

FOR FURTHER INFORMATION CONTACT:

Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:**Rulemaking Requirements**

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments are always welcome. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

4. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection, which reduces the paperwork burden, has been approved by the Office of Management and Budget under control numbers 0607-0001, 0607-0018, 0607-0150 and 0607-0152.

5. This rule does not contain policies with Federalism implications sufficient

to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 386

Exports, Reporting and recordkeeping requirements.

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

PART 386—[AMENDED]

1. The authority citation for 15 CFR Part 386 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 386.1 [Amended]

2. Section 386.1(b)(2)(i) is amended by revising the reference to "\$1,000" to read "\$500".

3. Section 386.1(c)(2)(i) is amended by revising the reference to "\$1,000" to read "\$1,500".

Dated: June 21, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-14874 Filed 7-1-88; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 399

[Docket No. 80590-8090]

Revisions to the Export Administration Regulations Based on COCOM Review: Electronics and Precision Instruments

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends a number of CCL entries in the category of electronics and precision instruments.

These amendments have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to

controlled countries. With the concurrence of the Department of Defense, the Department of Commerce has determined that these amendments to the Export Administration Regulations are necessary to protect U.S. national security interests.

EFFECTIVE DATE: July 5, 1988.

FOR FURTHER INFORMATION CONTACT:

For questions of a technical nature on communication, detection or tracking equipment (ECCN 1502) or radio relay equipment (ECCN 1520), call Monty Baltas, Telecommunications Technology Center, Office of Technology and Policy Analysis, Telephone: (202) 377-0730.

For questions of a technical nature on solid state amplifiers (ECCN 1521), lasers (1522), frequency synthesizers (1531), microwave equipment (ECCN 1537), or cathode ray tubes (ECCN 1541), call Robert Anstead, Electronic Components Technology Center, Office of Technology and Policy Analysis, Telephone: (202) 377-1641.

SUPPLEMENTARY INFORMATION:**Savings Clause**

Shipments of items removed from general license authorizations as a result of this regulation that were on dock for lading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before July 19, 1988, may be exported under the general license provisions up to and including August 2, 1988. Any such items not actually exported before midnight (four weeks after date of publication) require a validated export license.

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule also is exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Because this rule implements regulatory changes based on COCOM

review, it is not subject to section 13(b) of the EAA. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Joan Maguire, Office of Technology and Policy Analysis, Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

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

4. This rule mentions a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625-0001.

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

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 399 of the Export Administration Regulations (15 CFR Parts 368 through 399) is amended as follows:

PART 399—[AMENDED]

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12371 of October 27, 1986 (51 FR 39505, October 29, 1986).

Supplement No. 1 to § 399.1 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), in ECCN 1502A, the "List

of Equipment Controlled by ECCN 1502A" and the Advisory Note for the People's Republic of China are revised to read as follows:

1502A Communication, detection or tracking equipment of a kind using ultraviolet radiation, infrared radiation or ultrasonic waves, and specially designed components therefor.

List of Equipment Controlled by ECCN 1502A

Notes.—1. This ECCN 1502A controls infrared or ultraviolet sensing devices, not otherwise controlled for export by Supp. No. 2 to Part 370 of the Export Administration Regulations, containing image intensifiers controlled for export by ECCN 1555A on the Commodity Control List.

2. This ECCN 1502A does not control ultrasonic devices that operate in contact with a controlled material to be inspected, or that are used for industrial cleaning, sorting or materials handling, industrial and civilian intrusion alarm, traffic and industrial movement control and counting systems, medical applications, emulsification, homogenization, or simple educational or entertainment devices.

Note.—Simple educational devices are defined as devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

3. This ECCN 1502A does not control underwater ultrasonic communications equipment designed for operation with amplitude modulation and having a communications range of 500 m or less (Sea State 1), a carrier frequency of 40 to 60 kHz and a carrier power supplied to the transducer of 1 W or less.

4. This ECCN 1502A does not control the following equipment:

- (a) Industrial equipment employing cells not controlled by ECCN 1548A;
- (b) Industrial and civilian intrusion alarm, traffic and industrial movement control and counting systems;
- (c) Medical equipment;
- (d) Industrial equipment used for inspection, sorting or analysis of the properties of materials;
- (e) Simple educational or entertainment devices that employ photo cells;
- (f) Flame detectors for industrial furnaces;
- (g) Equipment for non-contact temperature measurement for laboratory or industrial purposes utilizing a single detector cell with no scanning of the detector;
- (h) Instruments capable of measuring radiated power or energy having a response time constant exceeding 10 milliseconds;
- (i) Equipment designed for measuring radiated power or energy for laboratory, agricultural or industrial purposes using a single detector cell with no scanning of the detector and single detector cell assemblies or probes, specially designed therefor, having a response time constant exceeding 1 microsecond;
- (j) Infrared geodetic equipment, provided that equipment uses a lighting source other than a laser and is manually operated or uses

a lighting source (other than a laser or a light-emitting diode) remote from the measuring equipment.

Advisory Note 5 for the People's Republic of China—Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of thermal imaging cameras provided that they:

- (a) Contain pyroelectric vidicons;
- (b) Are designed for fire fighting and buried body detection; and

(c) Have optimum sensitivity in the wavelength range from 8 to 14 micrometers. (For communication equipment employing fiber optics, see ECCN 1519A.)

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1502A is amended by revising paragraph (a)(1):

By redesignating paragraph (a)(2) as (a)(3);
By adding new paragraphs (a)(2) and (a)(4) and a NOTE after paragraph (a)(4);

By revising paragraphs (a) and (b) of Advisory Note 2;

By adding paragraphs (c) and (d) to Advisory Note 2; and

By revising Advisory Notes 4 and 6, as follows:

1502A Radio relay communication equipment, specially designed test equipment, and specially designed components and accessories therefor.

List of Equipment Controlled by ECCN 1502A

- (a) * * *
- (1) Microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19.7 GHz, employing analog transmission with a capacity of up to 2,700 voice channels of 4 kHz each or of a television channel of 6 MHz maximum nominal bandwidth and associated sound channels;
- (2) Microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19.7 GHz, employing digital transmission techniques designed for operation at a total bit rate not exceeding 8.5 Mbit per second;
- (3) Ground communication radio equipment

(4) TV-receive-only (TVRO) stations for satellite reception specially designed for use at fixed frequencies meeting ITU standards in civil television or sound radio systems in the following frequency ranges:

- (i) S-band: 2.5-2.69 GHz;
- (ii) C-band: 3.4-4.2 GHz, 4.5-4.8 GHz;
- (iii) KU- and KA-band: 10.7-12.75 GHz.

Note.—Nothing in the above shall be construed as permitting the export of technology for equipment employing quadrature-amplitude-modulation (QAM) techniques, except technology for installation, operation or maintenance.

ADVISORY NOTE 2: * * *

(a) The equipment is not designed for operation at a total bit rate exceeding 45 Mbit per second;

(b) The equipment does not employ quadrature-amplitude-modulation (QAM) techniques;

(c) No equipment with a base bandwidth exceeding the limits set forth in paragraph (c) of Advisory Note 1 to ECCN 1519A is included; and

(d) Associated or integrated multiplex equipment is considered separately under the provisions of ECCN 1519A.

ADVISORY NOTE 3: *

ADVISORY NOTE 4: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of equipment controlled by paragraph (a) above for industrial use, e.g., remote supervision, control and metering of oil and gas pipelines, public utility services (e.g., electricity networks), including telephone channels for the operation of such networks and the engineering service circuits required for the maintenance of telecommunication links, provided that:

(a) Microwave radio links employing analog transmission techniques have a capacity not exceeding 2,700 voice channels of 4kHz each;

(b) Microwave radio links employing digital transmission techniques operate at a frequency not exceeding 19.7 GHz and are designed to operate at a total digital bit rate not exceeding 45 Mbit per second;

(c) The equipment does not employ quadrature-amplitude-modulation (QAM) techniques;

(d) Associated or integrated multiplex equipment is considered separately under the provisions of ECCN 1519A.

ADVISORY NOTE 5: *

Advisory Note 6 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following radio relay communication equipment:

(a) Analog microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 20 GHz with a capacity of up to 1,920 voice channels of 4kHz each or of a television channel of 6 MHz maximum nominal bandwidth and associated sound channels;

(b) