989 (54 FR 1249) amended § 777.6 of the Export Administration Regulations to provide for the licensing of the 50,000 barrels per day to Canada to be distributed quarterly among applicants on a pro rate basis. In accordance with the Implementation Act, the interim rule required that any ocean transportation of Alaska crude oil authorized under the rule be by vessels documented under section 12106 of title 46, United States Code.

The interim rule established procedures and time limits for filing applications and the procedures to be followed in approving quantities for export by applicants. This final rule makes certain changes in the application procedures and the time limits for submitting various documents. For each calendar quarter, applications now must be filed between the 1st day and the 25th day of the second month (i.e., February, May, August, and November) preceding the quarter for which export authorization is requested. The interim rule provided a slightly longer period in which to file applications—from the 1st day of the second month preceding the calendar quarter to the 1st day of the month preceding the quarter. The final rule shortens the submission period in order to permit export licenses to be issued in a more timely manner. Issuance of licenses is expected to occur on or about the 1st day of the month preceding the quarter in question. This change was made in response to public comments urging that applications be acted upon by the 1st day of the month preceding the quarter.

The interim rule also contained a provision to ensure that petroleum exports would not be disallowed because of lack of proof that those exports were not derived from or commingled with petroleum from the Naval Petroleum Reserves. This final rule revises the interim rule by eliminating the Naval Petroleum Reserve affidavit requirement contained in § 777.6(e). This change means that a Naval Petroleum Reserve affidavit is no longer required for applications to export crude oil pursuant to the provisions of § 777.6 (d)(1)(vi) through (d)(1)(viii) or for applications to export Alaska crude oil under § 777.6(d)(1)(x). The Department decided to eliminate the affidavit requirement after reviewing public comments on the interim rule and concluding that removal of the requirement would be consistent with the focus of the United States-Canada Free-Trade Agreement, which is to remove impediments to trade between the United States and Canada.

The final rule also revises § 777.6(f) to permit the Office of Export Licensing to add the unallocated volume from a calendar quarter to the quota available for each succeeding quarter in the same calendar year. However, unallocated portions will *not* be made available for allocation in a new calendar year.

The Department of Commerce received twelve public comments on the interim rule. As indicated above, this final rule incorporates a number of the recommendations contained in the public comments. The remaining comments—which were considered by the Department, but not included among the changes in this final rule—focused primarily upon exports of Alaska North Slope crude oil by pipeline and transportation of the oil by barges not documented for U.S. coastwise trade.

Two comments argued that shipments of crude oil to Canada should not be permitted directly via pipeline. However, a report by the House Energy and Commerce Committee [H. Rep. No. 816-III, 100th Cong., 2d Sess. (1988)] indicates that pipeline transportation from the U.S. to Canada was intended to be allowed. Therefore, this final rule—like the interim rule—does not prohibit pipeline transportation.

A few objections were voiced concerning the exclusion of certain barge voyages from the general requirement that all ocean transportation of Alaskan crude oil to Canada be in U.S. flag vessels without exception. One comment suggested that applicants be required to state the method and routing of transportation proposed for each shipment in order to determine whether contemplated barge movements constitute "ocean transport". The Department has considered all comments on this subject and has determined that nothing in the U.S.-Canada Free-Trade Agreement Implementation Act of 1988 (the Act) or in the legislative history supports removal of the existing exclusion.

Rulemaking Requirements

1. This rule complies with Executive Orders 12291 and 12656.

2. This rule contains collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This amendment will result in a slight reduction of the paperwork burden on applicants. These collections have been approved by the Office of Management and Budget under control numbers 0694-0005 and 0694-0027. The public reporting burden to apply for a short supply crude oil license is estimated to average 4 hours. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Administration, Bureau of Export Administration, Room 3889, Department of Commerce, Washington, DC 20230 and to the Office of Management and Budget Paperwork Reduction Projects, 0694-0005 and 0694-0027, Washington, DC 20503.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedures Act (5 U.S.C. 553), or by any other law, 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.

5. Section 13(a) of the Export Administration Act of 1979, as amended

(50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these requirements because it involves a foreign affairs function of the United States in that it implements a part of the United States-Canada Free-Trade Agreement. This rule is not subject to the requirements of section 13(b) of the Export Administration Act because it is not imposing new controls.

Nevertheless, because of the importance of the issues raised by these regulations, this rule was issued in interim form and public comments were solicited. Although there is no formal comment period on this final rule, public comments are welcome on a continuing basis. Comments should be submitted to Bernard Kritzer, Office of Industrial Resource Administration, Bureau of Export Administration, U.S. Department of Commerce, Room 3878, Washington, DC 20230.

List of Subjects in 15 CFR Part 777

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, and Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 15 CFR part 777 of the Export Administration Regulations (15 CFR parts 730–799) that was published at 54 FR 1349 on January 13, 1989, is adopted as a final rule with the following changes:

1. The authority citation for 15 CFR part 777 continues 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 December 29, 1981, by Pub. L. 99–64 of July 12, 1985, by Pub. L. 100–180 of December 4, 1987, by Pub. L. 100–418 of August 23, 1988, and by Pub. L. 100–449 of September 28, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); sec. 103, Pub. L. 94–163 of December 22, 1985 (42 U.S.C. 6212), as amended by Pub. L. 99–58 of July 2, 1985; sec. 101, Pub. L. 93–153 of November 16, 1973 (30 U.S.C. 185); sec. 28, Pub. L. 95–372 of September 18, 1978 (43 U.S.C. 1354); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976), as amended; secs. 201(1) and 201(11)(e), Pub. L. 94–258 of April 5, 1976 (10 U.S.C. 7420 and 7430(e)); Presidential Findings of June 14, 1985 (50 FR 25189, June 18, 1985) and December 31, 1988 (54 FR 271, January 5, 1989); and sec. 125, Pub. L. 99–64 of July 12, 1985 (46 U.S.C. 466(c)).

PART 777—[AMENDED]

§ 777.6 [Amended]

2. Section 777.6(d) is amended by removing the words "and (x)" in the NOTE that follows paragraph (d)(1)(i)(B); by removing the phrase "was not produced from the Naval Petroleum Reserves and" in the introductory text of paragraph (d)(1)(vi) and paragraph (d)(1)(viii); and by removing the phrase "was not produced from the Naval Petroleum Reserves, and" in the introductory text of paragraph (d)(1)(vii).

(3) Section 777.6(e) is amended by removing paragraph (e)(2) and by redesignating paragraphs (e)(3), (e)(4), and (e)(5) as paragraphs (e)(2), (e)(3), and (e)(4), respectively.

4. Section 777.6(f) is amended by revising paragraph (f)(1); by removing paragraph (f)(4)(i); by redesignating paragraphs (f)(4)(ii) and (f)(4)(iii) as paragraphs (f)(4)(i) and (f)(4)(ii), respectively; and by adding a new paragraph (f)(6), as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(f) * * *

(1) Authorization to export such Alaska crude oil will be granted on a quarterly basis. Applications will be accepted by the Office of Export Licensing *no earlier* than two months prior to the beginning of the calendar quarter in question, but must be received *no later* than the 25th day of the second month preceding the calendar quarter. For example, for the calendar quarter beginning April 1 and ending June 30, applications will be accepted beginning February 1, but must be received no later than February 25.

* * * * *

(6) The Office of Export Licensing will carry forward any portion of the 50,000 barrels per day quota that has not been allocated during a calendar quarter, *except that* no unallocated portions will be carried over to a new calendar year. The unallocated volume for a calendar quarter will be added, until expended, to the quotas available for each quarter through the end of the calendar year.

Dated: March 13, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90–6177 Filed 3–16–90; 8:45 am]

BILLING CODE 3510–DT–M

FEDERAL TRADE COMMISSION

16 CFR Part 460

RIN 3084–AA09

Trade Regulation Rule: Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the "Commission"), pursuant to the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, issues two technical, non-substantive amendments to its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (the "R-value Rule"), 16 CFR part 460. The Commission issues the first amendment to § 460.5(a)(2) of the R-value Rule, in response to a petition filed by an industry group and following a review of written comments on the amendment solicited by the Commission (54 FR 11385). The Rule as interpreted by the Commission previously required manufacturers of loose-fill cellulose insulation to use one of two specific settled density test procedures. The amendment requires use of the settled density test procedure adopted in ASTM C739–88. The Commission issues the second amendment to §§ 460.5(a), 460.5(b) and 460.5(d)(1) of the R-value Rule to specify the versions of ASTM test procedures C 177, C 518, C 236 or C 976 that must be used to determine the R-values of home insulation products.

EFFECTIVE DATE: The amendments are effective April 18, 1990. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of April 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, R-value Rule Coordinator, Federal Trade Commission, Washington, DC 20580, (202) 326–3013.

SUPPLEMENTARY INFORMATION:

I. Cellulose Settled Density Test Procedure

A. Commission's Tentative Decision

The Cellulose Industry Standards Enforcement Program ("CISEP"), an industry association of cellulose insulation manufacturers, requested that the Commission adopt a revised version of the blower cyclone shaker ("BCS") settled density test procedure under § 460.5(a)(2) of the Commission's R-value Rule. The revised procedure had been adopted by the American Society of Testing and Materials ("ASTM") in its standard specification ASTM C 739–86 for cellulose loose-fill insulation.

On March 20, 1989, the Commission announced its tentative decision to issue a technical amendment to the R-value Rule, adopting the revised test procedure in ASTM C 739–86 as the only procedure allowed under § 460.5(a)(2) (54 FR 11385). This decision was based

APPENDIX E:
California Heavy Crude

its traditional allies—the United States and other Western donors. Therefore Afghanistan no longer fits the definition of a "Marxist-Leninist state."

