rules and regulations

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Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 11—HORSE PROTECTION REGULATIONS

Devices and Substances for Use on Horses at Certain Horse Shows

On February 18, 1975, there was published in the FEDERAL REGISTER (40 FR 6978-6979) a notice with respect to proposed regulations relating to devices and substances for use on horses at certain horse shows, to appear as an amendment to Part 11, Subchapter A, Chapter I, Title 9, Code of Federal Regulations. Subsequently, on March 19, 1975, there was published a notice (40 FR 12514) to extend the time for filing data, views, and arguments with respect to the proposed amendments. The proposed amendments to the regulations were designed to resolve complaints from the horse industry that portions of existing regulations were unnecessarily restrictive and detrimental to the industry, and to resolve recurring enforcement problems related to the regulations. The amendments would: prohibit the use of certain methods and devices which may reasonably be expected to cause physical pain, extreme physical distress, or inflammation to any horse upon which they are used; delete the provisions specifying permitted boots and thereby eliminate the 16 ounce weight limitation and 2½ inch width requirement for bell boots; modify provisions for the use of therapeutic treatments, including the outright prohibition of therapeutic agents on a horse's foot above the hoof and below the fetlock; allow the use of clear and transparent lubricants under certain conditions when controlled by show management. All comments with respect to the proposed amendments were given due consideration.

A. As a result of written and oral comments received, the following changes in the proposed regulations were made in addition to minor language changes for clarification:

1. The general terminology used in § 11.2(c)(1) which refers to "trotting devices" has been deleted and specific prohibited devices are identified in § 11.2(c) (1) and (3), in accordance with the suggestion of the American Horse Council and its affiliated members. Lignum vitae and aluminum rollers exceeding 14 ounces in weight or which are not smooth and free of projections, protrusions, corrosion or rough or sharp edges have been prohibited because of evidence which shows that they would cause a horse to be sored.

2. Proposed § 11.2(c)(4) is renumbered § 11.2(c)(5), and new § 11.2(c)(4) has been added to make it clear that only chains with links of uniform size are allowed since other types would cause a horse to be sored.

3. The phrase "clear and transparent lubricants, including, but not limited to", used in § 11.2(d) has been deleted in accordance with the suggestion of several private citizens who contend that the Department and show management will have more effective control over lubricants if specific lubricants are permitted and all others prohibited.

4. Paragraph (1) under § 11.2(d) has been renumbered as paragraph (2), and paragraph (2) has been renumbered as paragraph (1) in order to give greater continuity to the provisions.

5. The word "control" used in § 11.2 (d)(1) has been deleted and the word "supervision" inserted in its place, in order to clarify show management's responsibility to supervise the application of lubricants, rather than to directly control such application, in accordance with the suggestions of representatives of various horse show managements.

6. The phrase "agrees to" has been added to § 11.2(d)(2), and the phrase "to the exhibitors at their request" has been deleted to clarify that it is show management's decision whether or not to provide lubricants. This change was recommended by the National Tennessee Walking Horse Breeders and Exhibitors Association.

B. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons assigned.

1. Section 11.2(d) was objected to primarily for esthetic reasons. The Department's primary concern must be for providing needed protection for show horses. Therefore, the banning of all lubricants for appearance sake alone does not seem to be justified.

2. Several recommendations were received that advocated retention of the 16 ounce, 2½ inch width restrictions on bell boots. However, the Department feels that adequate supportive data to justify removing the restrictions has been established, as documented in the Statement of Considerations of the Proposed Regulation change. The Department's position concerning boots and other devices is that the soring of horses will not be tolerated and violators will be prosecuted regardless of the weight, width, or type boot, chain, roller, or other device being used on a horse at the time the horse is found to be sored.

Accordingly, the amendments are adopted with changes as set forth below.

(Sec. 9, 84 Stat. 1406; 15 U.S.C. 1828; 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendments shall become effective August 21, 1975.

The amendments must be made effective immediately to be of maximum benefit to affected persons. It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of August 1975.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

1. In 9 CFR § 11.2, paragraphs (b), (c), and (d), are revised to read as follows:

§ 11.2 Prohibitions concerning exhibitors.

* * * * *

(b) No chain, boot, or other method or device shall be used with respect to any horse at any horse show or exhibition if such use causes the horse to be sored.

(c) The use of any of the following devices on any horse for the purpose of affecting its gait at any horse show or exhibition is prohibited:

(1) All beads, bangles, rollers and similar devices, except lignum vitae and aluminum rollers weighing less than 14 ounces each including the weight of the fastener.

(2) Chains weighing in excess of 10 ounces each including the weight of the fastener;

(3) Chains, lignum vitae and aluminum rollers which are not smooth and free of projections, protrusions, rust, corrosion, or rough or sharp edges;

(4) Chains with links that are not of uniform size;

(5) Boots, or any other device, with protrusions, swellings, or rough or sharp edges, seams or other surfaces that may contact a horse's leg.

(d) All substances are prohibited on the extremities, above the hoof (but below the fetlock) of any horse while being shown or exhibited at any horse show or exhibition, except glycerine, petrolatum, and mineral oil, or mixtures thereof: *Provided*, That:

(1) Show management agrees to furnish and maintains control over all lubricants for use at the horse show or exhibition;

(2) Any such lubricant is applied after the horse is inspected by the show manager or his representative and the lubricant is applied under the supervision of show management.

