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Presidential Documents

Title 3—

The President

Proclamation 4793 of September 17, 1980

Increase in the Rate of Duty for Certain Textile Articles From the European Communities

By the President of the United States

A Proclamation

1. On February 20, 1980, the European Communities announced the imposition of quotas, under Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A 58; 8 UST (pt. 2) 1786), on polyester filament yarn and polyamide (nylon) carpet yarn, imported into the United Kingdom on or after January 1, 1980. These quotas apply to exports from sources including the United States but exclude certain other countries.

2. On March 10, 1980, pursuant to Article XIX:2 of the GATT, the United States and the European Communities entered into consultations on this issue. These consultations have been suspended. The United States took note of certain trade liberalizing measures taken by the European Communities. An understanding has also been reached between the United States and the European Communities concerning the impact on the trade of the United States of excluding the products of certain other countries from the quotas. The quotas imposed by the European Communities are scheduled to expire on December 31, 1980. The actions taken to date by the European Communities including the above-mentioned liberalizing measures and the understanding, would not constitute adequate compensation if the quotas are extended beyond December 31, 1980.

3. Section 125(d) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2135(d)) authorizes the President, following public hearings, to withdraw, suspend, or modify the application of trade agreement obligations of the United States which are substantially equivalent to those which have been withdrawn, suspended or modified by a foreign country or instrumentality, or to proclaim under section 125(c) of the Trade Act (19 U.S.C. 2135(c)) such increased duties or other import restrictions as are appropriate to effect adequate compensation from that foreign country or instrumentality. Public hearings on possible modification or suspension of concessions to the European Communities were held on April 3, 1980, at the Office of the United States Trade Representative.

4. I have decided, pursuant to section 125(c) of the Trade Act to increase the duty on the textile articles listed in the Annex to this proclamation, the product of any member country of the European Communities, effective January 1, 1981, if the aforementioned import restrictions are extended by the European Communities beyond December 31, 1980, without providing adequate compensation.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 125 and 604 of the Trade Act (19 U.S.C. 2135 and 2483), and in accordance with Article XIX of the GATT do proclaim that:

(1) Subpart D, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is modified as set forth in the Annex to this proclamation.

(2) This proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1981,

unless the United States Trade Representative (USTR) determines that the quotas imposed by the European Communities, the subject of this proclamation, have terminated or will terminate prior to January 1, 1981, or that adequate compensation has been provided by the European Communities. If the USTR makes such a determination (published in the **Federal Register**), the modifications to the TSUS made by this proclamation shall not take effect.

3. Conforming modifications shall be made to Part I of Schedule XX to the GATT when the actions set forth in the Annex to this proclamation become effective.

(4) The TSUS, as modified by the Annex to this proclamation, shall be further modified as required by section C of Annex II to Proclamation No. 4707 of December 11, 1979, effective as to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1982.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of September, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

ANNEX

Subpart D, part 2 of the Appendix to the TSUS (19 U.S.C. 1202) is modified --

(1) by adding the following new headnote 2:

"2. The term "Products of the European Communities" refers to products of the member states of this instrumentality which includes the Governments of Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom.";

and

(2) by adding the following new items, in numerical sequence:

Item	Articles	Rates of Duty 1	Rates of Duty 2	Effective Period
"	Products of the European Communities:			
947.52	Yarns, wholly of non-continuous man-made fibers (provided for in items 310.40 and 310.50).....	20% ad val.	No change	On or after 1/1/81
947.56	Sweaters, of wool (provided for in items 380.59, 380.61, 382.56, and 382.58).....	37.5% ad val.	No change	On or after 1/1/81
947.61	Men's or boys' coats and jackets, of wool, knit (provided for in item 380.61).....	37.5% ad val.	No change	On or after 1/1/81
947.62	Men's or boys' coats and jackets, other than suit-type sports coats and jackets, of wool, not knit (provided for in 380.63 and 380.66).....	37.5% ad val.	No change	On or after 1/1/81
947.65	Women's, girls' and infants' coats, of wool (provided for in items 382.58, 382.60, and 382.63...	37.5% ad val.	No change	On or after 1/1/81
947.66	Skirts, of wool (provided for in items 382.54, 382.58, 382.60, and 382.63).....	37.5% ad val.	No change	On or after 1/1/81

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 212, 213, 214, and 317

Competitive Service and Competitive Status; Excepted Service; Senior Executive Service; Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These final regulations, published as interim regulations on December 21, 1979, are issued pursuant to title IV of the Civil Service Reform Act of 1978. They (1) exclude the Senior Executive Service from the definitions of the competitive and excepted services, (2) define the Senior Executive Service and establish the criteria for designating career reserved positions and (3) prescribe conditions on the use of limited emergency and limited term appointments in the Senior Executive Service.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632–6820.