In 1986, President Reagan exercised a special statutory authority to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan (Proclamation 5437 pursuant to section 118 of Pub. L. 99–190). Providing the new Afghan leadership with nondiscriminatory trade treatment will signal our commitment to help restore the Afghan economy.

The foregoing actions of the President under these three statutes underscore the support of the United States for the leaders and people of Afghanistan as they address the ravages of a decade of war and seek to rebuild their country and their society.

Memorandum of October 22, 1992

Exports of Domestically Produced Heavy Crude Oil

Memorandum for the Secretary of Commerce [and] the Secretary of Energy

On January 2, 1990, the Department of Commerce transmitted to the Congress a report entitled "U.S. Crude Oil Exports" that was required under Section 2424 of the Omnibus Trade and Competitiveness Act of 1988. The report recommended modifying the existing restrictions on the export of crude oil produced in the lower 48 states to allow the export of California heavy crude. Building on that report, the National Energy Strategy, released in February 1991, recommended authorizing the export of California heavy crude oil in order to reduce well abandonments, prevent loss of existing domestic oil reserves, and further diversify world oil production.

Before exports of such heavy crude oil can be authorized, certain findings and determinations must be made under Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212(b)), Section 28(u) of the Mineral Leasing Act as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)), and the Export Administration Act of 1979, as amended, and continued in effect through my invocation of the International Emergency Economic Powers Act.

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the laws cited herein and Executive Order 12730, I hereby find and determine that exports of California heavy crude oil having a gravity of 20 degrees API or lower are in the national interest, and I find and determine that such petroleum exports:

(1) are in accordance with the provisions of the Export Administration Act of 1979, as amended;

(2) are consistent with the purpose of the Energy Policy and Conservation Act; and

(3) will not diminish the total quality or quantity of petroleum available to the United States.

In making these findings, I have taken into account the national interest as related to the need to leave uninterrupted or unimpaired:

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state;

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States; and

(3) the historical trading relations of the United States with Canada and Mexico.

Further, I direct the Secretary of Commerce, based on the findings and determinations herein, to modify the existing restrictions on the export of crude oil produced in the lower 48 states to allow the export of California heavy crude oil and, as part of these actions, the Secretary of Commerce shall initially allow the export of an average quantity of 25,000 barrels per day of California heavy crude oil having a gravity of 20 degrees API or lower.

To assist the Secretary of Commerce in carrying out these actions, I direct the Secretary of Energy, in consultation with the Secretaries of Commerce, the Interior, Transportation and other interested agencies, to review periodically such crude oil exports in light of then-existing market circumstances. Based on the results of these reviews, the Secretary of Energy is authorized to recommend to the Secretary of Commerce that adjustments be made in the quantity of California heavy crude oil allowed to be exported. Such adjustments shall allow the export of the maximum quantity that will not diminish the total quantity or quality of petroleum available to the United States. The Secretary of Commerce shall take necessary, proper and prompt action to implement the Secretary of Energy's recommendation.

The Secretary of Commerce is authorized and directed to publish this memorandum in the **Federal Register**.

GEORGE BUSH

THE WHITE HOUSE,
Washington, October 22, 1992.

Notice of October 25, 1992

Continuation of Iran Emergency

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency have been transmitted annually by the President to the Congress and the **Federal Register**, most recently on November 12, 1991. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emer-

flight, replace the bolt with a serviceable magnafluxed bolt or with a new bolt, in accordance with the service bulletin.

(2) Replace each existing MLG retract actuator bracket retaining bolt, Item 840 (P/N AIR 123940), with a new bolt, P/N AIR 134736, in accordance with the service bulletin.

(c) At the next MLG overhaul, or within 12,000 landings after the effective date of this AD, whichever occurs earlier, remove the existing nose landing gear trunnion pin cross bolt, P/N NAS 1305–54D, and replace it with a new bolt, P/N NAS 1305–50D, in accordance with Paragraphs C. through F. of the Accomplishment Instructions of Saab Service Bulletin 340–32–094, dated October 29, 1993.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on March 18, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–6909 Filed 3–23–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 777

[Docket No. 930653–3153]

RIN 0694–AA70

Exports of Certain California Crude Oil

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Proposed rule with a request for comments.

SUMMARY: The Bureau of Export Administration (BXA) is proposing to amend the short supply provisions of the Export Administration Regulations (EAR) by revising the restrictions on exports to initially allow the export of up to 25,000 barrels per day of California heavy crude oil having a gravity of 20 degrees API or lower. The changes proposed by this rule are based on the President's October 22, 1992, memorandum to the Secretary of Commerce to modify existing restrictions on the export of certain California heavy crude oil. This notice delineates the actions the Department is taking to implement the President's decision. It also proposes specific regulatory changes implementing those actions and solicits public comments.

DATES: Comments must be received by April 25, 1994.

ADDRESSES: Written comments (six copies) should be sent to Bernard Kritzer, Senior Industry Analyst, Office of Foreign Availability, room 1087, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Foreign Availability (OFA), Bureau of Export Administration, Telephone: (202) 482–0074.

SUPPLEMENTARY INFORMATION:

Background

Section 777.6(d)(1) of the Export Administration Regulations (EAR) restricts exports of crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil. This rule proposes to amend § 777.6(d)(1) to permit exports of certain California crude oil pursuant to a Presidential Memorandum of October 22, 1992,[1] in which the President determined that exports of California heavy crude oil having a gravity of 20 degrees API or lower were in the national interest. Before the President authorized this export of crude oil, he made findings and determinations under three statutes: Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212(b)); section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); and provisions of the Export Administration Act, as amended, and to the extent consistent with law, continued in effect through the President's invocation of the International Emergency Economic Powers Act. The Export Administration Act was continued on March 27, 1993, by Public Law 103–10. The President made findings that exports of California heavy crude oil having a gravity of 20 degrees API or lower: (1) Were in accord with the provisions of the Export Administration Act of 1979, as amended;

(2) Were consistent with the purposes of the Energy Policy and Conservation Act; and

(3) Would not diminish the total quality or quantity of petroleum available to the United States.

Based upon the above findings, the President authorized the Secretary of Commerce to modify the existing restrictions on the export of crude oil produced in the lower 48 states to initially allow the export of an average quantity of 25,000 barrels per day (MB/D) of California heavy crude oil having a gravity of 20 degrees API or lower.

The President also directed the Secretary of Energy, in consultation with the Secretaries of Commerce, the Interior, Transportation, and other interested agencies, to conduct periodic reviews of such exports in light of then-existing market circumstances. Based upon the results of these market reviews, the President authorized the Secretary of Energy to recommend to the Secretary of Commerce that adjustments be made in the quantity of California heavy crude oil that may be authorized for export (i.e., adjustments to the initial average authorized level of 25 MB/D).

Department of Commerce Actions

The Department proposes to take the following actions to implement the President's decision: (1) Propose rules to implement the President's decision;

(2) Solicit public comments on the rules; and

(3) Publish a final rule implementing the President's findings and taking into account public comments on this proposed rule and other relevant evidence.

The Department of Commerce's Proposals

This notice proposes to amend § 777.6 of the Export Administration Regulations (EAR) to allow the licensing of exports of up to 25 MB/D per day of California heavy crude oil having a gravity of 20 degrees API or lower.

To implement this program, the Department proposes to: (1) Grant licenses for these exports on a first-come-first-served basis; (2) authorize the export of up to 25 percent (2.28 million barrels) of the annual authorized volume (9.125 million barrels) of such California crude oil per license; (3) approve only one application per company, including its affiliates, as long as there are other outstanding non-affiliate company applications in that month; (4) allow the licensee up to 90 days from the issuance of the license to export the oil; (5) require the licensee to

[1] The President's memorandum of October 22, 1992, "Exports of Domestically Produced Heavy Crude Oil" (3 CFR, 1992 Comp., p. 382).

certify to the Department in writing that the export(s) occurred during the 90-day license term; (6) carry forward any portion of the 25 MB/D quota that the Department has not licensed, except that the Department will not carry forward unlicensed portions more than 30 days into a new calendar year; (7) return to the available quota volume all licensed volumes not shipped during the 90-day term of an export license, except that the Department will not carry forward unshipped portions more than 30 days into the new calendar year; and (8) allow a 10 percent shipping tolerance on the licensed, but not shipped volume of barrels and a 25 percent shipping tolerance on the total dollar value of the license, respectively.

The Department proposes to require that a prospective exporter: (1) Submit an application on BXA Form 622–P; (2) state the total number of barrels for export during the 90-day license term not a per day rate; (3) include supporting documents proving that the applicant has: (i) Title to the quantity of barrels stated in the application, or an accepted order for the purchase of the quantity of barrels stated in the application, (ii) a verifiable contract of sale to export the crude oil contingent on the applicant obtaining an export license, (iii) documentation proving that the crude oil to be exported has a gravity of 20 degrees API or lower, (iv) documentation proving that the crude oil was derived from production within the state of California, including its state submerged lands, (v) documentation certifying that the crude oil was not produced or derived from a U.S. Naval Petroleum Reserve, and (vi) documentation certifying that the crude oil was not produced from the submerged lands of the U.S. Outer Continental Shelf; and (4) export the licensed volumes within 90 days of the issuance of the license and to report the export to the Department of Commerce. In addition, the Department will allow the applicant to combine licensed quantities into one or more shipments, provided that the validity period of none of the affected licenses has expired. As set forth in the EAR, the applicant cannot transfer a license to another person.

An applicant can file for a license at any time during the calendar year. The Department, however, will process only one license per applicant per month as long as there are other non-affiliated applications pending during that month. The Department will issue validated licenses expeditiously as long as there are sufficient quantities of the authorized heavy crude oil volumes available. If there is no available volume of heavy crude oil, the Department will return the application without action. If the volume of heavy crude oil available for export is less than the applicant requested, the Department will contact the applicant and determine if the applicant wants the available volume. If not, the Department will return the application without action. If the applicant wants the available volume, the Department will request that the applicant amend its application to reflect the lesser volume.

