

Aviation Boulevard, Hawthorne, California 90281, Room 6W14.

This amendment becomes effective January 5, 1981.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington on December 16, 1980.

Charles R. Foster,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1987.

(FR Doc. 80-40702 Filed 12-31-80; 8:45 am)

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 21230; Amdt. 39-4011]

Airworthiness Directives; Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 Series Airplanes

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of a placard in clear view of the pilots lowering the maximum operating speed (V_{MO}/M_{MO}) until additional rivets in the 25 percent wing spar are installed on certain Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 series airplanes. The AD is needed to preclude failure of the 25 percent wing spar and consequent loss of the airplane.

DATES: Effective January 16, 1981.

Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Israel Aircraft Industries, Limited, Ben Gurion Airport, Israel. Copies of the service bulletins are contained in the rules docket for this amendment in Room 916, 600 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30,

or C. Chapman, Acting Chief, Technical Standards Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202-426-8192.

SUPPLEMENTARY INFORMATION: The FAA has been informed by the Israeli CAA that, because of a discrepancy in the rivet pattern and the total bonding strength assumptions in the stress analysis for the wing root assembly, installation of additional rivets is necessary in the 25 percent wing spar on certain Israel Aircraft Industries, Limited, Models 1121, 1121A, 1121B, 1123, and 1124 series airplanes. The additional rivets are necessary to preclude the possibility of structural failure of the wing spar. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires installation of a placard lowering the maximum approved operating speed until modification of the 25 percent wing spar is accomplished.

Since a situation exists that requires the 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 less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Israel Aircraft Industries, Limited (formerly Aero Commander, North American Rockwell Corporation): Applies to certain Model 1121, 1121A, 1121B, 1123, and 1124 airplanes, certificated in all categories.

Compliance required as indicated.

To preclude the possibility of structural failure of the 25 percent wing spar, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished, or the modification required by paragraph (b) of this AD has been accomplished, install a placard in clear view of the pilots in accordance with the instructions in PART A: PLACARD INSTALLATION, of the appropriate Israel Aircraft Industries, Limited, Service Bulletin, as indicated in the following list:

(1) No. CJ-25A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Models 1121, 1121A, and 1121B airplanes, serial numbers 94 through 106 and 108 through 150, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—Below 26,000 FT—315 Kts CAS

—Above 26,000 FT—0.765 M";

(2) No. WW-23A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1123 airplanes, serial numbers 107, 151, 153, 155 through 180, and 182 through 186, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—With or without fuel in tip tanks:

Below 22,500 FT—315 Kts CAS

Above 22,500 FT—0.710 M

—With autopilot engaged and without fuel in tip tanks:

Below 26,000 FT—315 Kts CAS

Above 26,000 FT—0.765 M"; or

(3) No. WW-24-17A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1124 airplanes, serial numbers 152, 154, 181, 187 through 260, 262 through 264, and 266 through 269, the placard to read as follows:

"Maximum Operating Speed Limits (V_{MO}/M_{MO})

—With autopilot disengaged:

Below 22,500 FT—315 Kts CAS

Above 22,500 FT—0.710 M

—With autopilot engaged:

Below 26,000 FT—315 Kts CAS

Above 26,000 FT—0.765 M"

(b) Within the next 600 hours time in service or the next 90 days after the effective date of this AD, whichever occurs first, unless already accomplished, install additional rivets in the 25 percent wing spar between wing stations X_{w-33} and $X_{w-47.5}$, left and right, in accordance with the instructions in PART B: RIVET INSTALLATION, of the appropriate Israel Aircraft Industries, Limited, Service Bulletin, as indicated in the following list:

(1) No. CJ-25A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Models 1121, 1121A, and 1121B airplanes, serial numbers 94 through 106 and 108 through 150;

(2) No. WW-23A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1123 airplanes, serial numbers 107, 151, 153, 155 through 180, and 182 through 186; or

(3) No. WW-24A, Revision No. 1, dated March 31, 1980, or an FAA-approved equivalent, for Model 1124 airplanes, serial numbers 152, 154, 181, 187 through 260, 262 through 264, and 266 through 269.

(c) The placard required by paragraph (a) may be removed when the modification required by paragraph (b) is completed.

(d) If an equivalent means of compliance is used in complying with paragraphs (a) or (b) of this AD, that equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective January 16, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a),

1421, and 1423): Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Washington, D.C., on December 23, 1980.

Jerold M. Chavkin,

Acting Director of Airworthiness.

[FR Doc. 80-40163 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 80-ASW-53]

Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes temporary restricted areas in the vicinity of McGregor, N. Mex., to contain a major joint military exercise. The area will be included in the Continental Control Area. Federal Airway V-280 will be excluded within the restricted areas. This action prohibits unauthorized flight operations by nonparticipating aircraft within the proposed restricted areas during their designated times of use.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

History

On November 20, 1980, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-5103D, R-5103E, R-5103F, R-5103G, R-5103H and R-5103I, McGregor, N. Mex., to contain a major joint military readiness exercise entitled BORDER STAR 81 (45 FR 76694). This exercise will provide training for several military commands operating under the sponsorship of the U.S. Air Force

Readiness Command. The air activities associated with the exercise will be such that flight by nonparticipating aircraft cannot be safely conducted simultaneously within the temporary restricted areas when they are in use by the military. These activities will consist of air operations such as close air support, interdiction, air defense/counter air, electronic warfare, reconnaissance, tactical airlift missions, and aerial refueling. It is estimated that approximately 150 aircraft will be utilized to conduct approximately 100 fixed wing and 200 helicopter sorties daily. The boundary abutments to the existing restricted areas are necessary to accommodate interarea transition into and out of R-5103 A, B, and C, which, along with existing Restricted Areas R-5107, R-5109, and R-5111, will be used extensively during the exercise. Communications equipment will be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area (except R-5107B) when military activity permits. Additionally, a reverse charge telephone number and VHF radio communication frequency will be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. This amendment is the same as it was proposed in the notice. The Department of the Air Force has certified that the requirements of the National Environmental Policy Act (NEPA) have been met. § 71.123 and § 71.151 of Part 71 and § 73.51 of Part 73 were republished in the Federal Register on January 2, 1981 (46 FR 307, 344, 709).

The Rule

These amendments to §§ 71.123 and 71.151 of Part 71 and § 73.51 of Part 73 (14 CFR Parts 71 and 73) designate temporary restricted areas identified as R-5103D, R-5103E, R-5103F, R-5103G, R-5103H, and R-5103I, McGregor, N. Mex. Unauthorized flight within the temporary restricted areas by nonparticipating aircraft is prohibited during the areas designated times of use. The military will provide aerial access to private or public use land that underlies the restricted airspace. The areas are designated for joint use and applicable portions are included in the Continental Control Area. Federal Airway V-280 is excluded within R-5103D and R-5103E during their designated times of use.

Discussion of Comments

Of the comments received on the notice, none were objections.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (46 FR 307, 344, 709) are amended, effective 0901 GMT, February 19, 1981, as follows:

1. In § 71.123, under V-280 the following is added:

"The airspace within Temporary Restricted Areas R-5103D and R-5103E is excluded from 0100 April 1 until 2400 local time April 7, 1981."