(3) Show management makes such lubricants available for Department personnel to obtain samples for laboratory analysis.

§ 11.3 [Deleted]

2. The present § 11.3 is deleted in its entirety.

§ 11.1 [Amended]

3. In present § 11.1(t)(1)(iv), the last sentence is amended to read: "Although a horse given therapeutic treatment by a veterinarian to relieve pain, lameness, or disability, or to restore its normal gait shall not be considered sored, the use of any substances above the hoof but below the fetlock on any horse while being shown or exhibited at any horse show or exhibition is prohibited by § 11.2(d) except as permitted therein.

[FR Doc.75-22053 Filed 8-20-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

ADMINISTRATIVE PROCEDURES AND OIL IMPORT REGULATIONS

Consolidation

On July 7, 1975, the Federal Energy Administration (FEA) issued a proposal to amend Parts 205 (Administrative Procedures and Sanctions) and 213 (Oil Import Regulations), and to vacate and reserve Part 206 (Administrative Procedures for Oil Imports) of its regulations, in order to abolish the Oil Import Appeals Board effective August 1, 1975 and consolidate its functions with those of the Office of Exceptions and Appeals. Since this consolidation was intended to integrate with the general procedures in Part 205 all procedures in Part 206 except those relative to the revocation and suspension of allocations and licenses, FEA also proposed that Part 205 be further amended to authorize such revocation and suspension in accordance with general FEA procedures. The purpose of these proposals was to extend administrative uniformity to all FEA regulatory programs. No public hearing was scheduled in connection with the proposal, though as a result of substantial interest, one was subsequently scheduled for August 8, 1975. Consequently, it was necessary to postpone the effective date of the amendments. FEA has now reviewed the written and oral comments received in this connection, and accordingly hereby adopts the proposed amendments, with certain changes and clarifications, effective immediately. All applications pending before the Oil Import Appeals Board will be deemed, in all respects, to be pending in the Office of Exceptions and Appeals.

I. Integration of Oil Import Appeals Board Procedures With FEA Procedures of General Applicability

The Oil Import Appeals Board presently handles two classes of petitions. The first are in the nature of requests for exception from payment of the base fees imposed under Part 213, where the Board is authorized to:

(1) modify import allocations on grounds of exceptional hardship;

(2) grant import allocations in special circumstances to persons who would not otherwise be eligible;

(3) grant allocations of imports of finished products on grounds of exceptional hardship;

(4) grant import allocations to independent refiners or marketers experiencing exceptional hardship or in emergencies; and

(5) refund license fees where licenses were subsequently issued on a fee-exempt basis. Under the amended regulations, petitions falling into this class will be handled through the Exceptions procedure in Subpart D of Part 205, and will be appealable under Subpart H. All other aspects of Part 205 will, where relevant, also apply to such petitions. No substantive change will result with respect to the availability or scope of exceptions authorized by the President under Proclamation No. 3279, as amended. Only the procedural aspects relating to petitions, such as the time and place of filing, will be changed.

The second class of petitions considered by the Oil Import Appeals Board is in the nature of appeals from actions of the Director of Oil Imports. These include:

(1) actions taken erroneously on applications for allocations of imports; and

(2) denials of refunds of license fees theretofore paid by a person.

Under the amended regulations, petitions falling into this class, in addition to appeals from denial of exception from the base fees, will be handled through the Appeals procedure in Subpart H of Part 205. All other aspects of Part 205, where relevant, will also apply. No substantive change will result with respect to appeals from actions of the Director. Only the procedural aspects relating to petitions, such as the time and place of filing, will be changed.

II. Suspension and Revocation of Allocations and Licenses

With respect to the suspension and revocation of allocations and licenses, FEA will continue this function in the Director of Oil Imports, but will require that the procedures followed by him be in conformity with the procedures in Part 205. Accordingly, FEA is establishing a new Subpart T in Part 205, "Revocation and Suspension of Allocations and Licenses Issued Pursuant to Part 213," which substantially follows the provisions of Subpart O, "Notices of Probable Violations and Remedial Orders." It differs from Subpart O, however, in that the civil and criminal penalties provided in Subpart P for violations of other FEA programs will not be applicable. Subpart O itself will also not apply. Thus, revocation and suspension of allocations and licenses will continue to be the only sanction for violation of the Program, although consent orders will also be made available. The procedures originally proposed with respect to such orders have been revised to reflect public comment on similar procedures proposed in connection with Subpart O. Primarily, this revision provides for public comment on proposed consent orders involving allocations or licenses for imports of 300,000 barrels per year or more.

In this connection, however, it should be noted that with respect to potential violations of the fraud provisions of 18 U.S.C. § 1001, FEA will make available to the Department of Justice all information necessary to an appropriate investigation.

As with the proposed transfer of functions from the Oil Import Appeals Board to the Office of Exceptions and Appeals, there are no substantive changes as a result of issuing Subpart T. Only the procedural aspects of revocation and suspension are changed, in conformity with procedures affecting violations of other FEA programs.