The Department will apply the procedures eventually adopted in response to this proposed rulemaking with additional notice and comment to any future increase in the export volume that the Secretary of Energy may from time to time recommend to the Department of Commerce.

Nature of the Export Market

In developing an approach to implementing the President's decision, the Department is taking into account the nature of the heavy crude oil export market. The Department's 1989 "Report to the Congress on U.S. Crude Oil Exports," (pp. IV–4–IV–11) concluded that opportunities to export California heavy crude generally consist of spot market rather than year-round export activity. The report found that opportunities to export California heavy crude oil occur intermittently and randomly throughout the year when the price of these oils are low and the price of Pacific Rim substitutes are high. The Department's recent experience monitoring licensed export volumes strongly supports this position. The Department recognized the need, therefore, to develop licensing procedures permitting firms to take advantage of brief windows of opportunity and to conduct spot market export transactions.

The 1989 Commerce Report also identified numerous potential participants in such a market with a wide range of economic strengths and capabilities. The study found that allowing limited exports of California heavy crude oil would enable some firms (e.g., the independent producers) to expand their crude oil marketing opportunities, to maintain their existing oil production, and to earn additional revenue to reinvest in exploring for new domestic oil reserves.

The Department also recognized that having only one applicant could reduce the effectiveness of the export program. For example, an exporter could, in a licensing program without time limits, apply for and obtain an export license for the entire 25 MB/D per day for a one year period. If, however, the firm did not export the oil because of some problem with the transaction, the license would never be used. This would limit the number of potential exporters, deny commercial opportunities to other participants, and frustrate the intent of the President's export initiative. This concern argued for limiting the term of an export license to insure that the licensee used the license and exported the oil, or that the volume of oil quickly became available to other interested applicants.

There was also a need to assure that licenses issued to exporters would be in commercially viable volumes since the total volume initially authorized for export is low—9.125 million barrels annually. It would be difficult to achieve economically viable shipments if the Department were to issue numerous licenses for small volumes (e.g., 100,000 barrels).

Departmental Considerations

Given the noted market dynamics and commercial consideration, the Department considers it necessary to develop a licensing regime that: (1) Is equitable; (2) minimizes government involvement in commercial transactions; (3) makes licenses available to a wide number of participants; (4) reviews license applications expeditiously to allow firms to take advantage of time-sensitive spot market trading opportunities; (5) prevents a firm from obtaining a license and not exporting the oil; (6) allows for economically viable export cargoes; and (7) does not impose unnecessary administrative burdens on exporters.

Although the Department proposes to implement the option of first-come-first-served, the Department will consider and may adopt any of the options in this rulemaking, or an alternative proposal that addresses the above considerations. In fact, the Department did consider several different options; they are discussed below. The Department is soliciting comments from interested parties on the most effective approach for the Department to implement the President's decision.

Option #1—First-Come-First-Served

Under this option, the Department would grant licenses for the export of California heavy crude oil on a first-come-first-served basis. This option involves the minimum government management of an export licensing regime and intervention in the market. There are numerous variations to this option which involve the number of times per year that the Department would review and authorize export licenses. The Department could grant

the licenses annually, quarterly or monthly on a first-come-first-served basis. There are also numerous variations on the volume of oil the Department could authorize per license. Under one variation the Department could license the entire export volume (9.125 million barrels) to the first firm that filed an export license application.

Although licensing the entire volume at one time would achieve the Department's objective of minimizing the government's role in export transactions, it may result in limiting this export opportunity to the first firm that filed a license application. The Department, however, wants to ensure that the potential benefits of the program are diffused among many firms and utilized. This option, therefore, calls for limiting the quantity per license (i.e., 25 percent of the total authorized volume) and for each license to have a 90 day limit. In addition, a company and its affiliates can receive only one license per month as long as there are other outstanding applications.

The Department considers this option to be the best means available to provide a number of opportunities (at least four) for a number of firms to participate in heavy crude oil exports with a minimum of government interference in the export transaction. The Department also considers that the 90 day license term would assure the utilization of the license or the rapid return of the volume of oil to the quota so others may use it.

On the negative side, a single company could request and receive for four months in a row a license covering 25 percent of the authorized volume of oil just by being the earliest applicant to file with the Department. In addition, this option would require the Department to keep running accounts on the amount available for licensing at any one time. The Department, however, should be able to handle this because the authorized export volumes are small and the exports are likely to occur intermittently rather than year round.

Option #2—Prorationing

Prorationing procedures, such as the one the Department uses for the Alaskan North Slope/Canada (ANS/Canada) crude oil export regime, offer some advantages but also involve a greater measure of government involvement than does licensing on a first-come-first-served basis.

On the positive side, this option may ensure that more firms could participate in the export program than would be the case under licensing option #1. This option also would assure everyone who applies would get some portion of the authorized export volume.

On the negative side, this option would entail active government involvement in administering an export prorationing regime on a year round basis. In addition, a prorationing scheme could be difficult to administer and could result in economically not viable volumes. The volume of California heavy crude oil exports (25 MB/D) allowed under the President's October 22, 1992 decision amounts to one-half of the volume authorized for the ANS/Canada export regime (50 MB/D). Over the past four years the demand for ANS exports to Western Canada has not forced the Department to prorate exports among competing applications. This may not be the case in the California situation where the volume is much smaller and more firms have expressed an interest in participating in this program. Although several licensees with small volumes could possibly combine volumes to make one shipment, it would not help exporters that had contracts to deliver large volumes.

Option #3—Pre-Qualification With Export Nominations

This option would result in a greater degree of government management than would be the case under any of the other options described above because it would involve a two step review process of all export licensing transactions.

Under this procedure, potential exporters would provide enough information to allow the Department to pre-qualify a firm as an exporter and subsequently grant final export authorization to the firm upon the provision of satisfactory information regarding end-users and intermediate consignees, if any.

The first step would involve the Department pre-qualifying exporters based upon the following criteria: (1) The firm is a commercial entity that is interested in exporting California heavy crude oil; (2) the applicant can demonstrate that an end-user is interested in purchasing oil from them as evidenced by a letter/telex.

The nominations process—step 2—would operate as follows:

1. On a monthly basis, a pre-qualified exporter would nominate the quantity it would like to export during the month.

2. A pre-qualified exporter would have to submit his nomination no later than 10 calendar days before the first day of the month.

3. At the outset of each month, the Department would notify pre-qualified exporters of how much oil was available for export pursuant to the quota for the month. (It could provide notice by having firms telephone a special number and/or talk with a licensing officer.)

4. When nominating export volumes, the licensee would be required to provide the Department with documentation establishing: (a) Title to the oil or a contract to purchase the oil subject to approval of the export transaction; (b) a contract or contingent contract to export the oil subject to approval of the export transaction. The Department would also have to approve the intermediate and ultimate foreign consignees for the oil, and;

5. The licensee would have 30 days to complete the export. If the export did not occur during the 30 day license term, the Department would return the volume to the quota. If the licensee shipped part of the volume, the Department would return unshipped volumes to the quota.

Other key provisions include:

1. The Department would allow the export of up to a total of 2,281,000 barrels during any 30 day period.

2. The Department would limit individual company exports to 1,000,000 barrels of oil during any 30 day period.

3. The Department would process only one nomination per firm per 30 day period as long as there are outstanding nominations from non-affiliated firms.

The Department would implement the following provision in the event the volume of crude oil nominated for export exceeds the amount allowed during a 30 day period: 1. It would allocate to each applicant an equal share of the authorized volume. For example, if five licensees nominated a total over the authorized volume of exports, the Department would allocate each party 20 percent of the volume available for export (i.e., 456,000 barrels out the total of 2,281,000 barrels available), and

2. Licensees would be allowed to combine volumes to achieve economic-sized cargoes.

On the positive side, this option would be responsive to the spot-market nature of the market. The pre-qualifying process may ensure that many firms had the opportunity to participate in the export program.

On the negative side, the Department considers the two-step review process unnecessarily bureaucratic. This approach would require the Department to actively manage licenses and keep running accounts on the amounts available for licensing at any one time. In addition, exporters would have to contact the Department on an ongoing

basis to determine what volume was available for export during a given month. Exporters would have to constantly report on whether they conducted exports and whether they exceeded their authorized export level. The Department would also have to establish a procedure to screen and pre-qualify new entrants on a continuous basis to ensure that they would receive an opportunity to participate in the export program.

The Department invites written comments from interested parties that may assist it in implementing the President's decision. Specifically, we solicit information concerning the following:

(1) What are the pros and cons of each of the licensing options presented, and which, if any, do you prefer?

(2) Are there other licensing approaches that would better allow U.S. exporters to take advantage of this opportunity? If you have a specific licensing scheme in mind, please explain it, discuss the pros and cons of the selected option, and explain how the Department should implement your approach.

(2) Should the Department review export license applications monthly, or more or less frequently (e.g., quarterly, semiannually, annually, continuously)? Are exports of up to 2.28 million barrels per license sufficient to make licenses available to more than one company while retaining the commercial viability of the exports? If not, what is the optimal cargo size (barrels) for economically viable export shipments?

(3) Should an exporter have more or less than a 90-day license to export California crude oil in a spot market trading environment? What would be the optimal time to allow an exporter to pursue business activities while not denying opportunities to other exporters?

(4) Should the Department carry over export volumes not shipped in one calendar year to the next year? What is the optimal time that the Department should carry over volumes not shipped during one calendar year?

(5) Are there any specific heavy crudes, with particular assay properties, that the Department should exclude from licensing? Comments in this area should indicate the specific source and type of crude, its full assay, the unique nature of the assay, the availability of substitutes and the special user.

Comment Procedures

The Department is issuing this rule in proposed form and will consider public comments in the development of the final regulations. The Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The following procedures will apply to any comments submitted pursuant to this procedure: (1) Interested parties are invited to submit written comments (6 copies), opinions, data, information, or advice with respect to this notice to the address above by the dates specified above;

(2) The Department will consider all comments received before the close of the comment period in developing final regulations. While comments received after the end of the comment period will be considered if possible, this cannot be assured;

(3) All public comments on these regulations will be 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.);

(4) In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying;

(5) The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations; and

(6) The comments received in response to this notice will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Interested parties may inspect and copy records in this facility, including written public comments and memoranda summarizing the substance of oral communications, 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 Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482-5653.

Rulemaking Requirements

1. This proposed rule contains collections of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) The public reporting burden for this collection of information is estimated to average 12 hours per response, including the time required for reviewing instructions, searching and maintaining the necessary data, and completing and reviewing the collection of information. Send comments regarding this burden to: Bernard Kritzer, Senior Industry Analyst, Office of Foreign Availability, room 1087, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C., 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Project No. 0694–AA70.

2. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(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.

3. This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

List of Subjects in 15 CFR Part 777

Administrative practice and procedure, Exports, Forest and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, part 777 of the Export Administration Regulations (15 CFR parts 730–799) is proposed to be amended as follows:

1. The authority citation for 15 CFR part 777 continues to read as follows:

Authority: Pub. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O.12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as

continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 777—[AMENDED]

3. Section 777.6 is amended by adding a new paragraph (d)(1)(xii) and a new paragraph (k) to read as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(xii) *Exports of certain California crude oil.* California heavy crude oil can be exported under the following conditions: (A) The commodity has a gravity of 20 degrees API or lower;

(B) The commodity is produced in the state of California, including its submerged state lands;

(C) The applicant certifies by affidavit that: (*1*) The commodity is not produced or derived from a U.S. Naval Petroleum Reserve;

(*2*) The commodity is not produced from the submerged lands of the U.S. Outer Continental Shelf; and

(*3*) All aspects of the transaction comply with the provisions of paragraph (k) of this section.

* * * * *

(k) *Exports of California heavy crude oil pursuant to § 777.6(d)(1)(xii).* The export of California heavy crude oil will be allowed for an average of no more than 25,000 barrels per day (MB/D) (or such greater or lesser volume as the Secretary of Commerce authorizes based on the determination and recommendation of the Secretary of Energy) California heavy crude oil having a gravity of 20 degrees API or lower as follows:

(1) Applicants must submit applications on Form BXA–622P to the following address: Office of Export Licensing, ATTN: Short Supply, Petroleum, Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

(2) The quantity stated on each application must be the total number of barrels—not a per day rate. This quantity must not exceed 2.28 million barrels or 25 percent of the annual authorized export quota.

(3) Each application shall be accompanied by documents that show: (i) The applicant has or will acquire a title to the quantity of barrels stated in the application by providing either an accepted contract or bill of sale for the quantity of barrels stated in the application; or a contract to purchase the quantity of barrels stated in the application, which may be contingent upon issuance of an export license to the applicant;

(ii) Contract(s) to export the quantity of barrels stated in the application, which may be contingent upon issuance of the export license to the applicant.

(iii) The crude oil: (A) Has a gravity of 20 degrees API or lower;

(B) Was produced within the state of California, including its submerged state lands;

(C) Was not produced or derived from a U.S. Naval Petroleum Reserve; and

(D) Was not produced from submerged lands of the U.S. Outer Continental Shelf.

(4) OEL will adhere to the following procedures for licensing exports of California crude oil:

(i) OEL will issue validated licenses for approved applications in the order in which OEL received the application (date-time stamped), with the total quantity authorized not to exceed 25 percent (2.28 million barrels) of the annual (9.125 million barrels) authorized volume per license. If any unused quota exists, OEL will continue to issue licenses for the unused portion of the quota.

(ii) OEL will approve only one application per month for each company and its affiliates, as long as there are other non-affiliated applications pending during that month.

(iii) OEL will carry forward any portion of the 25 MB/D quota that OEL has not licensed, except that OEL will not carry over any unallocated portions more than 30 days into a new calendar year.

(iv) OEL will return to the available authorized export quota any portion of the 25 MB/D quota that OEL had licensed but a licensee had not shipped within the 90 day authorized license term, except that OEL will not carry over unshipped volumes more than 30 days into a new calendar year.

(5) License holders:

(i) Have 90 calendar days from the date OEL issued the license to export the quantity authorized on the license. The exporter is required to provide OEL with a certified statement confirming the date and quantity of exports.

(ii) May combine authorized quantities into one or more shipments, provided that the validity period of none of the affected licenses has expired.

(iii) Are prohibited from transferring the license to another party. See, 15 CFR part 787.

(6) OEL will allow, pursuant to § 786.7(c) of this subchapter, a 10 percent shipping tolerance on the unshipped balance based upon the volume of barrels it has authorized. In addition to the 10 percent tolerance on the unshipped volume of barrels, OEL will allow a 25 percent shipping tolerance on the total dollar value of the license.

(7) OEL:

(i) Will not carry over to the next calendar year pending applications from the previous year.

(ii) Will apply the procedures described in this section without notifying the public concerning any increase in export volume authorized by the Secretary of Energy from time to time.

Dated: March 17, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94–6885 Filed 3–23–94; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

22 CFR Part 89

[Public Notice 1969]

Foreign Prohibitions on Longshore Work by U.S. Nationals

AGENCY: Department of State.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In accordance with the Immigration and Nationality Act of 1952, as amended, the Department of State is compiling information to update the list, by particular activity, of countries that prohibit by law, regulation or in practice crewmembers aboard U.S. vessels from performing longshore work.

DATES: Interested parties are invited to submit comments in triplicate by April 25, 1994.

ADDRESSES: For mailing public comments: Office of Maritime and Land Transport (EB/TRA/MA), room 5828, Department of State, Washington, DC. 20520–5816.

FOR FURTHER INFORMATION CONTACT: Stephen M. Miller, Office of Maritime and Land Transport, Department of State, (202) 647–6961.

SUPPLEMENTARY INFORMATION: Section 258(d)(2) of the Immigration and Nationality Act of 1952, as added by the Immigration Act of 1990, Public Law 101–649, 8 U.S.C. § 1288 (hereinafter: the Act) directs the Secretary of State

replace the actuator as specified in paragraph (b) of this AD at intervals not to exceed 6,500 hours TIS;

(ii) If both nut tube assemblies, P/N AA56142, were not replaced with new assemblies during overhaul, reinspect as specified in paragraph (a) of this AD at intervals not to exceed 250 hours TIS, and replace the actuator as specified in paragraph (b) of this AD at intervals not to exceed 5,000 hours TIS.

(3) Replace the pitch trim actuator with a new part of improved design, P/N 27–19008–01 or 27–19008–02, in accordance with the instructions in the applicable maintenance manual.

(i) This replacement eliminates the repetitive inspection requirement of this AD.

(ii) This replacement may be accomplished at any time to eliminate the inspection requirement of this AD.

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

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office (ACO), FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(e) The inspections and modification required by this AD shall be done in accordance with Fairchild Aircraft SA226 Series Service Letter 226–SL–005, and Fairchild Aircraft SA227 Series Service Letter 227–SL–011, both Issued: April 8, 1993, Revised: March 2, 1995, as applicable. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Field Support Engineering, Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9180) becomes effective on April 17, 1995.

Issued in Kansas City, Missouri, on March 17, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–7113 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–AGL–23]

Establishment of Class D Airspace; Akron-Canton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace designation of the Akron-Canton, OH Class D airspace area legal description published in a final rule on February 23, 1995, (60 FR 10014) establishing Class D airspace for Akron-Canton Regional Airport, Akron, OH.

EFFECTIVE DATE: 0901 UTC, May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Cibic, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7573.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 95–4439, published on February 23, 1995 (60 FR 10014), established Class D airspace for Akron-Canton Regional Airport, Akron, Ohio. The Class D surface and radius area indicated in the legal description were published incorrectly. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace designation for Akron, Ohio, Class D airspace, as published in the **Federal Register** on February 23, 1995, (60 FR 10014), (Federal Register Document 95–4439, page 10014, column 2), is corrected in the final rule to the incorporation by reference 14 CFR 71.1 as follows:

§ 71.1 [Corrected]

Paragraph 5000 General

* * * * *

AGL OH D Akron-Canton, OH [Corrected]

(Lat. 40°54'59"N., long. 81°26'32"W.)

That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Akron-Canton Regional Airport, OH. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published in the Airport Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 16, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–7498 Filed 3–24–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 777

[Docket No. 930653–4299]

RIN 0694–AA70

Exports of Certain California Crude Oil

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the short supply provisions of the Export Administration Regulations (EAR) by revising the restrictions on exports of crude oil produced in the lower 48 states to allow exports, under individual validated licenses, of up to 25,000 barrels per day (MB/D) of California heavy crude oil having a gravity of 20.0 degrees API or lower.

This final rule revises the licensing requirements and procedures that apply to exports of California heavy crude oil by removing a number of significant restrictions, *e.g.*, the prohibition against transporting crude oil by pipeline over rights-of-way granted pursuant to the Mineral Leasing Act of 1920 and the requirement that any export of crude oil must be offset by importing an equal or greater volume of crude oil of equal or higher quality.

In order to minimize procedural delays in licensing exports of California heavy crude oil, BXA's Office of Chemical and Biological Controls and Treaty Compliance (CBTC) will issue licenses on a first-come, first-served, basis. Based on comments received on the March 24, 1994, proposed rule, this rule allows CBTC to issue licenses contingent upon the exporter submitting, prior to any export under a license, documentation showing that the exporter has title to the oil (or a contract to purchase the oil) and a contract to export the oil. This change in documentation requirements should provide exporters with greater flexibility in completing small cargo transactions on the spot market. Such transactions are likely to account for the bulk of California heavy crude oil exports.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Chemical and Biological Controls and Treaty Compliance (CBTC), Bureau of Export Administration, Telephone: (202) 482–0894.

SUPPLEMENTARY INFORMATION:

Background

Section 777.6(d)(1) of the Export Administration Regulations (EAR) restricts exports of crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil. This rule amends § 777.6(d)(1) to permit exports of certain California crude oil pursuant to a Presidential memorandum of October 22, 1992,[1] in which the President determined that exports of California heavy crude oil having a gravity of 20.0 degrees API or lower were in the national interest. Prior to authorizing the export of this California crude oil, the President made certain findings and determinations under the following statutes:

(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212(b));

(2) Section 28(u) of the Mineral Leasing Act, as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)); and

(3) The provisions of the Export Administration Act of 1979 (EAA), as amended, to the extent permitted with law, continued in effect after its August 20, 1994, expiration through the President's invocation of the International Emergency Economic Powers Act in Executive Order 12924 of August 19, 1994.

The President made findings that exports of California heavy crude oil having a gravity of 20.0 degrees API or lower:

(1) Are in accordance with the provisions of the Export Administration Act of 1979, as amended;

(2) Are consistent with the purpose of the Energy Policy and Conservation Act; and

(3) Will not diminish the total quality or quantity of petroleum available to the United States.

Based on the above findings, the President authorized the Secretary of Commerce to modify the existing restrictions on the export of crude oil produced in the lower 48 states to allow initially the export of an average quantity of 25 MB/D of California heavy crude oil having a gravity of 20.0 degrees API or lower.

[1] The President's memorandum of October 22, 1992, was published in the **Federal Register** Vol. 57, No. 226, November 23, 1992, p. 54895.

The President also directed the Secretary of Energy, in consultation with the Secretaries of Commerce, the Interior, Transportation, and other interested agencies, to conduct periodic reviews of such exports in light of then-existing market circumstances. In addition, the President authorized the Secretary of Energy to recommend to the Secretary of Commerce, based on the results of these periodic reviews, what, if any, adjustments should be made in the quantity of California heavy crude oil that may be authorized for export (*i.e.*, adjustments to the currently authorized level of 25 MB/D).

Publication of Proposed Rule (March 24, 1994)

In response to the President's decision, the Department published a proposed rule and request for public comments in the **Federal Register** on March 24, 1994 (59 FR 13900). The proposed rule would have allowed the CBTC to authorize exports of up to 25 MB/D of California heavy crude oil having a gravity of 20.0 degrees API or lower. The March 24 rule proposed that CBTC would grant export licenses on a first-come, first-served, basis with the quantity authorized on any one license not to exceed 25 percent (2.28 million barrels) of the annual authorized volume (*i.e.*, 9.125 million barrels). The proposed rule would have allowed CBTC to approve only one application per month from each company and its affiliates, as long as applications from non-affiliated companies were still pending. In addition, the validity period for licenses would have been 90 days; and CBTC would have returned to the available authorized export quota any volumes that had been licensed but not exported during the 90-day validity period, except that no unshipped volumes would have been carried over more than 30 days into a new calendar year. Any unlicensed portion of the quota would have been carried forward by CBTC from month to month, except that no volumes would have been carried forward more than 30 days into a new calendar year. The proposed rule would have allowed exporters a 10-percent tolerance on the unshipped balance based on the number of barrels authorized on the license, as well as a 25-percent tolerance on the total dollar value of the license.

Applicants would have been subject to a number of documentation requirements under the proposed rule: (1) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application; (2) a contract to export the quantity of barrels stated in the application; (3) documentation showing that the crude oil has a gravity of 20.0 degrees API or lower and was produced within the state of California; and (4) an affidavit that the crude oil was not produced or derived from a U.S. Naval Petroleum Reserve and was not produced from the submerged lands of the U.S. Outer Continental Shelf.

Finally, the proposed rule solicited public comments on three possible license allocation schemes: (1) The first-come, first-served licensing scheme described in the proposed rule; (2) a prorationing scheme similar to the one used for exports of Alaskan North Slope crude oil to Canada; and (3) a licensing scheme employing pre-qualification with export nominations.

Public Comments on the Proposed Rule

The Bureau of Export Administration (BXA) received seven comments on the March 24, 1994, proposed rule. One commenter opposed allowing exports of up to 25 MB/D of California heavy crude oil, asserting that this change would provide little or no economic benefits for California crude oil producers and would likely result in price increases in the domestic fuel market. Two commenters had no objections to allowing the export of an average of 25 MB/D of California heavy crude oil, but urged the Department not to increase this level without a formal public rulemaking.

One commenter felt that the 25 MB/D average was quite small relative to the potential marketable oil and suggested that state and local governmental entities should be exempted from this limit. This commenter expressed no preference concerning the method by which licenses would be allocated and noted that the rule probably would not have a significant impact on inland producers because many of them lacked access to heated oil pipelines to transport crude oil to export terminals.

Two commenters urged BXA to drop the proposed requirement that applicants provide documentation showing the existence of a contract to export California heavy crude oil, because this requirement would make it difficult for companies to complete small cargo transactions on the spot market. One alternative that was suggested would permit applicants to submit one application per quarter, for cargoes not exceeding 500,000 barrels, to be supported by nonbinding letters of intent, instead of a signed contract.

Several alternative licensing regimes were suggested. One commenter suggested two alternative regimes. Under the first alternative, applicants would be allowed to identify potential

supply sources and end-users, subject to approval by BXA, and would then be allowed to make shipments involving these approved parties, providing proof of compliance and performance to BXA after each shipment. The second alternative would involve the issuance of two types of licenses: (1) short-term (30- to 90-day) licenses not exceeding 500,000 barrels, with unused portions returned to the available quota, and (2) longer term (6- to 12-month) licenses of 1 to 2 million barrels, with up to half the amount returned to the available quota if no shipment is made within 3 months. This commenter also urged that applicants be allowed to apply for licenses several months in advance of the effective date. Finally, the commenter suggested that licensees who fail to make any shipments under their licenses be given a lower priority when filing applications for subsequent licenses.

Another commenter suggested an alternative licensing regime that would involve a prorationing mechanism with a validity period of not less than 1 year and a minimum quantity of 500,000 barrels. This commenter also favored eliminating the one application per month limitation and removing the 25 MB/D cap on exports.

Finally, one commenter urged the Commerce Department to work toward eliminating export restrictions on California heavy crude oil produced from the submerged lands of the U.S. Outer Continental Shelf and, as part of this action, increase the proposed gravity limit from 20 degrees API to 22 degrees API.

Changes Made by This Final Rule

The Department reviewed the public comments on the March 24, 1994, proposed rule and decided to retain, for the most part, the licensing regime contained in that rule (*i.e.*, first-come, first served). However, the Department recognizes that a number of concerns were raised in the public comments on the proposed rule and, where practical, has made changes in this final rule to address these concerns.

This final rule makes certain significant changes in the documentation requirements for license applications to export California heavy crude oil. These changes are based on the Department's review of the public comments on the proposed rule, its consultations with industry representatives familiar with the California heavy crude oil export market, and its review of certain in-house data on actual shipments of California heavy crude oil under validated export licenses. The documentation requirements in the proposed rule specified that each application must be accompanied by: (1) a contract or bill of sale, showing title to the crude oil, and (2) a contract to export the crude oil. Several commenters felt that this requirement would make it difficult for companies to complete small cargo transactions on the spot market, noting that the timeframe for completing small cargo transactions can be very short and that a limited window of opportunity could be missed if proof of a contract had to be obtained before an export license could be issued. These commenters also noted that the negative effects of the prior proof of contract requirement could be quite significant because the bulk of California heavy crude oil exports are spot market transactions.

Because of the unique characteristics of the California heavy crude oil export market (most sales consist of small spot market transactions), the Department decided to modify the proof of contract requirement. This final rule requires that each application be accompanied by documentary evidence of an order as described in § 772.6(a)(2), such as a letter of intent. Although this final rule does not require proof of a contract at the time an application is submitted, all licenses to export California heavy crude oil will be subject to the condition that the licensee submit to the CBTC, prior to any export under the license, documentation proving that the licensee has: (1) title to the quantity of barrels stated in the application and (2) a contract to export the quantity stated on the application. This change will provide applicants with greater flexibility to engage in spot market transactions. Applicants will be able to obtain export licenses more quickly, since they will not have to wait until they have a firm contract to submit their applications. They also will have additional time in which to obtain proof of a contract, since they are only required to submit such proof to CBTC at some point prior to the time of export.

To encourage applicants to apply for a validated license only when they have a real opportunity to make an export sale, this final rule requires CBTC to consider the following factors when determining what action should be taken on individual applications:

(1) The number of validated licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the current calendar year;

(2) The number of applications pending in CBTC that have been submitted by applicants who have not been issued validated licenses to export California heavy crude oil during the current calendar year; and,

(3) The percentage of California heavy crude oil authorized under export licenses previously issued to the applicant that has actually been exported by the applicant.

Another significant change in documentation requirements involves the affidavit requirement contained in § 777.6(d)(1)(xii) of the proposed rule. This requirement has been replaced in the final rule by a certification requirement, *i.e.*, the applicant is required to certify that: (1) the commodity has a gravity of 20.0 degrees API or lower; (2) the commodity is produced in the state of California; (3) the commodity is *not* produced or derived from a U.S. Naval Petroleum Reserve; and (4) the commodity is *not* produced from the submerged lands of the U.S. Outer Continental Shelf.

The Department decided to retain the first-come, first-served, mechanism that was proposed in the March 24, 1994, rule because it provides a greater degree of flexibility and administrative simplicity than the prorationing and pre-qualification licensing alternatives that also were described in the proposed rule. Under the first-come, first-served licensing regime adopted in this final rule, CBTC will accept only one application per month from each company and its affiliates (regardless of whether or not applications from non-affiliated companies are pending) for a total quantity not to exceed 25 percent (2.28 million barrels) of the annual (9.125 million barrels) authorized volume of California heavy crude oil. CBTC will issue licenses in the order in which it receives applications, with all licenses having the same validity period, *i.e.*, 90 calendar days. The Department considered establishing a longer validity period, but felt that the 90-day term provided the best compromise between the needs of spot market applicants and applicants anticipating larger volume transactions covering a longer term. Since licensees are permitted to wait until immediately prior to making shipments under their licenses before providing CBTC with documentation showing proof of title and a contract to export, the Department felt that the 90-day license term was necessary to ensure that no applicant would tie up large volumes of California heavy crude oil for a significant period of time (e.g., for six months to a year), without having received a firm contract offer, thereby denying commercial opportunities to other applicants.

This final rule also implements the provisions of the proposed rule concerning: (1) volumes that have not

been licensed for export and (2) licensed volumes that have not been exported prior to the expiration date of the license. CBTC will carry forward any portion of the 25,000 barrel per day quota that has not been licensed and will return to the available authorized quota any portion that has been licensed, but not shipped, within the 90-day validity period of the license, except that these volumes will not be carried over more than 30 days into a new calendar year. This approach will ensure that the total volume available for export in any one year does not significantly exceed the annual (9.125 million barrels) authorized volume of California heavy crude oil. If market conditions dictate that an adjustment should be made in the annual authorized volume, the Secretary of Energy is authorized to recommend that the Secretary of Commerce make the necessary adjustment.

Consistent with the March 24, 1994, proposed rule, this final rule allows licensees to combine authorized quantities into one or more shipments, provided that the validity period of none of the affected licenses has expired. In addition, this rule retains the shipping tolerances set forth in the proposed rule, *i.e.*, a 10-percent tolerance on the unshipped balance (based on the number of barrels authorized on the license) and a 25-percent tolerance on the total dollar value of the license. This final rule also prohibits licensees from transferring their licenses to other parties without prior written authorization from CBTC, in accordance with § 772.13.

The Department considered the effect on the environment of exports of California heavy crude oil in its 1989 "Report to Congress on U.S. Crude Oil Exports" which recommended the liberalization of export restrictions resulting in the 1992 Presidential determination. The Department also conducted an assessment in connection with the approval of an export license application during 1991. In both cases, the Department determined that the export of California heavy crude would not have a significant impact on the environment.

The Department completed an assessment of the environmental affects of the export of California crude oil in connection with the present rulemaking. The assessment confirmed the previous findings that the export would not have a significant impact on the environment. On October 12, 1994, the National Oceanic and Atmospheric Administration (NOAA) approved the assessment, including the conclusion that exports of California heavy crude oil will not have a significant impact on the human environment in accordance with the Council on Environmental Quality's regulations implementing the National Environmental Protection Act. The environmental assessment is available for public inspection in Room H–4513.

Rulemaking Requirements

1. This rule was determined to be significant for the purposes of Executive Order 12866.

2. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The public reporting burden for this collection of information is estimated to average 12 hours per response, including the time required for reviewing instructions, searching and maintaining the necessary data, and completing and reviewing the collection of information. Send comments regarding this burden to: Bernard Kritzer, Manager, Short Supply Program, Office of Chemical and Biological Controls and Treaty Compliance, Room 2096, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (ATTN: Paperwork Reduction Project—0694–0027).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. A notice of proposed rulemaking and an opportunity for public comment were not required for this rulemaking by section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (1991, Supp. 1993), and Pub. L. No. 103–277, July 5, 1994). Although the Export Administration Act expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and determined that, to the extent permitted by law, the provisions of the Export Administration Act shall be carried out under Executive Order 12924 of August 19, 1994, so as to continue in full force and effect and amend, as necessary, the export control system heretofore maintained by the Export Administration Regulations and Act. As such, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has been or will be prepared.

List of Subjects in 15 CFR Part 777

Administrative practice and procedure, Exports, Forest and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, Part 777 of the Export Administration Regulations (15 CFR Parts 730–799) is amended as follows:

1. The authority citation for 15 CFR Part 777 continues to read as follows:

Authority: Pub. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 12, 1993 (58 FR 60361, November 15, 1993), and E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994).

PART 777—[AMENDED]

2. Section 777.6 is amended by adding a new paragraph (d)(1)(xii) and a new paragraph (k) to read as follows:

§ 777.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(xii) *Exports of certain California crude oil.* California heavy crude oil may be exported under the following conditions:

(A) The applicant certifies that:

(*1*) The commodity has a gravity of 20.0 degrees API or lower;

(*2*) The commodity is produced in the state of California, including its submerged state lands;

(*3*) The commodity is *not* produced or derived from a U.S. Naval Petroleum Reserve;

(*4*) The commodity is *not* produced from the submerged lands of the U.S. Outer Continental Shelf;

(B) All aspects of the transaction comply with the provisions of paragraph (k) of this section.

* * * * *

(k) *Exports of certain California crude oil pursuant to § 777.6(d)(1)(xii).* The

export of California heavy crude oil having a gravity of 20.0 degrees API or lower, at an average volume not to exceed 25 MB/D, will be authorized as follows.

(1) Applicants must submit their applications on Form BXA–622P to the following address: Office of Exporter Services, ATTN: Short Supply Program—Petroleum, Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

(2) The quantity stated on each application must be the total number of barrels proposed to be exported under the license—not a per-day rate. This quantity must not exceed 25 percent of the annual authorized export quota. Potential applicants may inquire of BXA as to the amount of the annual authorized export quota available.

(3) Each application shall be accompanied by a certification by the applicant that the California heavy crude oil:

(i) Has a gravity of 20.0 degrees API or lower;

(ii) Was produced within the state of California, including its submerged state lands;

(iii) Was *not* produced or derived from a U.S. Naval Petroleum Reserve; *and*

(iv) Was *not* produced from submerged lands of the U.S. Outer Continental Shelf.

(4) Each license application must be based on an order, as defined by § 772.6(a) of this subchapter and must be accompanied by documentary evidence of an order as described in § 772.6(a)(2), e.g., a letter of intent.

(5) The Office of Chemical and Biological Controls and Treaty Compliance (CBTC) will adhere to the following procedures for licensing exports of California heavy crude oil:

(i) CBTC will issue individual validated licenses for approved applications in the order in which the applications are received (date-time stamped upon receipt by CBTC), with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil.

(ii) CBTC will approve only one application per month for each company and its affiliates.

(iii) CBTC will consider the following factors (among others) when determining what action should be taken on individual license applications:

(A) The number of validated licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the then-current calendar year;

(B) The number of applications pending in CBTC that have been submitted by applicants who have not previously been issued validated licenses under this section to export California heavy crude oil during the then-current calendar year; and,

(C) The percentage of the total amount of California heavy crude oil authorized under other export licenses previously issued to the applicant pursuant to this section that has actually been exported by the applicant.

(iv) CBTC will approve applications contingent upon the licensee providing documentation meeting the requirements of both paragraphs (k)(5)(iv) (A) and (B) of this section prior to any export under the license:

(A) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application. Such documentation shall be either:

(*1*) An accepted contract or bill of sale for the quantity of barrels stated in the application; *or*

(*2*) A contract to purchase the quantity of barrels stated in the application, which may be contingent upon issuance of an export license to the applicant.

(B) Documentation showing that the applicant has a contract to export the quantity of barrels stated in the application. The contract which may be contingent upon issuance of the export license to the applicant.

(v) CBTC will carry forward any portion of the 25 MB/D quota that has not been licensed, *except that* no unallocated portions will be carried forward more than 90 days into a new calendar year. Applications to export against any carry forward must be filed with CBTC by January 15 of the carry-forward year.

(vi) CBTC will return to the available authorized export quota any portion of the 25 MB/D per day quota that has been licensed, but not shipped, during the 90-day validity period of the license.

(vii) CBTC will *not* carry over to the next calendar year pending applications from the previous year.

(6) License holders:

(i) Have 90 calendar days from the date the license was issued to export the quantity of California heavy crude oil authorized on the license. Within 30 days of any export under the license, the exporter must provide CBTC with a certified statement confirming the date and quantity of California heavy crude oil exported.

(ii) Must submit to CBTC, prior to any export under the license, the documentation required by paragraph (k)(5)(iv) of this section.

(iii) May combine authorized quantities into one or more shipments, *provided that* the validity period of none of the affected licenses has expired.

(iv) Are prohibited from transferring the license to another party without prior written authorization from CBTC in accordance with § 772.13 of this subchapter.

(7) CBTC will allow, pursuant to § 786.7(c) of this subchapter, a 10-percent tolerance on the unshipped balance based upon the volume of barrels it has authorized. CBTC will allow a 25-percent shipping tolerance on the total dollar value of the license.

Dated: March 22, 1995.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 95–7525 Filed 3–24–95; 8:45 am]

BILLING CODE 3510–DT–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–35483A]

Organization and Program Management; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published on Monday, March 20, 1995 (60 FR 14622). The rule updated the Commission's rules on organization and program management.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, (202) 942–4525.

SUPPLEMENTARY INFORMATION:

Background

The Commission has undertaken a comprehensive review of the rules governing its organization and program management. The final rule that is the subject of this correction results from that review.

Need for Correction

As published, the final rule describes in the section entitled "Supplementary Information" certain amendments that, while approved by the Commission,

APPENDIX F:
Alaskan North Slope Crude Oil

upon the public interest in sound environmental management and protection of cultural, biological, or historic resources.

This suspension shall take effect immediately and shall continue in effect for the period in which subsection 325(a) and subsection 325(b) of the Act would otherwise be in effect.