2. In § 71.151, between "R-5103 McGregor, N. Mex.," and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103E McGregor, N. Mex.
"R-5103F McGregor, N. Mex.
"R-5103H McGregor, N. Mex.
"R-5103I McGregor, N. Mex."

3. In § 73.51, between "R-5103C McGregor, N. Mex.," and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103D McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°00'15" N., Long. 105°56'40" W.; to Lat. 32°26'20" N., Long. 105°30'00" W.; to Lat. 32°16'00" N., Long. 105°30'00" W.; to Lat. 32°06'00" N., Long. 105°39'00" W.; to point of beginning.

Designated altitudes. 100 feet AGL to 8,000 feet MSL.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103E McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°00'15" N., Long. 105°56'40" W.; to Lat. 32°26'20" N., Long. 105°30'00" W.; to Lat. 32°16'00" N., Long. 105°30'00" W.; to Lat. 32°06'00" N., Long. 105°39'00" W.; to point of beginning.

Designated altitudes. 15,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103F McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°04'00" N., Long. 106°17'00" W.; to Lat. 32°06'00" N., Long. 106°15'30" W.; to Lat. 32°05'20" N., Long. 106°09'20" W.; to Lat. 32°00'30" N., Long. 106°10'25" W.; to point of beginning.

Designated altitudes. 100 feet AGL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103G McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°05'00" N., Long. 106°18'20" W.; to Lat. 32°25'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 105°59'00" W.; to Lat. 32°27'40" N., Long. 106°00'00" W.; to Lat. 32°28'00" N., Long. 106°02'00" W.; then along the Southern Railroad to Lat. 32°04'00" N., Long. 106°17'00" W.; to point of beginning.

Designated altitudes. 100 feet AGL to 6,000 feet MSL.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103H McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°05'00" N., Long. 106°18'20" W.; to Lat. 32°25'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 106°06'00" W.; to Lat. 32°38'00" N., Long. 105°59'00" W.; to Lat. 32°27'40" N., Long. 106°00'00" W.; to Lat. 32°28'00" N., Long. 106°02'00" W.; then along the Southern Railroad to Lat. 32°04'00" N., Long. 106°17'00" W.; to point of beginning.

Designated altitudes. 12,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

R-5103I McGregor, N. Mex.

Boundaries. Beginning at Lat. 32°45'00" N., Long. 105°52'20" W.; to Lat. 32°33'20" N., Long. 105°30'00" W.; to Lat. 32°45'00" N., Long. 105°27'00" W.; to point of beginning.

Designated altitudes. 24,000 feet MSL to unlimited.

Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.

Controlling agency. FAA Albuquerque ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on December 23, 1980.

Shelomo Wugalter,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-40615 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 18904; Amendment No. 91-172]

Transport Category Airplanes—Pitot Heat Indication Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment suspends the April 12, 1981, compliance date specified in § 91.50(a) of the Federal Aviation Regulations for operation of transport category airplanes when they are used in general aviation operations and not operations conducted under Part 121, 123, 125, or 135 of the Federal Aviation Regulations. Section 91.50 provides that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system. The FAA is issuing a notice of proposed rulemaking which proposes to exclude general aviation operators from these requirements. Suspension of the April 12, 1981, compliance date enables the FAA to re-examine the regulation as applies to these operators before imposition of the requirement.

EFFECTIVE DATE: January 2, 1981

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 755-8716.

Discussion

The FAA issued Amendment No. 91-148 on March 6, 1978, (43 FR 10339; March 13, 1978, Docket No. 15594) providing that after April 12, 1981, with certain exceptions, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326. This rule applies to all transport category airplanes regardless of the type of operation being conducted.

On January 26, 1979, the National Business Aircraft Association, Inc. (NBAA), submitted a petition requesting that the April 12, 1981, compliance date be held in abeyance and also petitioned to amend the regulations to require that only transport category airplanes operated under Part 121, 123, 125, or 135 meet the requirement to have an operable pitot heat indication system. A summary of the NBAA's petition was published in the Federal Register on October 18, 1979 (44 FR 60107), and there were no comments. As the result of this petition, the FAA is issuing a notice of proposed rule making which proposes to exclude general aviation operations from these requirements. This will allow the FAA to re-examine the regulations as they apply to these operators before imposition of the requirement.

Accordingly, the FAA has determined that the public interest justifies a suspension of the compliance date of § 91.50, as it applies to operators of transport category airplanes used in general aviation operations and not in operations conducted under Part 121, 123, 125, or 135. Since this action is taken to avoid imposing an unnecessary burden on the public, I find that notice and public procedure are impracticable and that good cause exists for making this amendment effective in less than 30 days.

The Amendment

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended, effective January 2, 1981 as follows:

By amending § 91.50(a) by adding the phrase "and (c)" after the letter "(b)", and by amending § 91.50 by adding a new paragraph (c) to read as follows:

§ 91.50 Transport category airplanes—Pitot heat indication systems.

(c) Notwithstanding the provisions of paragraph (a) of this section, the compliance date of April 12, 1981, is suspended for operators of transport category airplanes when conducting operations that are not conducted under Part 121, 123, 125, or 135 of the Federal Aviation Regulations.

(Secs. 303(d), 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and the expected impact of this amendment is so minimal that it does not warrant a regulatory evaluation. Additionally, this rule

is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1465). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C. on December 22, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-40613 Filed 12-31-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371 and 374

Expansion of General License GLR and Permissive Reexport Provisions

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends General License GLR to permit a U.S. importer to return unwanted commodities for any reason to the country from which they were imported provided their capabilities are not enhanced while in the United States. By giving broader coverage to the GLR procedure, this change will eliminate the burden of a U.S. importer obtaining a validated export license when returning unwanted foreign-origin commodities. Prior to this amendment, unwanted foreign-origin commodities could only be returned to the foreign country of origin under GLR if they failed to conform to specifications or were shipped without the consent of the consignee.

This rule also amends the permissive reexport provisions of § 374.2 to permit:

(1) Reexport of U.S.-origin commodities to a third country in Country Group T or V (except Afghanistan) for servicing and return of the serviced commodities to the original consignee, and/or

(2) Reexport of replacements for defective or unacceptable U.S.-origin parts or equipment, without obtaining prior written authorization from the Office of Export Administration.

Expansion of the permissive reexport provisions of the Export Administration Regulations will reduce the time required to service many U.S.-origin commodities.

EFFECTIVE DATE OF ACTION: January 2, 1981.

FOR FURTHER INFORMATION CONTACT:

Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore, these regulations are issued in final form. Although there is no formal comment period, public comments on these regulations are welcome on a continuing basis.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended as follows:

PART 371—GENERAL LICENSES

1. Section 371.17(c) is revised to read as follows:

§ 371.17 General license GLR; return or replacement of certain commodities.

(c) *Unwanted Foreign-Origin Commodities.* A foreign-origin commodity may be returned under this general license to the country from which it was imported if its characteristics and capabilities have not been enhanced while in the United States. This procedure applies to all Country Groups except S and Z.