SUPPLEMENTARY INFORMATION: On December 21, 1979 (44 FR 75615) the Office of Personnel Management published interim regulations under 5 CFR Parts 212, 213, 214 and 317 pursuant to title IV of the Civil Service Reform Act of 1978 (CSRA).

The comment period which was for 60 days from the date of publication ended on February 19, 1980. The Office received a number of written comments and phone inquiries with regard to Parts 214 and 317. It did not receive any comments on Parts 212 and 213.

Some of the commentors suggested that the list in § 214.402(c)(1) designating positions in certain occupational disciplines as career reserved be expanded to include other fields such as personnel administration and statistics. The non-inclusion of an occupational discipline under § 214.402(c)(1) does not preclude an agency from designating positions in that discipline as career reserved. In fact, when an agency finds that a particular position meets the criteria of § 214.402(c)(2), it must, as in § 214.402(b)(1), designate that position as career reserved. After reviewing the matter, the Office concludes that the interim regulation on designating positions as career reserved carries out the intent of the CSRA, namely to provide agencies with needed flexibility while at the same time ensuring public confidence in the impartiality of the Government. Accordingly, no change is being made in § 214.402(c).

Another commentor questioned the requirement in § 214.403 for prior approval by OPM before an agency could change a position designation from general to career reserved. Under the CSRA, each agency is required to include in its biennial request for its SES position authorization a justification for any proposed action to change the designation of a position from general to career reserved or from career reserved to general. (See 5 U.S.C. 3133(b)(2).) The requirement in § 214.403 makes the justification and review process an ongoing activity rather than a once-every-two-years project.

Several agencies commented on the provision in § 317.605(d) granting certain limited appointees the right to return to their former positions. Agencies questioned whether guaranteed placement would be appropriate when an individual accepts a limited SES appointment in an agency other than the one in which he or she holds a permanent civil service position. The law does not provide guaranteed placement rights for individuals separated from limited appointments in the SES. Because a limited appointment could, in effect, serve as a "temporary promotion", the Office believes it appropriate to provide for a placement right. Our intent is to grant the placement right only when the limited appointment was an intra-agency action. However, through inadvertance this restriction was not included in the interim regulation. Section 317.605(d) has been revised to include this restriction.

The following sections and subparts of 5 CFR are being issued as final regulations:

Part 212, § 212.101(a)(1)
Part 213, § 213.101(a)
Part 214, Subparts B, C, and D
Part 317, Subpart F

OPM has determined that these are significant regulations for the purposes of E.O. 12044.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, as follows:

PART 212—COMPETITIVE SERVICE AND COMPETITIVE STATUS

(1) Section 212.101(a)(1) is adopted and reads as follows:

§ 212.101 Definitions.

(a) * * *

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from the civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

* * * * *

(5 U.S.C. 2102)

PART 213—EXCEPTED SERVICE

(2) Section 213.101(a) is adopted and reads as follows:

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in the Senior Executive Service.

* * * * *

(5 U.S.C. 2103)

(3) The table of sections of Part 214 is revised to read as follows:

PART 214—SENIOR EXECUTIVE SERVICE

Subpart A—[Reserved]

Subpart B—General Provisions

14.201 Definitions.

Subpart C—Exclusions

214.301 Exclusions.

Subpart D—Types of Positions

214.401 Types of positions.
214.402 Career reserved positions.
214.403 Change of position type.

Authority: 5 U.S.C. 3132.

Subpart A—§ 214.101 [Reserved]

(4) Part 214, Subpart A is revoked and reserved.

(5) Part 214, Subpart B is revised to read as follows:

Subpart B—General Provisions

§ 214.201 Definitions.

For the purposes of this part:

"Agency," "Senior Executive Service position," "career appointee," "limited term appointee," "limited emergency appointee," and "noncareer appointee" have the meanings set forth in section 3132(a) of title 5, United States Code.

"Equivalent position" as used in section 3132(a)(2) of title 5, United States Code, means a position under any pay system where the level of the duties and responsibilities of the position and the rate of pay are comparable to that of a position at GS–16, –17, or –18, or at Executive Level IV or V.