III. Public Comments

Oral and written comments pertaining to these amendments fall primarily into four categories. As described below, FEA is adopting certain changes and making certain clarifications in response to these comments.

A. The Office of Exceptions and Appeals does not render decisions within the three-week timetable followed by the Oil Import Appeals Board.

FEA recognizes that expeditious processing of requests for exceptions is crucial to small refiners and marketers whose purchasing decisions may be determined by FEA's disposition of their requests. Therefore, it will be FEA's policy, insofar as practicable, to process fully documented applications in a timely fashion. Furthermore, under § 205.120(b), an applicant for an exception to a regulation under Part 213 may seek a stay of that regulation pending the disposition of his application. The grant of such a stay would have an effect similar to the Board's granting of interim relief.

B. Data requirements of the Oil Import Appeals Board, adopted in the proposed amendments, are burdensome and unnecessary.

A major factor in causing delay, has been the failure of applicants to furnish the complete documentation required under FEA regulations. Comments pointed out that these requirements, originally developed by the Board to deal with a large number of similar cases, are burdensome, and in many cases do not assist in the disposition of applications. Therefore, in order to expedite FEA action, the requirements have been streamlined with respect to exceptions and eliminated with respect to appeals.

C. FEA HAS DEPARTED FROM THE SUBSTANTIVE STANDARDS UTILIZED BY THE OIL IMPORT APPEALS BOARD IN EVALUATING APPLICATIONS

FEA recognizes that the criteria for relief under Proclamation No. 3279, as amended, are broader than those generally applicable under Subpart D. Accordingly, § 205.55(b)(2) is amended to provide that with respect to exceptions from the base fee, the Office of Exceptions and Appeals shall utilize the criteria applicable under the Proclamation, rather than the general criteria applicable with respect to exceptions from other FEA programs. In applying these criteria, it will be FEA's policy to follow the basic approach of the Oil Import Appeals Board.

D. THE OIL IMPORT APPEALS BOARD HAD A POLICY DIRECTION INDEPENDENT OF FEA, AND POTENTIALLY MORE FAVORABLE TO INDEPENDENT IMPORTERS

Comments falling into this category reflect a misunderstanding of the legal framework of the Mandatory Oil Import Program. Under Executive Order 11790 (effective June 1, 1974) which implemented the Federal Energy Administration Act, the Administrator assumed policy direction of the Oil Import Appeals Board. Thus, the Administrator is already authorized to require that Board policies conform with those of FEA. FEA believes that this policy direction is vital in the interest of a consistent national energy policy, and therefore these amendments make no change in the Administrator's present legal status under the Mandatory Oil Import Program.

(Federal Energy Administration Act of 1974, Pub. L. 93275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, P.L. 87794, as amended; Proclamation No. 3279, 24 FR 1781, as amended by Proclamation No. 4210, 38 FR 9645, Proclamation No. 4227, 38 FR 16195, Proclamation No. 4317, 38 FR 35103, Proclamation No. 4341, 40 FR 3956, Proclamation No. 4355, 40 FR 10437, Proclamation No. 4370, 40 FR 19421, and Proclamation No. 4377, 40 FR 23429)

In consideration of the foregoing, Parts 205 and 213 of Chapter II, Title 10 of the Code of Federal Regulations are amended, and Part 206 is vacated and reserved, as set forth below, effective immediately.

Issued in Washington, D.C., August 15, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. Section 205.1 is revised to read as follows:

§ 205.1 Purpose and scope.

This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 210, 211, 212, 213, and 215 of this chapter, except that Subparts E, O, and P of this part shall not apply to proceedings instituted in accordance with Part 213.

2. Section 205.2 is amended in the definition of "Aggrieved" to read as follows:

§ 205.2 Definitions.

* * * * *

"Aggrieved", for purposes of administrative proceedings, describes and means a person with an interest sought to be protected under the FEAA, EPAA, or Proclamation No. 3279, as amended, who is adversely affected by an order or interpretation issued by the FEA or a State Office.

* * * * *

3. Section 205.12 is amended in paragraph (a) by adding subparagraph (9) as follows:

§ 205.12 Addresses for filing documents with the FEA.

(a) * * *

(9) Documents to be filed with the Director of Oil Imports, as provided in this part or otherwise, shall be addressed as follows: Director of Oil Imports, Federal Energy Administration, P.O. Box 7414, Washington, D.C. 20044.

* * * * *

4. Section 205.13 is amended in paragraph (a) by adding subparagraph (13) as follows:

§ 205.13 Where to file.

(a) * * *

(13) Allocations, fee-paid and fee-exempt licenses issued pursuant to Part 213 of this chapter.

* * * * *

5. Section 205.50 is amended in paragraph (a) as follows:

§ 205.50 Purpose and scope.

(a) (1) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship or gross inequity and for the consideration of such application by the FEA, except that applications for an exception from a regulation, ruling, or generally applicable requirement under Part 213 shall be based on the provisions of subparagraph (2).