PART 374—REEXPORTS

2. Section 374.2 is amended by revising paragraphs (a) and (f) to read as follows:

§ 374.2 Permissive reexports.¹

(a) Reexports of any commodity that at the time of reexport—

¹ See § 374.9 for effect on foreign laws.

(1) May be exported directly from the United States to the new country of destination under General License G-DEST, GTE, G-NNR, or G-FTZ;

(2) Are valued at an amount that does not exceed the GLV value on the Commodity Control List for the new country of destination;²

(3) Could be exported under General License *Ship Stores* or *Plane Stores* if the same vessel or aircraft were departing from a U.S. port, except that the equipment and spare parts described in §§ 371.9(a)(3) and 371.10(a)(3) may not be included in such reexport; or

(4) May be exported directly from the United States to the country of destination under subsection (f) of General License GLR (§ 371.17(f)). A firm reexporting replacements for defective or unacceptable U.S.-origin parts or equipment to consignees in Country Group P, Q, W, and Y shall:

(i) Ensure that the replaced commodity is either destroyed or returned to the United States or to the foreign firm in Country Group T or V that shipped the replacement part or equipment into Country Groups P, Q, W, or Y. Destruction or return shall be effected prior to, or promptly after, reexporting the replacement.

(ii) Submit the following written certification on letterhead stationery within 60 days of the reexport to the Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230:

I (We) certify that the commodity(ies) described below were reexported under the provisions of § 374.2 of the Export Administration Regulations to replace a defective or otherwise unusable U.S.-origin part or equipment previously (exported from the United States under validated export license number _____) (reexported from (name of country) under OEA Authorization No. _____). I (We) further certify that the defective or otherwise unusable part or equipment [was returned to the United States on (date of shipment to U.S.)]; [was returned to (name of foreign firm) on (date of receipt by foreign firm)]; [was destroyed abroad on (date) by (name of foreign firm)].

² The permissive reexport provisions set forth above relating to the reexport of commodities within the established GLV dollar-value limits do not apply to exports, reexports, or distributions made under the Distribution License, or Aircraft and Vessel Repair Station Procedures. (See §§ 373.3, and 373.8).

Quantity	Description of commodity	Dollar value
	(Include characteristics such as model no., horsepower, size, etc.)	

(f) Reexports to a destination in Country Group T or V of a U.S.-origin commodity for servicing, and subsequent return of the serviced commodity to the original consignee, provided that the return of the serviced commodity complies with the conditions of § 371.17(a). When the serviced commodity will be returned to Country Groups P, Q, W, or Y, the reexporter must submit a report as required by § 371.17(a)(4).

(Sections 4, 13, 15 and 21 Pub. L. 96-72, 50 U.S.C. App. section 2401 *et seq.*; Executive Order 12214 [45 FR 29783, May 6, 1980]; Department Organization Order 10-3 [45 FR 6141, January 25, 1980]; International Trade Administration Organization and Function Order 41-1 [45 FR 11862, February 22, 1980] and 41-4 [effective August 26, 1980])

Dated: December 29, 1980.

Kent N. Knowles,
Director, Office of Export Administration.

FR Doc. 80-40000 Filed 12-31-80; 8:45 am

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations; Inspection of Books and Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended § 1.31(a) to specify that a copy of any book or record required to be kept under the Commodity Exchange Act or the Commission's rules must be provided upon the request of a Commission representative. Instead of furnishing a copy, the original book or record be provided for reproduction, which the representative may temporarily remove for this purpose. Upon request, the representative will issue a receipt for any document received.

EFFECTIVE DATE: February 2, 1981.

FOR FURTHER INFORMATION CONTACT: Donald R. Levine, Esquire, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W.,

Washington, D.C. 20581, telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION: The examination of books and records is one of the Commission's principal means of determining compliance with the Commodity Exchange Act ("Act"),¹ and the Commission's rules thereunder. Various provisions of the Act require persons regulated by the Commission to maintain specific books and records and to permit the Commission to inspect those documents.² In addition, pursuant to its general rulemaking authority and other provisions, the Commission has required certain records to be kept and made available for inspection by the Commission.³

On-site inspection of books and records is often adequate for the Commission's purposes. However, at times the Commission has found it necessary to obtain copies, or to obtain original documents for reproduction, in order to conduct a thorough inspection. In addition, in the midst of a thorough inspection, the obtaining of copies by the Commission may intrude less into the business operations of a regulated person than would a lengthy on-site investigation by Commission representatives. Accordingly, in order to make clear that the right to inspect includes the right to obtain copies and to remove books and records temporarily for reproduction, the Commission proposed an amendment to Rule 1.31,⁴ the general recordkeeping rule that describes the manner in which books and records must be kept and produced for inspection. 43 FR 50699 (October 31, 1978). Under the proposal, Commission representatives could temporarily remove books and records unless the person obligated to keep them promptly provided copies at such person's own expense.⁵

After considering the comments on the proposal, the Commission has decided to adopt the amendment with several modifications. The proposal provided for the temporary removal of a

¹ 7 U.S.C. 1, *et seq.* (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865, *et seq.* (1978).

² See, e.g., Sections 4, 4g, 4i, 4n, 5 and 5a.

³ See, e.g., Rules 1.35 and 1.37, 17 CFR 1.35 and 1.37.

⁴ 17 CFR 1.31.

⁵ The proposed amendment, Rule 1.31(a)(2), stated:

Without limiting the provisions of paragraph (c) of this section, to facilitate effective completion of such inspections, any representative of the Commission may obtain and/or remove temporarily such books and records for reproduction, unless the person required to keep such books and records immediately provides copies thereof, at his own expense, and continues to keep the original books and records readily accessible for inspection in accordance with this section.

book or record unless a copy was "immediately" furnished. As adopted, the rule requires a copy to be furnished promptly. The recordkeeper is obligated by this requirement to furnish a copy of the original of a book or record as expeditiously as reasonably can be expected.⁶ This modification is not intended to permit any person to avoid the responsibility to provide any member of the Commission staff with prompt, complete access to any books and records required to be maintained. Rather, it is a recognition that in practice a requirement to furnish copies immediately in all instances, depending upon the extent or nature of a staff request, could impose an unwarranted burden upon the recordkeeper.

The proposed rule has been further modified to provide that, upon the recordkeeper's request, the Commission representative will issue a receipt provided by the recordkeeper for any copy or original book or record received. The Commission expects that, except in unusual situations, an original will be returned promptly following the date of receipt. The Commission intends to monitor closely the operation of the regulation as revised to be certain that it does not impede efficient staff operation. If the Commission finds that, based upon experience with the revised regulation, this is the case, it will consider further rulemaking.