"Senior Executive Service" has the meaning given that term by section 2101a of title 5, United States Code, and includes all positions which meet the definition in section 3132(a)(2) of title 5.

§ 214.202 Authority to make determinations.

(a) Each agency is responsible for determining, in accordance with Office of Personnel Management guidelines, which of its positions should be included in the Senior Executive Service.

(b) Agency determinations may be reviewed by the Office of Personnel Management to ensure adherence with law and regulation.

(6) Subparts C and D are adopted, and read as follows:

Subpart C—Exclusions

§ 214.301 Exclusions.

If not excluded from the Senior Executive Service by section 3132(a) (1) or (2) of title 5, United States Code, an agency, or unit thereof, may be excluded only under the provisions of section 3132 (c) through (f) of title 5.

Subpart D—Types of Positions

§ 214.401 Types of positions.

There are two types of positions in the Senior Executive Service:

(a) General positions, which may be filled by a career, noncareer, limited emergency, or limited term appointee.

(b) Career reserved positions, which may be filled only by a career appointee.

§ 214.402 Career reserved positions.

(a) The head of each agency is responsible for designating career reserved positions in accordance with the regulations in this section.

(b) A position shall be designated as a career reserved position if:

(1) The position (except a position in the Executive Office of the President):

(i) Was under the Executive Schedule, or the rate of basic pay was determined by reference to the Executive Schedule, on October 12, 1978;

(ii) Was specifically required under section 2102 of title 5, United States Code, or otherwise required by law to be in the competitive service; and

(iii) Entailed direct responsibility to the public for the management or operation of particular government programs or functions; or

(2) The position must be filled by a career appointee to ensure impartiality, or the public's confidence in the impartiality, of the Government.

(c) The head of an agency shall use the following criteria in determining whether paragraph (b)(2) of this section is applicable to an individual position:

(1) Career reserved positions include positions the principal duties of which involve day-to-day operations, without responsibility for or substantial involvement in the determination or public advocacy of the major controversial policies of the Administration or agency, in the following occupational disciplines:

(i) Adjudication and appeals;

(ii) Audit and inspection;

(iii) Civil or criminal law enforcement and compliance;

(iv) Contract administration and procurement;

(v) Grants administration;

(vi) Investigation and security matters; and

(vii) Tax liability, including the assessment or collection of taxes and the preparation or review of interpretative opinions.

(2) Career reserved positions also include:

(i) Scientific or other highly technical or professional positions where the duties and responsibilities of the specific position are such that it must be filled by a career appointee to insure impartiality, of the Government.

(ii) Other positions requiring impartiality, or the Public's confidence in impartiality, as determined by an agency in light of its mission.

(d) The Office of Personnel Management may review agency designations of general and career reserved positions. If the Office finds that an agency has designated any position as general that should be career reserved, it shall direct the agency to make the career reserved designation.

(e) The minimum number of positions in the Senior Executive Service Governmentwide that must be career reserved is 3,571 as determined by the Director of the Office of Personnel Management under section 3133(e) of 5 U.S.C. To assure that this figure is met, the Office may establish a minimum number of career reserved positions for individual agencies. An agency must maintain or exceed this number unless it is adjusted by the Office.

§ 214.403 Change of position type.

An agency may not change the designation of an established position from career reserved to general, or from general to career reserved, without the prior approval of the Office of Personnel Management.

PART 317—APPOINTMENT REASSIGNMENT TRANSFER AND DEVELOPMENT IN THE SENIOR EXECUTIVE SERVICE

(7) In Part 317, Subpart F, the table of sections and §§ 317.601 through 317.604 are adopted, and read as follows:

Subpart F—Limited Emergency and Limited Term Appointments

Sec.
317.601 Authorization and duration
317.602 Conditions of appointment
317.603 Selection of limited appointees
317.604 Reassignment of limited appointees
317.605 Tenure of appointees

Authority: 5 U.S.C. 1302, Pub. L. 95–454.

Subpart F—Limited Emergency and Limited Term Appointments

§ 317.601 Authorization and duration.

(a) An agency may make a limited appointment only with the specific authorization of the Office of Personnel Management for use of the appointing authority.

(b) Each use of a limited appointment authority must be approved individually by the Office unless the agency has an agreement with the Office authorizing the agency to make limited appointments on its own under specified circumstances.

(c) The Office may authorize an agency to make a limited emergency appointment not to exceed 18 months to a position established to meet a bona fide, unanticipated, urgent need.

(d) The Office may authorize an agency to make a limited term appointment not to exceed 3 years to a position the duties of which will expire at the end of the period.

§ 317.602 Conditions of appointment.

(a) A limited appointment may be made only to a general position.

(b) A limited appointment is not renewable. If an agency initially made the appointment for less than the maximum period authorized by the Office of Personnel Management, however, the agency may extend the appointment to the maximum period without the approval of the Office. The Office must be notified of the extension.

(c) A limited term or limited emergency appointee may not be appointed to, or continue to hold, a position under such an appointment if, within the preceding 48 months, the individual has served more than 36 months, in the aggregate, under any combination of limited term and limited emergency appointments.

§ 317.603 Selection of limited appointees.

An agency may make a limited appointment without the use of merit staffing procedures. The appointee, however, must meet the qualifications requirements for the position, as determined in writing by the appointing authority.

§ 317.604 Reassignment of limited appointees.

An agency may make the following reassignments of limited appointees to positions for which qualified without the prior approval of the Office of Personnel Management. The Office must be notified of the reassignment, however.

(a) An agency may reassign a limited emergency appointee to another general position established to meet a bona fide, unanticipated, urgent need, except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 18 months.

(b) An agency may reassign a limited term appointee to another general position the duties of which will expire at the end of 3 years or less except that the appointee may not serve in one or more positions in the agency under such appointment in excess of 3 years.

(8) Section 317.605 is revised to read as follows:

§ 317.605 Tenure of appointees.

(a) A limited appointee does not acquire status within the Senior Executive Service on the basis of the limited appointment.

(b) An agency may terminate a limited appointment at any time.

(c) The employment of a limited appointee ends automatically on the expiration of the appointment if the appointment has not been terminated earlier.

(d) An employee:

(1) Who received a limited appointment without a break of service in the same agency as the one in which the employee held a career or career conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the Senior Executive Service, and

(2) Whose limited appointment is terminated for reasons other than misconduct, neglect of duty, or malfeasance, shall be entitled to be placed in his/her former position or a position of like status, tenure, and grade.

[FR Doc. 80-29082 Filed 9-18-80; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

[Amendment 10]

Tobacco; 1979–80 Average Market Price and 1980–81 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule contains the average market price received by producers for the 1979–80 marketing year and the penalty rate that applies to tobacco subject to marketing quota penalty during 1980–81 marketing year. The penalty rate is 75 percent of the previous year market average, as required by Section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: September 19, 1980.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7935. The Final Impact Statement describing this final rule is available on request from Harry D. Millner.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." J. A. Wells, Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, has determined that an emergency exists which warrants publication of this rule without opportunity for public comment because producers, warehousemen, and dealers need to know immediately the 1980–81 marketing year penalty rates for the marketing of excess tobacco, so that production and marketing decisions can be timely made. Since the 1979–80 average market price producers received for the subject tobaccos and the rate of penalty reflect mathematical computations rather than substantive changes, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective upon publication in the **Federal Register.**

Final Rule

Accordingly, 7 CFR Part 724 is amended by deleting paragraphs (c) through (k) of 724.88. A new paragraph (c) is added to § 724.88, to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(c)(1) 1974–80 average market price. The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board for 1974–80 marketing years were:

Average Market Price

Marketing year	Kinds of tobacco	Cents per pound
1974–75	Fire-cured (type 21)	81.7
	Fire-cured (types 22, 23, 24)	93.4
	Dark air-cured	76.9
	Virginia sun-cured	82.1
	Cigar-filler and binder (types 42, 43, 53, 54 and 55).	72.7
	Cigar-binder (types 51 and 52).	82.0
1975–76	Fire-cured (type 21)	93.0
	Fire-cured (types 22, 23, 24)	104.7
	Dark air-cured	89.8
	Virginia sun-cured	85.5
	Cigar-filler and binder (types 42, 43, 53, 54 and 55).	73.1
	Cigar-binder (types 51 and 52).	92.7
1976–77	Fire-cured (type 21)	118.0
	Fire-cured (types 22, 23, 24)	142.2
	Dark air-cured	116.6
	Virginia sun-cured	105.0
	Cigar-filler and binder (types 42, 43, 44, 53, 54 and 55).	72.8
	Cigar-binder (types 51 and 52).	89.6
1977–78	Fire-cured (type 21)	96.3
	Fire-cured (types 22, 23, 24)	125.6