(2) (i) The FEA, in considering an application for an exception by a person affected by Part 213, may, without regard to the limits of the maximum levels of imports established in section 2 of Proclamation No. 3279:

(A) Modify on grounds of exceptional hardship, any import allocation made to any person under Part 213 of this chapter;

(B) Grant allocations of imports of crude oil and unfinished oils in special circumstances to persons with importing histories who do not qualify for allocations under Part 213 of this chapter;

(C) Grant allocations of imports of finished products on grounds of exceptional hardship;

(D) Grant allocations of imports of crude oil, unfinished oils and finished products to independent refiners or established independent marketers who are experiencing exceptional hardship, or in emergencies in order to assure, insofar as practicable, that adequate supplies are available; and

(E) Grant refunds, in whole or in part, of license fees paid by persons to whom licenses were issued for imports which they subsequently became entitled to make on a fee-exempt basis.

(ii) Licenses issued pursuant to allocations made under this subparagraph shall be exempt from license fees prescribed in paragraph (c) of § 213.35 of this chapter, but shall be subject to the supplemental fees prescribed in paragraph (d) of § 213.35 of this chapter.

* * * * *

6. Section 205.54 is amended by adding paragraph (e) as follows:

§ 205.54 Contents.

* * * * *

(e) Applications for exceptions to be considered pursuant to § 205.50(a)(2) shall include with the information furnished pursuant to this section, the information specified in the appendix to this subpart.

7. Section 205.55 is amended in subparagraph (1) of paragraph (a) and in subparagraph (2) of paragraph (b) as follows:

§ 205.55 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. With respect to applications to be considered pursuant to § 205.50(a)(2), the Office of Exceptions and Appeals shall forward to the Director of Oil Imports copies of all submissions to it, and shall provide the Director opportunity to comment on the application. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

* * * * *

(b) * * *

(2) An application for an exception may be granted to alleviate or prevent serious hardship or gross inequity, except that an application for an exception by a person affected by Part 213 shall, in accordance with Proclamation No. 3279, as amended, be evaluated in light of the criteria specified in § 205.50(a)(2).

* * * * *

8. An appendix is added at the end of Subpart D of Part 205 as follows:

APPENDIX—APPLICATIONS FOR EXCEPTIONS BY PERSONS AFFECTED BY PART 213

1. *Contents of Application.*

Applications to be considered pursuant to § 205.50(a)(2) shall include the information required pursuant to § 205.54, as well as information required under section 2 or 3 of this Appendix, as appropriate.

2. *Applications for Allocations of Finished Product.*

In order that applications for finished product allocations may be processed, the applicant shall furnish the items listed below.

(1) Company ownership. If applicant is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(2) The relief requested (expressed in barrels per day and total barrels), the particular commodity for which relief is requested, and the specific period for which relief is requested.

(3) Market area, specifying Districts, in which applicant, its subsidiaries or affiliates operate.

(4) State whether applicant, its subsidiaries or affiliates sell products to (a) motorists, (b) home owners, (c) industrial and other commercial accounts, (d) governmental agencies, (e) farmers, and (f) independent marketers for resale without brand names or under brand names different from the brand name(s) used by applicant, its subsidiaries or affiliates.

(5) State for each of the last 3 years applicant's gross sales separately by product for the particular product(s) which are the subject of the application, and, where such sales are made; specify figures for: (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, (d) other products or services (Estimate where appropriate). Also state gross sales to date and estimates for the balance of the current allocation period.

Calendar year	Quantity—			
	Gallons	Barrels	Barrels per day (average)	Dollars

(6) List actual and prospective suppliers for the current allocation period of the product(s) for which an import allocation is sought. Indicate the quantities already obtained as well as offered or expected during the allocation period and the delivered price:

Supplier	Quantity			Delivered price per gallon
	Gallons	Barrels	Barrels per day (average)	

State which of the above supplies are a result of spot purchases.

(7) List past suppliers of the product(s) for which import allocations are sought in each of the last 3 years, the quantity supplied, and delivered price:

Calendar year	Supplier	Quantity supplied			Delivered price per gallon
		Gallons	Barrels	Barrels per day	

State the product volumes which the applicant acquired in each of the last 3 years through spot purchases. If past suppliers terminated any supply contracts or allocated deliveries for the current year, state the name(s) of such supplier(s), the circumstances of contract termination, and the actual amount by which deliveries were or will be reduced.

(8) State, showing docket number, all previous filings with the Oil Import Appeals Board or the FEA in the present and 3 preceding years, the amount of product requested by the applicant in each such filing, all awards received as a result of these filings, and the amounts imported, exchanged, or otherwise obtained by the authority of such awards. The reasons why any portion of an award was not utilized should be explained in detail.

(9) List all suppliers contacted for the product(s) for which import allocations are sought for the current allocation period who did not offer any product or offered it at noncompetitive prices and explain the nature of each such contact.

(10) List and describe storage facilities, transportation equipment, and any other equipment or installations relevant to the petroleum industry owned or controlled by applicant, its subsidiaries or affiliates. State whether products are supplied to applicant by tanker, barge, pipeline, railroad, or motorized equipment.

(11) Provide financial statements (Profit and Loss Statements and Balance Sheets) for the last three fiscal years and for the current fiscal year to date through the most recently completed fiscal quarter, for the applicant and any other business directly or indirectly controlled by the applicant. In the event that audited financial statements are prepared for the businesses, please submit a copy of these statements. If financial statements are not prepared for the businesses, submit a copy of income tax returns for the last three fiscal years.

(12) Provide projected current fiscal year financial statements for applicant assuming: (a) that the exception is granted as requested, and (b) that the exception request is denied. In addition, please provide a detailed description of the manner in which these projections are made and fully explain all assumptions which are included in the projections.

(13) Name the principal competitors of applicant, its subsidiaries and affiliates, in the business of marketing petroleum products. (Depending on size of applicant's operations, not more than five to ten competitors should be named.)

3. *Applications for Allocations of Crude Oil and Unfinished Oils.*

In order to process applications for allocations of crude oil and unfinished oils, the FEA requires the information set forth below.

(1) Company ownership. If applicant is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(2) The relief requested (expressed in barrels per day and total barrels), and whether the request is for offshore or Canadian crude oil, or for unfinished oils, or both, and the specific period for which relief is requested.

(3) All domestic subsidiaries and affiliates, if any, in which applicant holds an interest of 15 percent or more.

(4) Location and rated capacity of each domestic refinery owned or controlled by applicant.

(5) Average daily inputs of each refinery listed in item 5 above: (a) of crude oil and (b) of other raw materials, in each of the last 3 calendar years, and in each elapsed month of the current allocation period.

(6) The volumes of (a) crude oil import allocations and (b) finished products import allocations received by the petitioner in the current year and in each of the 3 preceding years from the Office of Oil and Gas, the Oil Import Administration, or the Director, Oil Imports, as the case may be, and the amounts imported, exchanged or otherwise obtained by the authority of such awards. Unused awards should be explained in detail.

(7) State, showing docket number, all previous filings by petitioner with the Oil Import Appeals Board or the FEA in the present and 3 preceding years, the amount of product requested by the applicant in each such filing, all awards received as a result of these filings, and the amounts imported, exchanged or otherwise obtained by the authority of such awards. The reasons why any portion of an award was not utilized should be explained in detail.

(8) The approximate product yields (as percentage of total production) at each refinery listed in item 4 above during the current allocation period and the two preceding years.

(9) The percentages of total production of (a) gasoline, (b) No. 2 fuel oil, and (c) residual fuel oil sold to independent marketers during each quarter of the last calendar year. With respect to each of said product categories indicate what portions of such sales involved exchanges for finished product import licenses that had been issued to independent marketers.

(10) Specify the domestic and foreign sources (indicating company names) of crude oil supplies and other refinery feedstocks obtained by the applicant and the quantities received from each, in each of the last 3 years. Indicate which of these quantities involved the utilization of import licenses issued to the petitioner. In addition, state the volume of crude oil which the applicant acquired in each of the last 3 years through spot purchases.

(11) For each quarter of the last calendar year, list the weighted average cost per barrel of applicant's crude oil or other raw material supplies delivered to the refinery.

(12) List actual and/or prospective suppliers for the current allocation period of crude oil and other refinery feedstocks. Indicate the quantities already obtained as well as offered or expected during the current allocation period:

Supplier	Quantity		Delivered price per barrel
	Barrels	Barrels per calendar day	

State which of the above supplies are a result of spot purchases. To the extent that purchases already have been consummated or contract prices have been fixed, indicate the average effective cost per barrel of such crude oil supplies delivered to the refinery. Indicate also which of the supplies listed in response to this question involve the utilization of import licenses issued to applicant.

(13) List all suppliers contacted for the product(s) for which import allocations are sought for the current allocation period who did not offer any product or offered it at noncompetitive prices and explain the nature of each such contact.

Supplier	Quantity		Offered delivered price per barrel
	Barrels	Barrels per calendar day	

Provide the Board with any responses from suppliers which are or may be in violation of any government sponsored allocation program.

(14) A brief description of ownership participation of applicant in crude pipelines (including gathering systems), in finished product pipelines, and in inland water transportation equipment.

(15) Type and capacity of crude oil storage facilities at each refinery listed in item 4 above at the time of submitting the application and a brief description of mode of crude oil delivery to such facilities (pipeline, tanker, barge, railroad, etc).

(16) Crude oil inventory at each refinery listed in item 4 above at the time of filing of the petition.

(17) Provide financial statements (Profit and Loss Statements and Balance Sheets) for the last three fiscal years and for the current fiscal year to date through the most recently completed fiscal quarter, for the applicant and any other business directly or indirectly controlled by the applicant. In the event that audited financial statements are prepared for the businesses, please submit a copy of these statements. If financial statements are not prepared for the businesses, submit a copy of income tax returns for the last three fiscal years.

(18) Provide projected current fiscal year financial statements for the applicant assuming: (a) that the exception is granted as requested, and (b) that the exception request is denied. In addition, please provide a detailed description of the manner in which these projections are made and fully explain all assumptions which are included in the projections.

9. Section 205.70 is revised to read as follows:

§ 205.70 Purpose and Scope.

This subpart establishes the procedures for filing an application for exemption and the consideration of such by FEA. The applicant must be seeking an exemption from no less than an entire part, or subpart thereof, of this chapter. This subpart does not include the procedures for exemption of a product as provided in § 4(g) of the EPAA, and does not provide for exemptions from Part 213.

10. Section 205.100 is revised to read as follows:

§ 205.100 Purpose and Scope.

(a) (1) This subpart establishes the procedures for the filing of an administrative appeal of FEA actions taken under Subparts B, C, D, E, F, G, O, or T of this part, Subpart I of Part 212, or actions of the Director of Oil Imports specified in subparagraph (2), and the consideration of such appeal by the FEA. Appeals of orders issued by State Offices shall be in accordance with Subpart R.

(2) Actions of the Director of Oil Imports subject to appeal under this subpart are:

(i) actions taken erroneously on applications for allocations of imports under Part 213 of this chapter; and

(ii) denial of refunds pursuant to § 213.35(e) of license fees, whether in whole or in part, theretofore paid by a person.

(b) A person who has appeared before the FEA in connection with a matter arising under Subparts B, C, D, E, F, G, O, or T of this part, Subpart I of Part 212, or actions of the Director of Oil Imports specified in subparagraph (2) of paragraph (a), has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

11. Section 205.101 is revised to read as follows:

§ 205.101 Who may file.

Any person aggrieved by an order or interpretation issued by the FEA under Subparts B, C, D, E, F, G, O, or T of this part, Subpart I of Part 212, or actions of the Director of Oil Imports specified in § 205.100(a)(2) may file an appeal under this subpart.

12. Section 205.106 is amended in subparagraph (1) of paragraph (a) as follows:

§ 205.106 REA Evaluation.

(a) *Processing*. (1) The FEA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. With respect to appeals of actions specified in § 205.100(a)(2), the Office of Exceptions and Appeals shall forward to the Director of Oil Imports copies of all submissions to it, and shall provide the Director opportunity to comment on the appeal. The FEA may solicit and accept submissions from third persons relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

* * * * *

13. Section 205.172 is amended in paragraph (a) as follows:

§ 205.172 Hearings.

(a) The FEA in its discretion may direct that a hearing be convened on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceedings. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of FEA, but a hearing will usually not be open to the public. Where the hearing involves a matter arising under Part 213, the Director of Oil Imports shall be notified as to its time and place, in order that he or his representative may present views as to the issue or issues involved.

* * * * *

14. Section 205.190 is amended in paragraph (a) to read as follows:

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance, except that it shall not apply with respect to violations of Part 213.

* * * * *

15. A new section 205.204 is added to read as follows:

§ 205.204 Exemption.

The provisions of this subpart shall not apply with respect to investigations, violations, sanctions and judicial actions under Part 213.

16. A new Subpart T is added to Part 205 as follows:

Subpart T—Revocation and Suspension of Allocations and Licenses Issued Pursuant to Part 213

Subpart T—Revocation and Suspension of Allocations and Licenses Issued Pursuant to Part 213

§ 205.240 Purpose and Scope.

(a This subpart establishes the procedures for the revocation or suspension by the Director of Oil Imports of any allocation or license issued under Part 213 to import crude oil, unfinished oils, or finished products.

(b) An allocation or license may be revoked or suspended under this Subpart:

(1) On grounds relating to the national security; or

(2) For violations of the terms of Proclamation No. 3279, as amended, the provisions of Part 213, or the provisions of allocations and licenses issued pursuant thereto.

(c) In any proceeding under this Subpart, where the Director intends that an allocation or license be suspended or revoked on grounds relating to the national security, the Director shall consult with the Secretaries of State, Treasury, and Defense, as appropriate.

§ 205.241 Notice.

(a) The Director may begin a proceeding under this subpart by issuing a notice that he intends to revoke or suspend any allocation or license. The notice shall contain a statement of the grounds upon which the Director intends to take such action.

(b) Within 10 days of the service of a notice under paragraph (a), the person upon whom the notice is served may file a reply with the Director at the address provided in § 205.12. The Director may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of Subpart M of this part.

(f) If a person has not filed a reply with the Director within the 10-day period provided, and the Director has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice.

(g) If the Director finds, after the 10-day period provided in paragraph (b), that no grounds exist upon which to revoke or suspend the allocation or license, he shall notify, in writing, the person to whom a notice under paragraph (a) has been issued that the notice is rescinded.

§ 205.242 Revocation or Suspension.

(a) If the Director finds, after the 10-day period provided in § 205.241(b), that grounds for revocation or suspension exist, he shall, as appropriate, issue an order revoking or suspending the allocation or license. The order shall include a written opinion setting forth the relevant facts and the legal basis of the order.

(b) An order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. An order shall remain in effect notwithstanding the filing of an application to modify or rescind under Subpart J.

§ 205.243 Order for Immediate Revocation or Suspension.

(a) Notwithstanding the provisions of §§ 205.241 and 205.242, the Director may issue an order for immediate revocation or suspension, which shall be effective upon issuance and until rescinded or suspended, if he finds, after consultation in accordance with § 205.240(c), that such immediate action is necessary in the interest of national security.

(b) An order of immediate revocation or suspension shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the order, including the findings required by paragraph (a) of this section.

(c) The Director may rescind or suspend an order of immediate revocation or suspension if its appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice issued under § 205.241.