You are authorized and directed to publish this memorandum in the **Federal Register.**

WILLIAM J. CLINTON

THE WHITE HOUSE,
Washington, April 26, 1996.

Memorandum of April 26, 1996

Suspension of Subsection 119(a) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ("Act") as set forth in Section 101(c) of Title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019) Regarding the Mojave National Preserve

Memorandum for the Secretary of the Interior

By the authority vested in me by subsection 119(b) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ("Act") as set forth in section 101(c) of title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019), and section 301 of title 3, United States Code, I hereby suspend subsection 119(a) of the Act because I have determined that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, and protection of cultural, biological, or historic resources.

This suspension shall take effect immediately and shall continue until subsection 119(a) expires.

You are authorized and directed to report this suspension to the Congress and to publish this memorandum in the **Federal Register.**

WILLIAM J. CLINTON

THE WHITE HOUSE,
Washington, April 26, 1996.

Memorandum of April 28, 1996

Exports of Alaskan North Slope (ANS) Crude Oil

Memorandum for the Secretary of Commerce [and] the Secretary of Energy

Pursuant to section 28(s) of the Mineral Leasing Act, as amended, 30 U.S.C. 185, I hereby determine that exports of crude oil transported over right-of-

way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act are in the national interest. In making this determination, I have taken into account the conclusions of an interagency working group, which found that such oil exports:

—will not diminish the total quantity or quality of petroleum available to the United States; and

—are not likely to cause sustained material oil supply shortages or sustained oil price increases significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including those located in noncontiguous States and Pacific Territories.

I have also considered the interagency group's conclusions regarding potential environmental impacts of lifting the ban. Based on their findings and recommendations, I have concluded that exports of such crude oil will not pose significant risks to the environment if certain terms and conditions are met.

Therefore, pursuant to section 28(s) of the Mineral Leasing Act I direct the Secretary of Commerce to promulgate immediately a general license, or a license exception, authorizing exports of such crude oil, subject to appropriate documentation requirements, and consistent with the following conditions:

—tankers exporting ANS exports must use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the ANS oil trade must remain outside of the 200 nautical-miles Exclusive Economic Zone of the United States as defined in the Fisheries Conservation and Management Act (16 U.S.C. 1811). This condition also applies to tankers returning from foreign ports to Valdez, Alaska. Exceptions can be made at the discretion of the vessel master only to ensure the safety of the vessel;

—that export tankers be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine their location. The Coast Guard will conduct appropriate monitoring of the tankers, a measure that will ensure compliance with the 200-mile condition, and help the Coast Guard respond quickly to any emergencies;

—the owner or operator of an Alaskan North Slope crude oil export tankship shall maintain a Critical Area Inspection Plan for each tankship in the trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15–91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks; and

—the owner or operator of an Alaskan North Slope crude oil export tankship shall adopt a mandatory program of deep water ballast exchange (i.e., in 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel. Recordkeeping subject to Coast Guard audit will be required as part of this regime.

The Secretary of Commerce is authorized and directed to inform the appropriate committees of the Congress of this determination and to publish it in the **Federal Register.**

WILLIAM J. CLINTON

THE WHITE HOUSE,
Washington, April 28, 1996.

Presidential Determination No. 96–23 of April 30, 1996

Suspending Prohibitions on Certain Sales and Leases Under the Anti-Economic Discrimination Act of 1994

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 564 of the Foreign Relations Authorization Act ("the Act"), Fiscal Years 1994 and 1995, Public Law 103–236, as amended, I hereby:

(1) determine and certify that the following countries do not currently maintain a policy or practice of sending letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary boycott of Israel:

Jordan and Mauritania;

(2) determine that extension of suspension of the application of Section 564(a) of the Act to the following countries until May 1, 1997, will promote the objectives of Section 564:

Algeria, Bahrain, Bangladesh, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the **Federal Register.**

WILLIAM J. CLINTON

THE WHITE HOUSE,
Washington, April 30, 1996.

Presidential Determination No. 96–24 of May 9, 1996

Assistance Program for the New Independent States of the Former Soviet Union

Memorandum for the Secretary of State

Pursuant to subsection (o) under the heading "Assistance for the New Independent States of the Former Soviet Union" in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) and section 301 of title 3, United States Code, I hereby determine that it is important to the national security interest of the United States to make available funds appropriated under that heading without regard to the restriction in that subsection.

emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–11–14 SAAB Aircraft Ab: Amendment 39–9639. Docket 96–NM–102–AD.

Applicability: Model SAAB 2000 series airplanes; having serial numbers 004 through 039, inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the lower rib of the rudder and subsequent reduced controllability of the airplane, accomplish the following:

(a) Within 20 days after the effective date of this AD: Perform a visual inspection to detect cracking of the lower rib of the rudder, in accordance with Saab Service Bulletin 2000–55–005, dated February 2, 1996.

(b) If no cracking is detected: Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 400 hours time-in-service, in accordance with Saab Service Bulletin 2000–55–005, dated February 2, 1996.

(c) If any cracking is detected that is 25 mm in length or less: Prior to further flight, perform a temporary repair in accordance with paragraph 2.C. of the Accomplishment Instructions of Saab Service Bulletin 2000–55–005, dated February 2, 1996. Thereafter, repeat the inspections required by paragraph (a) of this AD at intervals not to exceed 7 days.

(d) If any cracking is detected that is more than 25 mm in length: Prior to further flight, repair it in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(e) Modification of the lower rib of the rudder (Modification No. 5736), in accordance with Saab Service Bulletin 2000–55–006, dated April 23, 1996, constitutes terminating action for the repetitive inspection requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(h) The inspections and temporary repair shall be done in accordance with Saab Service Bulletin 2000–55–005, dated February 2, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 17, 1996.

Issued in Renton, Washington, on May 22, 1996.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–13496 Filed 5–30–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 754, 758, and 762

[Docket No.960523147–01]

RIN 0694–AB44

Exports of Alaskan North Slope Crude Oil; Establishment of License Exception TAPS

AGENCY: Bureau of Export Administration, Commerce

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the short supply provisions of the Export Administration Regulations to modify the restrictions on exports of Alaskan North Slope crude oil and establish License Exception TAPS authorizing such exports, with certain conditions. License Exception TAPS is based on: 1) Public Law 104–58, which allows for the export of crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS); 2) the President's April 28, 1996 determination that exports are in the national interest; and 3) the President's direction to the Secretary of Commerce to issue a License Exception with conditions for export of TAPS crude oil.

EFFECTIVE DATE: May 28, 1996.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, Department of Commerce, Telephone: (202) 482–0894.

SUPPLEMENTARY INFORMATION:

Background

Section 7(d) of the Export Administration Act of 1979, (50 U.S.C. app. 2406) restricts exports of crude oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), with certain exceptions, unless the President makes certain findings, recommends exports to the Congress on the basis of those findings, and the Congress then agrees to the recommendation by joint resolution enacted into law. Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19,

1994, and notice of August 15, 1995 (60 FR 42767).

On November 28, 1995, the President signed into law Public Law 104–58, which created a new section 28(s) of the Mineral Leasing Act (30 U.S.C. 185). Public Law 104–58 allows exports of oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), "notwithstanding any provision of this Act or any other provision of law (including any regulation)," unless the President finds that such exports are not in the national interest.

To address the economic and environmental issues identified in Public Law 104–58, the National Economic Council and the Council on Environmental Quality working with the Department of Commerce's Bureau of Export Administration, coordinated an intensive interagency review of the effects of lifting the export ban on oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS oil). After extensive public hearings, the review of public comments, and analytical evaluation, the interagency working group found that the exports are not likely to pose a significant impact to the economy or the environment.

On April 28, 1996, the President determined that, subject to certain conditions described below, exports of crude oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS) are in the national interest. The President found that such exports:

(1) Will not diminish the total quantity or quality of petroleum available to the United States;

(2) Will not pose significant risks to the environment with the imposition of a series of measures to further ensure the safety of the environment; and

(3) Are not likely to cause sustained material oil supply shortages or sustained oil price increases above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including those located in noncontiguous States and Pacific territories.

The President directed the Secretary of Commerce to issue a License Exception, authorizing exports of TAPS oil, subject to certain conditions designed to preserve the environment.

This final rule amends part 754 of the Export Administration Regulations (EAR) by establishing a new License Exception TAPS. License Exception TAPS authorizes exports of oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (42 U.S.C. 1652) provided that the transaction meets the following conditions:

(1) The TAPS oil is transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802));

(2) All tankers involved in the TAPS oil export trade use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the TAPS oil export trade must remain outside of the 200 nautical mile Exclusive Economic Zone, as defined in 16 U.S.C. 1802(6). Tankers returning from foreign ports to Valdez, Alaska must abide by the same restrictions, in reverse, on their return route. This condition shall not be construed to limit any statutory, treaty or Common Law rights and duties imposed upon and enjoyed by tankers in the TAPS oil export trade, including, but not limited to, *force majeure* and maritime search and rescue rules;

(3) The owner or operator of a tanker exporting TAPS oil shall:

(a) Adopt a mandatory program of deep water ballast exchange (i.e., at least 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel and crew. Specified records shall be maintained and made available for audit by government officials.

(b) Be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine the tanker's location;

(c) Maintain a Critical Area Inspection Plan for each tanker in the TAPS oil export trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15–91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks; and

(4) The exporter files with BXA a Shipper's Export Declaration covering the export not later than 21 days after the export has occurred.

This final rule also makes other conforming changes in the short supply provisions of the EAR by revising part 754 concerning TAPS oil exports, the export clearance provisions of part 758 regarding the requirement to submit the Shippers' Export Declaration (SED) to the Bureau of Export Administration, and the recordkeeping requirements of part 762.