Several commentators stated that the Commission lacks authority to adopt a rule authorizing removal of original books and records. They asserted that the Commission's inspection power is limited to on-site inspections, citing certain sections of the Act that provide for books and records to be "open to inspection."⁷ The Commission disagrees. First, the Commission's inspection power reflects a Congressional judgment that the business records of regulated persons should be subject to scrutiny from time to time in order to ascertain whether those businesses are being conducted lawfully. This Congressional purpose would be thwarted if the Commission were unable thoroughly to scrutinize

⁶ Rule 1.31(a) presently provides that required books and records must be kept for five years and must be "readily accessible during the first 2 years of the 5-year period." Thus, required documents that are more than two years old might not be readily accessible. In this situation new Rule 1.31(a)(2) imposes upon the recordkeeper the obligation to retrieve the documents requested as expeditiously as is reasonable in light of the circumstances. The adoption of Rule 1.31(a)(2) does not, however, affect the recordkeeper's obligation under existing Rule 1.31(c)(3) immediately to provide a "facsimile enlargement" of any records kept on microfilm as permitted by Rule 1.31.

⁷ Sections 4, 4g, 4n, 5 and 5a of the Act.

these records in order to discharge its statutory responsibilities. And the nature of these records frequently has required more thorough study than can be accomplished during an on-site review.

Second, Section 8a(5) of the Act authorizes the Commission to adopt such rules as, in its judgment, are reasonably necessary to effectuate the provisions or to accomplish the purposes of the Act. Since on-site inspection has not always been sufficient for the Commission to conduct thorough inquiries, a rule that provides for furnishing copies of required books and records or originals for reproduction is reasonably necessary to effectuate the Act's recordkeeping and inspection provisions.*

Some commentators pointed to the Commission's express authority to subpoena documents "as support for the view that the Commission lacks authority to require that copies of original books and records be furnished, or in the alternative, originals be provided for reproduction. These commentators were of the view that the subpoena power was intended to be the Commission's sole means of obtaining possession of documents. These commentators confuse the Commission's inspection power with the Commission's investigatory power. Though the method and the circumstances of the exercise may differ in particular cases, both powers permit the Commission to obtain access to and copies of documents.¹⁰

Several commentators stated that to avoid unnecessarily burdensome demands, a request under Rule 1.31(a) should be made pursuant to the written authorization of a senior staff member. The Commission has no reason to assume that its representatives will conduct themselves otherwise than as directed by their supervisors and in a

reasonable and lawful manner. Further, Commission representatives must be permitted reasonable flexibility in conducting on-site inspections in the field. For these reasons, the Commission believes that the recordkeeper can be protected sufficiently from unnecessarily burdensome and unreasonable requests by existing Commission procedures.

Representatives of the Commission, conducting inspections, act under the supervision of the Director of one of the Commission's Divisions: the Director of the Division of Enforcement, the Director of the Division of Trading and Markets, or the Director of the Division of Economics and Education. If a recordkeeper questions the authority of a Commission representative to make an inspection or the reasonableness of that representative's request, those questions easily can be resolved by a telephone call to the Director of the appropriate division, or to the Director's assistant. Accordingly, no legitimate purpose which benefits the public can be served by requiring of the Commission greater formality than is necessary.

In addition, several commentators mentioned the possibility of duplicative requests for identical books or records from Commission representatives. The final rule, however, provides that, upon request, the Commission representative shall issue a receipt provided by the recordkeeper for the documents furnished. In the event a duplicative request is made, the recordkeeper may inform the Commission representative of that fact and produce the receipt previously issued for the books and records. If the Commission representative persists in his request, the recordkeeper may contact the Director of the appropriate Commission Division. Although the Commission will strive not to make duplicative requests, such requests may be necessary under some circumstances. In those instances, the prior issuance of a receipt by a Commission representative will not excuse a failure promptly to comply with the request. And, in all cases, the furnishing of copies in satisfaction of prior requests will not excuse the recordkeeper from compliance with all subsequent requests for on-site inspection. In this connection the Commission wishes to make clear that copies furnished must be true and accurate (and additional inspection may be required to verify the validity of accuracy of copies).

Further, the Commission does not agree with those commentators who

stated that the Commission should reimburse recordkeepers for the cost of providing copies. This cost is one which the regulations permit a recordkeeper to elect in lieu of providing the original record to a Commission representative for temporary removal and copying at the Commission's expense.

In consideration of the foregoing and pursuant to the authority in sections 4, 4g, 4i, 4n, 5, 5a and 8a of the Commodity Exchange Act, 7 U.S.C. 6, 6i, 6n, 7, 7a and 12a (1976), as amended by Pub. L. 95-405, 92 Stat. 865 *et seq.* (1978), the Commission hereby amends Part 1 of Chapter I of Title 17 of the Code of Federal Regulations by redesignating § 1.31(a)(1) and by adding a new § 1.31(a)(2) as follows:

§ 1.31 Books and records; keeping and inspection.

(a)(1) All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the United States Department of Justice.

(2) A copy of any book or record required to be kept by the Act or by these regulations shall be provided, at the expense of the person required to keep the book or record, to a Commission representative upon the representative's request. Instead of furnishing a copy, such person may provide the original book or record for reproduction, which the representative may temporarily remove from such person's premises for this purpose. All copies or originals shall be provided promptly. Upon request, the Commission representative shall issue a receipt provided by such person for any copy or original book or record received. At the request of the Commission representative, such person shall, upon the return thereof, issue a receipt for any copy or original book or record returned by the representative.

Issued in Washington, D.C. on December 23, 1980, by the Commission.

Jane K. Stuckey,
Secretary of the Commission.

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BILLING CODE 8351-01-M

*One commentator suggested that adoption of Rule 1.31(a)(2) would result in unreasonable searches and seizures of the type proscribed by the Fourth Amendment to the United States Constitution. Even if the inspection of books and records required by the Act to be kept "open to inspection" were construed to be a search and seizure within the meaning of the Fourth Amendment, a Government agency's inspection authority is reasonable and satisfies the Fourth Amendment where applied to pervasively regulated businesses, and closely regulated industries, long subject to close supervision and inspection.

*See Section 6(b) of the Act.

¹⁰The Commission emphasizes that the procedures covered by Rule 1.31 do not affect the obligations of any person to produce books, records or other documents through the exercise of Commission subpoena power during the course of a formal investigation.

DELAWARE RIVER BASIN COMMISSION**18 CFR Part 430****Ground Water Protection, Southeastern Pennsylvania; Special Regulation****AGENCY:** Delaware River Basin Commission.**ACTION:** Final rule.

SUMMARY: The Delaware River Basin Commission has designated a section of southeastern Pennsylvania a ground water protected area. It has also enacted a regulatory program in the protected area imposing conditions and restrictions on new wells to forestall continued depletion of the overused subsurface resource. The protected area comprises all of Montgomery County; 36 municipalities in Bucks County; 25 communities in eastern and northern Chester County; 3 townships in eastern Berks County, and 1 township in Lehigh County. Within the protected area all wells that draw more than 10,000 gallons per day are subject to the new regulations, including those of municipalities, authorities, water companies, industries and businesses, institutions and housing developments.

The Commission action was taken pursuant to Article 10 of the Delaware River Basin Compact (75 Stat. 688) authorizing the Commission to determine and delineate areas within the basin wherein demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the Commission's Comprehensive Plan.

EFFECTIVE DATE: January 1, 1981.

ADDRESS: Copies of the regulation are available at: Delaware River Basin Commission, 25 State Police Drive, Post Office Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Herbert A. Howlett, Chief Engineer, Delaware River Basin Commission, Post Office Box 7360, West Trenton, New Jersey 08628, 609-883-9500.

SUPPLEMENTARY INFORMATION: Use of ground water resources in the Triassic lowland and adjacent areas in southeastern Pennsylvania has increased substantially in recent decades. Interference and conflicts among users of the same ground water resource in the area has become more frequent, giving rise to administrative and legal proceedings before regulatory bodies and in the courts. As a result of hearings by the Commission in 1979 and

1980, many public representatives, water purveyors and private citizens urged the Commission to utilize its authority under Article 10 of the Compact to prevent depletion of ground water, protect the just and equitable interests and rights of lawful users of the same water source, and balance and reconcile alternative and conflicting uses of limited water resources in the area.

Approximately one million residents of southeastern Pennsylvania are presently reliant, entirely or substantially, on the ground water resources underlying Berks, Bucks, Chester, Montgomery and Lehigh Counties for supplies of domestic, municipal, commercial, industrial and agricultural water. Assessments of available water resources in relation to current and projected uses establish that ground water withdrawals in portions of these counties exceed or threaten soon to exceed the sustainable yields of local ground water basins. Rock formations underlying much of the area experience low recharge rates during dry years which can lead to declines in water table levels, diminished flow in adjacent streams and cessation of flow from springs.

Significant portions of the area have experienced total ground water withdrawals which approached or exceeded the dry period annual recharge rates for the respective formations. Since 1975, major ground water withdrawals in the region (those withdrawals exceeding 100,000 gallons per day) have increased by over 13 million gallons per day, and additional quantities have been taken by the cumulative effect of small withdrawals. Ground water use information compiled for the Pennsylvania State Water Plan, the Comprehensive Water Quality Management Plan/208 Study for Southeastern Pennsylvania, the DRBC Level B Study, and similar reports prepared by county and regional agencies, indicate that in large portions of the affected area, pumping rates exceed 100,000 gallons per day per square mile. In substantial parts of the area, pumping rates exceed 500,000 gallons per day per square mile.

Many public water supply systems in the area which rely on ground water sources have peak and/or average demands which closely approach or exceed the dry period capacity of their existing wells. Dry periods with reduced recharge rates and declining water tables have in the past resulted in reductions of public water well yields by 30 to 40 percent. As a result of past reliance on wells producing peak rates during high and normal recharge

conditions, such systems become seriously overtaxed when recharge falls below normal levels. Lowered water tables, and fluctuations in ground water levels during dry periods, periodically interfere with and in some cases cut off normal access to ground water resources by users in the area, particularly residential users reliant on individual domestic wells. Communities and individual users in the region have periodically experienced sharp reductions or total loss of available supplies or loss of system pressure. Lowered water tables resulting from withdrawals in excess of recharge rates have resulted in reduction of flows in some perennial streams in the region, and have dried up some stream reaches which previously flowed all year. Such reductions in base flow interfere with instream and downstream water uses, adversely affect fisheries and aquatic life, and threaten to reduce the capacity of streams in the region to assimilate natural and man-made point and non-point discharges of potential pollutants.

In June 1979, two hearings were held by the Commission to seek public comment as to whether a protected area should be declared in the region, and on the nature of possible management action that might be implemented in such a protected area. Notice of these hearings appeared at 44 FR 28092. In June of 1980, two additional hearings were held by the Commission on a draft regulation to declare a ground water protected area in the region pursuant to Article 10 of the Delaware River Basin Compact. Notice of these hearings appeared at 45 FR 30105. In December 1980, another hearing was held on the proposed inclusion of five additional townships within the protected area, and two minor clarifying amendments to the regulation. Notice of this hearing appeared at 45 FR 80327. Transcripts of these hearings may be examined at the Commission offices upon request.

The draft regulation as originally proposed was modified as the result of comment received at the public hearings. Significant changes are:

- (1) Restricting the geographic area covered by the regulation to portions of Chester and Bucks Counties rather than the entire area of those counties (§ 430.7);
- (2) providing for the right of appeal by an applicant from the decision of the Commission's Executive Director (§ 430.25);
- (3) reducing the number and nature of technical determinations required of an applicant in preparing an application (§ 430.13).

The Commission's ground water protected area regulation is contained in

Resolution No. 80-18, adopted October 8, 1980, and amended in Resolution No. 80-27, adopted December 16, 1980. The Commission is codifying the regulatory portion of these resolutions as Part 430 of 18 CFR, Chapter III. The regulation as amended is set forth below.

SUBCHAPTERS A AND B [ADDED]

Accordingly, a new Subchapter A entitled "Administrative Manual" is added to 18 CFR Chapter III consisting of existing Parts 401, 410, 415, and 420.

In addition, a new Subchapter B entitled "Special Regulations" is added consisting of new Part 430, which reads as follows:

SUBCHAPTER A—ADMINISTRATIVE MANUAL

SUBCHAPTER B—SPECIAL REGULATIONS

PART 430—GROUND WATER PROTECTION AREA: PENNSYLVANIA

Sec.

- 430.1 Policy.
- 430.3 Purpose.
- 430.5 Definitions.
- 430.7 Determination of protected areas and restriction on water use.
- 430.9 Comprehensive plan policies.
- 430.11 Advance notice of exploratory drilling.
- 430.13 Protected area permits for new withdrawals.
- 430.15 Conservation requirements.
- 430.17 Registration of existing withdrawals.
- 430.19 Protection of existing users.
- 430.21 Technical determinations and procedures.
- 430.23 Other permit requirements.
- 430.25 Appeals.
- 430.27 Sanctions: Civil and criminal.
- 430.29 Duration.
- 430.31 Amendments.

Authority: Pub. L. 87-328 (75 Stat. 688).

§ 430.1 Policy.

The provisions of this part implement Commission Resolutions 80-18 and 80-27 relating to ground water protection in southeastern Pennsylvania.

§ 430.3 Purpose.

The purpose of this regulation is to protect the ground water resources in the Triassic lowland and adjacent area of southeastern Pennsylvania and the public interest in those resources. In particular this regulation is to:

(a) Assure the effective management of water withdrawals to avoid depletion of natural stream flows and ground waters and to protect the quality of such water.

(b) Assure that ground water withdrawals are undertaken consistent with the policies stated in the Comprehensive Plan.

(c) Protect the just and equitable interests and rights of present and future

lawful users of water resources, giving due regard to the need to balance and reconcile alternative and conflicting uses in view of present and threatened shortages of water of the quality required to serve such uses.

(d) Provide a mechanism for the acquisition of additional information necessary to more accurately plan and manage water resources.

(e) Encourage all water users to adopt and implement reasonable water conservation measures and practices, to assure efficient use of limited water supplies.

§ 430.5 Definitions.

For purposes of this regulation, except as otherwise required by the context:

"*Aquifer*" means waterbearing formation that contains sufficient ground water to be important as a source of supply.

"*Comprehensive Plan*" means the plans, policies and programs adopted as part of the Comprehensive Plan of the Delaware River Basin Compact.

"*Ground water*" means all water beneath the surface of the ground.

"*Ground water basin*" means a subsurface structure having the character of a basin with respect to the collection, retention and outflow of water.

"*Ground water protected area*" means the areas declared and delineated by the Commission to be a ground water protected area pursuant to Article 10 of the Delaware River Basin Compact and this regulation.

"*Ground water recharge*" means the addition of water to an aquifer by infiltration of precipitation through the soil, infiltration from surface streams, lakes or reservoirs, flow of ground water from another aquifer, or pumpage of water into the aquifer through wells.

"*Project*" means the same word as defined by § 1.2(g) of the Delaware River Basin Compact.

"*Protected area permit*" means a permit to divert or withdraw ground water within the ground water protected area for domestic, municipal, agricultural or industrial uses, granted pursuant to § 10.3 of the Delaware River Basin Compact and this regulation.

§ 430.7 Determination of protected areas and restriction on water use.

In consideration of the foregoing facts and for the purposes cited above:

(a) The Commission hereby determines and delineates the following area to be a protected area within the meaning and for the purpose of Article

10 of the Delaware River Basin Compact:

Southeastern Pennsylvania Ground Water Protected Area

The "Southeastern Pennsylvania Ground Water Protected Area" shall consist of those portions of the following listed counties and political subdivision located within the Delaware Basin:

Townships	
Berks County	Douglas, Hereford, Union.
Bucks County	Bedminster, Buckingham, Doylestown, East Rockhill, Hilltown, Lower Southampton, Middletown, Milford, New Britain, Newtown, Northampton, Plumstead, Richland, Upper Southampton, Warrington, Warminster, Warrington, Warrick, West Rockhill, Wrightstown.
Boroughs	
	Chalfont, Doylestown, Dublin, Havertown, Ivyland, Langhorne, Langhorne Manor, New Britain, Newtown, Pottsville, Perkasie, Quakertown, Richlandtown, Sellersville, Silverdale, Telford, Trumbauersville.
Townships	
Chester County	Birmingham, Charlestown, East Coventry, East Bradford, East Goshen, East Pikeland, East Whiteland, North Coventry, Schuylkill, South Coventry, Thornbury, Tredyffrin, Warwick, West Bradford, West Goshen, Westtown, Willistown, West Whiteland.
Boroughs	
	Elverson, Malvern, Phoenixville, Spring City, West Chester.
Townships	
Lehigh County	Lower Milford.
Montgomery County	All of the area within the county boundary.

(b) The Commission hereby determines that within the Southeastern Pennsylvania Ground Water Protected Area demands upon available ground water supplies have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements or effectuation of the Comprehensive Plan. Accordingly, no person, firm, corporation or other entity within the area shall withdraw ground water for any purpose at a rate exceeding 10,000 gallons per day, except as prescribed by this regulation.

§ 430.9 Comprehensive plan policies.

The water resources within the Southeastern Pennsylvania Ground Water Protected Area shall be managed consistent with the Comprehensive Plan policies. For purposes of this ground water protected area, § 2.20.4 of the Water Code of the Delaware River Basin shall be applied using the following definition of the term "withdrawal limits":

(a) *Withdrawal Limits*. Except as may be otherwise determined by the

Commission to be in the public interest, withdrawals from the underground waters of the basin shall be limited to the maximum draft of all withdrawals from a ground water basin, aquifer, or aquifer system that can be sustained without rendering supplies unreliable, causing long-term progressive lowering of ground water levels, water quality degradation, permanent loss of storage capacity, or substantial impact on low flows of perennial streams.

§ 430.11 Advance notice of exploratory drilling.

The Commission encourages consultation with any project sponsor who is considering development of a new or expanded ground water withdrawal that is being planned for any purpose when the daily average withdrawal during any calendar month exceeds 10,000 gallons to insure proper implementation of this regulation and to reduce the possibility of investment in new ground water development facilities which may not be approved hereunder. Such consultation should occur early in the planning stage of a new project and prior to initiation of exploratory drilling.

(a) Any person, firm, corporation or other entity planning a new or expanded ground water withdrawal that may be operated at a daily average withdrawal during any calendar month in excess of 10,000 gallons shall notify the Executive Director not less than 30 days prior to initiation of exploratory drilling. Such notice shall be in writing and shall specify the location of proposed new facility, the anticipated rate of withdrawal, and the general purpose of the proposed water use. The notice shall also state the location of existing wells within the radius set forth in § 430.21(a).

(b) Whenever the Executive Director shall deem necessary, or upon request of a party proposing a new or expanded withdrawal of ground water, an informal conference may be scheduled to review the nature of the proposed withdrawal, the applicability of the Commission's standards relating to ground water, and the requirements of a protected area permit under this regulation.

§ 430.13 Protected area permits for new withdrawals.

Any person, firm, corporation or other entity who proposes to develop a new ground water withdrawal or expand an existing ground water withdrawal for any purpose within the Southeastern Pennsylvania Ground Water Protected Area shall be required to obtain a protected area permit under this regulation if the proposed new or increased rate of withdrawal from a

well or group of wells operated as a system average more than 10,000 gallons per day over a 30-day period. Whenever the Executive Director, upon investigation or upon a reference from a state or federal agency, determines that a new or increased withdrawal from a group of wells within the protected area, whether or not such wells are operated as a system, may have a substantial effect on the water resources of the basin or is likely to have a significant adverse effect on other water uses within the protected area, the Commission may direct a notice to the owners or sponsors of such wells, and require such owners or sponsors to apply for and obtain a protected area permit under this regulation.

(a) Applications for a protected area permit shall be submitted to the Commission on forms approved by the Executive Director. Each application shall be accompanied by the following information:

(1) A map indicating the location of existing wells and perennial streams.
(2) A written report prepared by a hydrogeologist describing the expected effects of the proposed withdrawal on existing wells, flows of perennial streams and the long-term lowering of ground water levels.

(3) A log showing the nature of subsurface material encountered during the construction and installation of the exploratory or production well(s).

(4) The detailed results of extended pump tests, of not less than 48 hours duration, and records of observations during such pump tests from representative monitoring wells.

(b) Applications for a protected area permits whose daily average withdrawal during any calendar month is in excess of 10,000 gallons shall be accompanied by an application fee of \$100. Government agencies shall be exempt from such application fee.

(c) If the application for a protected area permit is for a daily average withdrawal during any calendar month in excess of 100,000 gallons, it shall be accompanied by such other information or exhibits required by Article 3 of the Commission's Rules of Practice and Procedure. In such cases, only the application fee required by the Rules will be assessed.

(d) To qualify for approval of a protected area permit, the owner or sponsor of the proposed withdrawal shall demonstrate that:

(1) The proposed withdrawal is consistent with the Commission's Comprehensive Plan and the policies and purposes of these regulations.

(2) Opportunities to satisfy water requirements on a timely basis from

existing available supplies and facilities have been explored and found infeasible.

(3) The proposed withdrawal, in conjunction with other withdrawals in the applicable ground water basin, will not exceed withdrawal limits of a ground water basin, aquifer or aquifer system.

(4) The proposed withdrawal will not significantly impair or reduce the flow of perennial streams in the area.

(5) Existing ground and surface water withdrawals will not be adversely impacted, or will be otherwise assured of adequate supplies in accordance with the requirements of § 430.19 of this regulation.

(6) The proposed withdrawal will not cause substantial, permanent adverse impact to the overlying environment.

(7) The owner or sponsor has adopted and will implement conservation and management programs as required by § 430.15 of this regulation.

(e) Protected area permits shall be approved or disapproved by the Executive Director with the concurrence of the Pennsylvania member of the Commission or his alternate.

§ 430.15 Conservation requirements.

The following conservation requirements shall apply to all existing, new or expanded ground water withdrawals for municipal, public, industrial or commercial water supply whose cumulative daily average withdrawal from one or more wells during any calendar month exceeds 10,000 gallons.

(a) Each person, firm, corporation or other entity withdrawing ground water within the Southeastern Pennsylvania Ground Water Protected Area for purposes of municipal or public water supply shall comply with the following conservation requirements:

(1) Water connections shall be metered, and water charges collected shall be based on metered usage.

(2) A water conservation program shall be initiated and diligently pursued within the service area of the municipal or public water supply. Such program shall include a program for leakage control providing for the monitoring, prevention and repair of significant leakage, and the provision of customer information relating to water-saving devices.

(3) Interconnections with adjacent water systems shall be considered to assure more reliable supplies of water during emergencies.

(4) A drought emergency plan specifying actions which would be taken to reduce demand and assure supplies to priority uses in the event of drought

conditions shall be prepared in cooperation with the municipalities in the service area. The plan shall be filed with the Commission.

(b) Each person, firm, corporation or other entity withdrawing ground water within the Southeastern Pennsylvania Ground Water Protected Area for purposes of industrial or commercial water supply shall comply with the following conservation requirements:

(1) Opportunities for water conservation shall be investigated and all feasible conservation measures shall be implemented at the earliest practicable time.

(2) Water uses shall be monitored, and a systematic process shall be adopted and implemented to provide for the detection and expeditious correction of leakage.

(3) A drought emergency plan specifying the actions to be taken to reduce demand in the event of drought conditions shall be prepared and filed with the Commission.

(c) Permits issued pursuant to these regulations shall be conditioned upon compliance with the requirements of this section.

§ 430.17 Registration of existing withdrawals.

(a) Existing users of ground water within the Southeastern Pennsylvania Ground Water Protected Area whose lawful use commenced prior to the effective date of this regulation, whose cumulative monthly average daily withdrawal from one or more wells exceeds 10,000 gallons and whose withdrawal has not previously been approved by DRBC, pursuant to § 3.8 of the Compact, shall, prior to July 1, 1981, register their use with the Pennsylvania Department of Environmental Resources acting as agent for the Commission. Registration is required as a condition for such existing users being eligible for the protection afforded by this regulation. Such registration shall include withdrawals from quarries that are not fed by surface streams.

(b) Registrations shall be filed on forms approved by the Executive Director of the Commission. Each registrant shall provide, without limitation thereto, the following:

(1) A description of the location, size and depth of each well and the pump facilities installed therein.

(2) The estimated quantity of water withdrawn from each well, or related group of wells, during each month of 1980.

(3) The purposes for which the water is withdrawn, its place of use, and the approximate quantity of water used for each purpose.

(4) The location and method of wastewater disposal and discharge.

(5) A registration fee of \$5 for each well.

§ 430.19 Protection of existing users.

(a) Protected area permits issued under this regulation for new or expanded withdrawals of ground water shall include conditions to protect the owners of existing wells in accordance with the provisions of this section.

(b) Any person, firm, corporation or other entity who commences a new or expanded withdrawal of ground water that is subject to the requirement of a protected area permit under this regulation shall provide mitigating measures if the withdrawal significantly affects or interferes with any existing well. Mitigation measures may consist of:

(1) Providing an alternative water supply, of adequate quantity and quality, to the effected well owner(s);

(2) Providing financial compensation to the affected well owner(s) sufficient to cover the costs of acquiring an alternative water supply of adequate quantity and quality; or

(3) Such other measures as the Commission shall determine to be just and equitable under the circumstances present in the case of any individual application.

§ 430.21 Technical determinations and procedures.

(a) The radius to be considered in assessing the potential impact of a proposed new or expanded ground water withdrawal, as required by § 430.11 and § 430.13 of this regulation shall be as follows:

Quantity of cumulative proposed withdrawal (gpd)	Radius from the proposed withdrawal to be considered (miles)
10,000 to 50,000	0.5
50,000 to 100,000	0.75
In excess of 100,000	1.0

(b) Ground water withdrawal limits, as defined in § 2.20.4 of the Water Code of the Delaware River Basin and § 430.9 of this regulation, shall be calculated on the basis of the average recharge rate to the basin, aquifer, or aquifer system during repetition of a period which includes the worst recorded drought.

(c) The requirement of (a) or (b) of this section may be modified or waived by the Executive Director or the Commission if an applicant adopts and implements a program for coordinated

use of ground and surface water, and the applicant demonstrates that operation of the coordinated program will be consistent with the policies contained in the Comprehensive Plan and the purposes of these regulations.

§ 430.23 Other permit requirements.

(a) Except to the extent provided in these regulations, registration of existing ground and surface water withdrawals and the issuance of withdrawal permits hereunder shall not create any private or proprietary rights in the water of the basin and the Commission reserves the right to amend, alter, or repeal these regulations and to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the basin.

(b) Neither the obligation to obtain a protected area permit under this regulation, nor the receipt thereof, shall relieve the sponsor of a new or expanded ground water withdrawal project of the obligation to obtain any other applicable permits required by federal, state or local government agencies.

(c) A new or expanded ground water withdrawal subject to the requirement of a protected area permit under this regulation shall not require any further approval by the Commission if the daily average withdrawal during any calendar month is less than 100,000 gallons. If the new or expanded withdrawal exceeds a daily average of 100,000 gallons during any calendar month, the project shall be subject to review and approval by the commission pursuant to § 3.8 of the Delaware River Basin Compact, and the requirement of a protected area permit for such a project shall be in addition to other requirements of the Commission and its Rules of Practice and Procedure.

§ 430.25 Appeals.

Any person aggrieved by any action or decision of the Executive Director taken under these regulations shall be entitled upon timely filing of a request therefor, to a hearing in accordance with Article 6 of the Commission's Rules of Practice and Procedure.

§ 430.27 Sanctions: Civil and criminal.

(a) Any person, association, corporation, public or private entity who or which violates or attempts or conspires to violate any provision of this regulation, or any order, regulation or permit issued in furtherance thereof, shall be punishable as provided in § 14.17 of the Compact.

(b) General Counsel of the Commission may, in his discretion, request the appropriate law enforcement

officers of the Commonwealth of Pennsylvania to prosecute any or all violations of this regulation in accordance with the Compact and the laws of the Commonwealth, and for recovery of the fines fixed by § 14.17 of the Compact, in the name and on behalf of the Commission. The Commonwealth of Pennsylvania and its law enforcement officers are hereby requested pursuant to § 10.1 and § 11.5 of the Compact, to provide such technical, professional and administrative services as may be required for such enforcement.

(c) In addition to such penal sanctions as may be imposed pursuant to this section, any violation of this regulation shall be subject to such civil remedies by injunction and otherwise as provided by law.

§ 430.29 Duration.

The delineation and declaration of the Southeastern Pennsylvania Ground Water Protected Area made pursuant to this regulation, and the requirements established hereby, shall continue until terminated by specific action of the Commission.

§ 430.31 Amendments.

Upon request by any interested party, or on its own motion, the Commission may consider amendment of this regulation, and modify the geographic boundaries of the protected area, in accordance with Article 10 of the Compact.

W. Brinton Whittall,

Secretary.

[FR Doc. 80-40538 Filed 12-31-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket Nos. 80F-0220 and 80F-0222]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Tris (2,4-Di-Tert-Butylphenyl) Phosphite

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of tris(2,4-di-tert-butylphenyl) phosphite as an antioxidant and/or stabilizer for nylon resins, polycarbonate resins, polystyrene, rubber-modified polystyrene, and olefin polymers. This action is based on two

petitions filed by Ciba-Geigy Corp., Ardsley, NY 10502.

DATES: Effective January 2, 1981; objections by February 2, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 27, 1980 (45 FR 43473), FDA announced that a food additive petition (FAP 0B3485) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502,

proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-tert-butylphenyl) phosphite as an antioxidant and/or stabilizer for nylon resins, polycarbonate resins, polystyrene and rubber-modified polystyrene.

In another notice published in the Federal Register of July 8, 1980 (45 FR 45961), FDA announced that a food additive petition (FAP 9B3477) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-tert-butylphenyl) phosphite as an antioxidant and/or stabilizer for olefin polymers.

Having evaluated data in the petitions and other relevant material, FDA concludes that the food additive regulations should be amended to provide for the use of tris(2,4-di-tert-butylphenyl) phosphite, as set forth below.

The agency has considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and its environmental assessment may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is

amended in § 178.2010(b) by adding five new limitations to the listing for the substance "Tris(2,4-di-tert-butylphenyl)phosphite," to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

Substances	Limitations
Tris(2,4-di-tert-butylphenyl)phosphite. (CAS Reg. No. 31570-04-4).	For use only: 1. 2. At levels not to exceed 1 percent by weight of nylon resins complying with § 177.1500 of this chapter. <i>Provided</i>, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 3. At levels not to exceed 0.3 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter. <i>Provided</i>, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 4. At levels not to exceed 0.2 percent by weight of polystyrene and rubber-modified polystyrene polymers complying with § 177.1640 of this chapter. <i>Provided</i>, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 5. At levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, Item 1.1, 1.2, or 1.3: <i>Provided</i>, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter. 6. At levels not to exceed 0.2 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, Item 2.1, 2.2, 2.3, 3.1, 3.2, 3.3 or 4: <i>Provided</i>, That the finished polymer contacts food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 2, 1981, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on

the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objection may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 2, 1981.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 19, 1980.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 80-40609 Filed 12-31-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Ampicillin and Phenytoin

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

SUMMARY: The Food and Drug Administration (FDA) amends its patient package insert regulations to list ampicillin and phenytoin as drugs that must be dispensed with patient package inserts. The ampicillin patient package insert applies to drug products containing amoxicillin, ampicillin, or hetacillin. Elsewhere in this issue of the *Federal Register*, FDA announces the availability of final guideline patient package inserts for ampicillin and phenytoin and applies the agency's patient package insert regulations to them.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Stephen C. Groft, Bureau of Drugs
(HFD-107), Food and Drug

Administration, 5600 Fishers Lane,
Rockville, MD 20857, 301-443-4893.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. The agency also published in that issue of the *Federal Register* (45 FR 60785) 10 draft guideline patient package inserts for the following drugs and drug classes: ampicillin, benzodiazepines, cimetidine, clofibrate, digoxin, methoxsalen, propoxyphene, phenytoin, thiazides, and warfarin. In the *Federal Register* of December 5, 1980 (45 FR 80740), FDA published a draft guideline patient package insert for Bendectin and the agency announced that it would remove warfarin and add Bendectin to the drugs and drug classes subject to the initial application of the patient package insert regulations.

Under § 203.30(a) (21 CFR 203.30(a)), FDA's patient package insert regulations apply to a drug or drug class 180 days after the agency publishes a notice in the *Federal Register* announcing the applicability of the requirements to the drug or to a drug class. In the *Federal Register* of November 25, 1980 (45 FR 78516), the agency announced the applicability of the regulations to cimetidine, clofibrate, and propoxyphene and published final guideline patient package inserts for those drugs. Elsewhere in this issue of the *Federal Register*, FDA is publishing a notice making available final guideline patient package inserts for ampicillin and phenytoin and applying the agency's patient package insert regulations to those drugs. Use of the guidelines by manufacturers, distributors, and dispensers constitutes compliance with the agency's patient package insert regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the actual patient package inserts dispensed to patients. Use of the guideline patient package inserts is not required, however. This final rule amends § 203.31 (21 CFR 203.31) to list ampicillin and phenytoin as drugs that require patient package inserts and provides a permanent inventory in the Code of Federal Regulations to help persons who review the regulations determine to which drugs and drug classes they apply. The list contains the name of the drug or drug class and the effective date on which the patient package insert regulations apply to it. In the case of a drug class, the members of

the drug class are also identified in the list.

The patient package insert regulations apply to all dosage forms and to both single-entity and combination products, unless the notice under § 203.30(a) specifically limits the applicability of the regulations. The notice under § 203.30(a) for phenytoin, published elsewhere in this issue of the *Federal Register*, applies the regulations to all dosage forms of phenytoin except parenteral dosage forms.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 203 is amended in § 203.31, by revising the list therein to read as follows:

§ 203.31 Drugs which require patient package inserts.

Drug or drug class	Effective
Ampicillin	See ampicillin.
Ampicillin and related drugs (consisting of amoxicillin, ampicillin, and hetacillin).	July 1, 1981.
Cimetidine	May 25, 1981.
Clofibrate	Do.
Hetacillin	See ampicillin.
Phenytoin (except parenteral dosage forms)	July 1, 1981.
Propoxyphene	May 25, 1981.

Effective date. This regulation becomes effective July 1, 1981.

(Secs. 201, 502, 503, 505, 507, 701, 52 Stat. 1041 as amended, 1050-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 357, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: December 22, 1980.

Mark Novitch,
Acting Commissioner of Food and Drugs.

[FR Doc. 80-40564 Filed 12-31-80; 8:45 am]

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21 CFR Parts 203 and 431

[Docket No. 79N-0186]

Prescription Drug Products; Patient Package Insert Requirements

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

SUMMARY: The Food and Drug Administration (FDA) is amending its patient package insert regulations to make the distribution requirements for