(d) If at any time in the course of a proceeding commenced by a notice under § 205.240 the criteria set forth in paragraph (a) of this section are satisfied, the Director may issue an order for immediate revocation or suspension, even if the 10-day period for reply specified in § 205.241(b) has not expired.

§ 205.244 Appeal.

(a) No notice issued pursuant to § 205.240 shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H.

(b) Any person to whom an order (other than a consent order under § 204.245) is issued under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

§ 205.245 Consent Orders.

(a) Notwithstanding any other provision of this Subpart, the Director may at any time resolve an outstanding proceeding of suspension or revocation with a consent order. A consent order shall be the exclusive means other than suspension or revocation for resolving a proceeding in which FEA has reason to believe that a violation of the Mandatory Oil Import Program has occurred. A consent order must be signed by the person to whom it is issued, or a duly authorized representative, and must indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that Proclamation No. 3279, as amended, Part 213, or the provisions of allocations and licenses issued pursuant thereto have been violated, nor need it constitute a finding by the FEA that such person has violated the Proclamation, Part 213, or the provisions of any allocations of licenses. A consent order shall, however, contain a written statement setting forth the relevant facts forming the basis for the order.

(b) A consent order is a final order of the FEA, and becomes effective immediately, or upon the expiration of 30 days from its publication under subsection (c) below, except that FEA may waive the provisions of subsection (c) if expressly deemed necessary in the public interest. A consent order shall not be appealable pursuant to Subpart H and shall contain an express waiver of such appeal or judicial review rights as might otherwise attach to a final order of the FEA.

(c) When a proposed consent order involving an allocation or license for 300,000 barrels per year or more (or any aggregate of these totalling that amount in the name of the same importer) has been signed, both by the person to whom it is issued and the FEA, the FEA shall publish notice of such proposed consent order in the FEDERAL REGISTER and in a press release to be issued simultaneously therewith. The FEDERAL REGISTER notice and the press release shall provide at a minimum the name of the company concerned, a brief summary of the consent order and other facts or allegations relevant thereto, and the address and telephone number of the FEA office at which copies of the proposed consent order shall be made available free of charge, the address to which comments on the proposed consent order shall be received by the FEA, and the date by which such comments should be submitted, which date shall not be less than 30 days from publication of the FEDERAL REGISTER notice. After the expiration of the comment period the FEA may withdraw its agreement to the consent order, it may attempt to negotiate a modification of the consent order, or it may issue the consent order as proposed. The FEA will publish in the FEDERAL REGISTER and by press release notice of any action taken on a proposed consent order and it may publish such explanation of the action taken as it deems appropriate.

(d) At any time and in accordance with the procedures of Subpart J, a consent order may be modified or rescinded, at the FEA's discretion, upon petition by the person to whom the consent order was issued and may be rescinded by the FEA upon discovery of new evidence which is materially inconsistent with evidence upon which the FEA's acceptance of the consent order was based.

(e) If any time after a consent order becomes effective, it appears to the FEA that the terms of the consent order have been violated, the Director may proceed in accordance with this Subpart to suspend or revoke the appropriate allocations and licenses.

PART 206—ADMINISTRATIVE PROCEDURES FOR OIL IMPORTS

17. Part 206 is vacated and reserved.

PART 213—OIL IMPORT REGULATIONS

18. Section 213.25 is revised to read as follows:

§ 213.25 Revocation or Suspension of Allocations or Licenses.

Effective immediately upon the issuance of this amended section, the Director may, in accordance with Subpart T of Part 205 to this chapter, revoke or suspend any allocation or license issued under this Part. Proceedings pending for this purpose on the date of issuance shall be deemed, in all respects, to be pending under Subpart T.

§ 213.26 Oil Import Appeals Board.

Effective immediately upon the issuance of this amended section, the Oil

Import Appeals Board is abolished, and alternative appellate procedures with respect to persons affected by this Part 213 are established in Part 205. Cases pending before the Board on the date of issuance shall, in all respects, be deemed to have been pending in the Office of Exceptions and Appeals. Outstanding awards made by the Board shall be unaffected by this action.

19. Section 213.27 is amended in paragraph (s) to read as follows:

§ 213.27 Definitions.

* * * * *

(s) "Fee" means the fees imposed by section 3(a)(1)(i)-(ii) of Proclamation No. 3279, as amended by Proclamation No. 4341. Allocations of imports issued pursuant to §§ 213.9, 213.10, 213.11, 213.12, 213.13, 213.15, 213.16, 213.20, 213.21, 213.28, 213.29, 213.30, 213.32, 213.33, 213.34, 213.36, 213.37, 213.38, allocations issued by the former Oil Import Appeals Board or the Office of Exceptions and Appeals, and long term allocations as defined in Proclamation No. 3279, are not subject to this fee.

§ 213.28 [Amended]

§ 213.33 [Amended]

§ 213.34 [Amended]

22. In Section 213.28, 213.33, and 213.34 the term "§ 213.26" is amended to read "§ 213.26 (prior to the abolition of the Oil Import Appeals Board)" wherever it appears.

23. Section 213.35 is amended in clause (ii) of subparagraph (3) of paragraph (e) to read as follows:

§ 213.35 Allocations and Fee-Paid Licenses for Imports of Crude Oil, Unfinished Oils, and Finished Products.