The Export Administration Regulations (EAR) have been totally amended by an interim rule published on March 25, 1996 (61 FR 12714), which provides for a transition period within which exporters can take advantage of both the old rules and the new rules until November 1, 1996. This rule permits exports of TAPS oil pursuant to a License Exception. Exporters can make exports of TAPS oil under this exception as of the effective date of this rule. Accordingly, the old rule is not being revised.

Rulemaking Requirements

1. This final rule has been determined to be significant for the purpose of Executive Order 12866.

2. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule contains a collection of information subject to the Paperwork Reduction Act, which is cleared by the Office of Management and Budget under existing OMB Control Number 0694–0027. The public reporting burdens for the new collections of information are estimated to range between 5 and 10 minutes for the Shipper's Export Declaration requirement, and 30 minutes per voyage for the Ballast Water Exchange collection. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to Bernard Kritzer, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, Department of Commerce, Room 2705, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. This rule is being issued without notice of proposed rulemaking and opportunity for comment because Public Law 104–58: (1) provides that the administrative action under this Act is

not subject to sections 551 and 553–559 of the Administrative Procedures Act (5 U.S.C. 551, 553–559); and (2) requires these regulations to be issued within 30 days of the President's national interest determination.

5. Under 8 U.S.C. 808(2), there is good cause that notice and public procedure thereon are unnecessary and contrary to the public interest. Notice and public procedure are unnecessary because Public Law 104–58 exempts rulemaking under this Act from the notice and comment requirements of the Administrative Procedures Act and requires regulations to be issued within 30 days of the President's national interest determination. Notice and public procedure are contrary to the public interest because they would delay allowing the exports that the President, as authorized by Public Law 104–58, has determined are in the national interest.

List of Subjects

15 CFR Part 754

Exports, Foreign trade, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 758

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

1. The authority citation for 15 CFR part 754 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

2. The authority citation for 15 CFR part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

3. The authority citation for 15 CFR part 762 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995 (60 FR 42767, August 17, 1995).

PART 754—[AMENDED]

4. In § 754.2 the following changes are made:

a. in paragraph (a), the phrase "Reserves paragraph (i) of this section for a License Exception for certain shipments of samples." is revised to read "Reserves, paragraph (i) of this section for a License Exception for certain shipments of samples, and paragraph (j) of this section for a License Exception for exports of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652).".

b. paragraph (c)(1)(i) is amended by adding the following sentence at the end: "The President made a determination on April 28, 1996."; and

c. a new paragraph (j) is added to read as follows:

§ 754.2 Crude oil.

* * * * *

(j) *License Exception for exports of TAPS Crude Oil.* (1) License Exception TAPS may be used to export oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS), provided the following conditions are met:

(i) The TAPS oil is transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802));

(ii) All tankers involved in the TAPS export trade use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the TAPS oil export trade must remain outside of the 200 nautical mile Exclusive Economic Zone, as defined in 16 U.S.C. 1802(6). Tankers returning from foreign ports to Valdez, Alaska must abide by the same restrictions, in reverse, on their return route. This condition shall not be construed to limit any statutory, treaty or Common Law rights and duties imposed upon and enjoyed by tankers in the TAPS oil export trade, including, but not limited to, *force majeure* and maritime search and rescue rules; and

(iii) The owner or operator of a tanker exporting TAPS oil shall:

(A) Adopt a mandatory program of deep water ballast exchange (i.e., at least 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel and crew. Records must be maintained in accordance with paragraph (j)(3) of this section.

(B) Be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine the tanker's location; and

(C) Maintain a Critical Area Inspection Plan for each tanker in the TAPS oil export trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15–91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks.

(2) *Shipper's Export Declaration.* In addition to the requirements of paragraph (j)(1) of this section, for each export under License Exceptions TAPS, the exporter must file with BXA a Shipper's Export Declaration (SED) covering the export not later than 21 days after the export has occurred. The SED shall be sent to the following address: Manager, Short Supply Program, Department of Commerce, Office of Chemical and Biological Controls and Treaty Compliance, Bureau of Export Administration, Room 2075, Washington, D.C. 20230.

(3) *Recordkeeping requirements for deep water ballast exchange.* (i) As required by paragraph (j)(1)(iii)(A) of this section, the master of each vessel carrying TAPS oil under the provisions of this section shall keep records that include the following information, and provide such information to the Captain of the Port (COTP), U.S. Coast Guard, upon request:

(A) The vessel's name, port of registry, and official number or call sign;

(B) The name of the vessel's owner(s);

(C) Whether ballast water is being carried;

(D) The original location and salinity, if known, of ballast water taken on, before an exchange;

(E) The location, date, and time of any ballast water exchange; and

(F) The signature of the master attesting to the accuracy of the information provided and certifying compliance with the requirements of this paragraph.

(ii) The COTP or other appropriate federal agency representatives may take samples of ballast water to assess the compliance with, and the effectiveness of, the requirements of paragraph (j)(3)(i) of this section.

5. Section 758.3 is amended by revising paragraph (d)(2) that was formerly reserved to read as follows:

§ 758.3 Shipper's Export Declaration (SED).

(d) * * *

(2) You are required under the provisions of § 754.2(j)(2) of the EAR.

PART 762—[AMENDED]

6. Section 762.2 is amended by:

a. Redesignating paragraphs (b)(26) through (b)(34) as (b)(27) through (b)(35) respectively; and

b. adding a new paragraph (b)(26).

§ 762.2 Records to be retained.

* * * * *

(b) * * *

(26) Section 754.2(j)(3), Recordkeeping requirements for deep water ballast exchange.

* * * * *

Dated: May 28, 1996.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 96–13708 Filed 5–28–96; 2:33 pm]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8673]

RIN 1545–AM01

Enterprise Zone Facility Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to enterprise zone facility bonds issued by State and local governments. These regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1993. These regulations affect issuers of enterprise zone facility bonds.

EFFECTIVE DATE: These regulations are effective May 31, 1996.

For dates of applicability of these regulations to enterprise zone facility bond issues, see § 1.1394–1(q) of these regulations.

FOR FURTHER INFORMATION CONTACT: Loretta J. Finger, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1994, proposed regulations (FI–72–88) were published in the **Federal Register** (59 FR 67658) to provide guidance under sections 141 (relating to private activity bonds and to qualified bonds), 145 (relating to qualified 501(c)(3) bonds), 148 (relating to arbitrage), 150 (relating to change of use), and 1394 (relating to enterprise zone facility bonds). On June 8, 1995, the IRS held a public hearing on the proposed regulations. Written comments responding to the proposed regulations were received.

This Treasury decision addresses the issues relating to enterprise zone facility bonds. Later guidance will be published relating to sections 141, 145, 148, and 150. After consideration of all the comments, the proposed regulations under section 1394 (relating to enterprise zone facility bonds) are adopted as revised by this Treasury decision. The principal revisions to the proposed regulations under section 1394 are discussed below.

Explanation of Provisions

Section 1394 applies to bonds issued to provide enterprise zone facilities in both empowerment zones and enterprise communities (zones).

A. Period of Compliance

The proposed regulations in general require compliance with the requirements applicable to enterprise zone facility bonds throughout the term of the enterprise zone facility bonds. The proposed regulations provide two exceptions to this general rule: (i) A business that is first established in connection with the issuance of enterprise zone facility bonds does not need to meet the requirements of an enterprise zone business and enterprise zone property until the "testing date," which is the later of one year after the issue date or one year after the date on which the financed property is placed in service, and (ii) the issuer and principal user of the facility are permitted a one-year period to cure noncompliance.

The final regulations modify the general rule to require compliance with the requirements applicable to enterprise zone facility bonds throughout the greater of (i) the remainder of the period during which the zone designation is in effect under section 1391 (zone designation period), and (ii) the period that ends on the weighted average maturity date of the enterprise zone facility bonds. The final regulations also provide that, in general, compliance with the requirements applicable to enterprise zone facility bonds is not required after the date on which the last of the enterprise zone facility bonds of the issue cease to be outstanding.

1. Start of Compliance Period

Commentators requested that the testing date provisions be extended to all businesses, not just start-up businesses. Commentators also suggested lengthening the start-up period. The final regulations follow the recommendation to expand the testing date provisions to all issuers and principal users of property financed with enterprise zone facility bonds if the issuer and the principal user reasonably expect that the requirements will be met by the testing date and proceed with due diligence to comply with the requirements. The start-up period is increased to the later of 18 months after the issue date or 18 months after the date on which the financed property is placed in service.

2. Compliance Period for Certain Requirements

Commentators suggested that compliance with the requirements for an enterprise zone business should be based only on reasonable expectations on the issue date. Commentators suggested that, alternatively, the required compliance period should be reduced to either (i) three years (similar to the test period for qualified small issue manufacturing bonds), or (ii) the remainder of the zone designation period.

Issuers and principal users should be required to meet the requirements applicable to enterprise zone facility bonds for a meaningful period of time in order to further the goals of economic development in the zones. Therefore, for purposes of meeting the requirements applicable to enterprise zone facility bonds, the final regulations in general require issuers and principal users of financed property to meet the requirements throughout the greater of (i) the remainder of the zone designation period, and (ii) the period that ends on the weighted average maturity date of the enterprise zone facility bonds.

While compliance is generally not required after the enterprise zone facility bonds are retired, the final regulations do require issuers and principal users to meet the requirements of an enterprise zone business and enterprise zone property for a minimum compliance period of at least three years after the initial testing date. The final regulations permit the issuer to identify an alternative initial testing date. This alternative initial testing date is a date after the issue date of the enterprise zone facility bonds and prior to the initial testing date that would have been otherwise determined under the final regulations.

Principal users are subject to the change in use penalty of section 1394(e) throughout the greater of (i) the remainder of the zone designation period, and (ii) the period that ends on the weighted average maturity date of the enterprise zone facility bonds.