* * * * *

(e) * * *

(3) * * *

(ii) Where refunds of license fees, whether wholly or in part, were ordered by the former Oil Import Appeals Board or by the Office of Exceptions and Appeals.

* * * * *

[FR Doc. 75-22072 Filed 8-18-75; 12:56 pm]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

[24822]

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Summary of Accounts and Deposits

On June 11, 1975, under the authority of sections 7(a)(1) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817 (a)(1) and 1819), the Board of Directors ("Board") of the Federal Deposit Insurance Corporation ("Corporation") adopted a resolution requiring all insured State nonmember banks to complete and submit to the Corporation periodic reports as of June 30 each year containing information on the amount of their deposits and the number of deposit accounts in various types of categories for the bank as a whole and for each authorized office. In accordance with its resolution, the Board has decided to amend Part 304 of the Corporation's rules and regulations (12 CFR Part 304) to prescribe the form to be used by insured State nonmember banks in reporting such information to the Corporation and to establish the due date for the submission of such forms.

The amendment to Part 304 of the Corporation's rules and regulations (12 CFR Part 304) is as follows:

§ 304.2 [Amended]

1. The first sentence of § 304.2 (12 CFR 304.2) is amended by inserting the words "accounts and" following the words "summaries of".

2. Section 304.3(p) (12 CFR 304.3(p)) is amended to read as follows:

§ 304.3 Forms and instructions.

* * * * *

(p) *Form 8020/05: Summary of Accounts and Deposits.* Form 8020/05 is a report on the amount of deposits and the number of deposit accounts in various types of categories for the bank as a whole and for each authorized office as of June 30 each year. Reports on such form must be submitted for June 30, 1975 no later than September 30, 1975 and for June 30, 1976 and subsequent years no later than the immediately succeeding August 1. Upon written request to the Director of the Division of Research, such Director may, in 1976 and subsequent years, extend the deadline of the requesting bank for submitting such forms to no later than the immediately succeeding September 30.

* * * * *

In view of the importance of complete participation by insured State nonmember banks in the survey of accounts and deposits, the Board has determined that adherence to the public notice and participation requirements of section 553 (b) of title 5 of the United States Code and §§ 302.1 and 302.2 of the Corporation's rules and regulations (12 CFR 302.1 and 302.2) would be unnecessary and impracticable.

Effective date: This regulation is effective September 22, 1975.

By order of the Board of Directors, August 11, 1975.

FEDERAL DEPOSIT INSURANCE CORPORATION,

[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.75-22131 Filed 8-20-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-SW-29; Amdt. 39-2345]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2 and 47H-1 Helicopters

There has been a report of several of the tail pitch control bearings, P/N 47-641-146-1 (MRC R4AF4), having two grease dust shields installed. This single-row ball bearing is prelubricated at the factory and is lubricated at 50 hours as specified in the maintenance manual and is also subject to retirement at 100 hours' total time in service as specified by AD 58-23-1. Two dust grease shields in the bearing will prevent the bearing from being adequately lubricated at 50 hours. Inadequate lubrication at 50 hours may result in failure of the ball bearing and loss of pitch control. Bell contends that the bearing will be satisfactory for its assigned 100-hour life without any additional lubrication at the 50-hour period. This argument may have merit but no factual design or service information was submitted by Bell in support of their contention. Since other tail rotor pitch control bearings having two shields may be installed on certain Model 47 helicopters, an airworthiness directive is being issued to require a one-time inspection to assure only one shield is installed in the tail rotor pitch control bearing, P/N 47-641-146-1, for Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2, and 47H-1 helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2, and 47H-1 helicopters certificated in all categories that are equipped with a single-row ball bearing, P/N 47-641-146-1 (MRC R4AF4), in the tail rotor pitch control crosshead.

Compliance required within 10 hours' time in service for bearings with more than 40 hours' time in service on the effective date of this AD and prior to attaining 50 hours' time in service for bearings with less than 40 hours' time in service on the effective date of this AD.

To prevent possible failure of the tail rotor pitch control ball bearing due to inadequate lubrication, accomplish the following one-time inspection.

a. Disassemble the tail rotor pitch control crosshead assembly in accordance with Sections VI and VII, Models 47D-1, 47G, and 47G-2 Maintenance and Overhaul Instruction Manual, revised August 15, 1961, or in accordance with equivalent FAA approved procedures to expose the pitch change bearing.

b. Inspect the bearing, P/N 47-641-146-1 (MRC P/N R4AF4) for grease dust shields.

c. Remove any pitch change bearings with two grease dust shields installed before further flight.

d. Install bearings P/N 47-641-146-1 (MRC P/N R4AF4) with only one grease dust shield installed and assemble and rig the tail rotor controls, in accordance with Sections VI and VII, Models 47D-1, 47G, and 47G-2 Maintenance and Overhaul Instruction Manual, revised August 15, 1961, or in accordance with equivalent FAA approved procedures.

e. This AD does not apply to the obsolete design, single-row ball bearings having a single grease dust shield, Norma Hoffman P/N S1RP and New Departure P/N 7R4AX1C. This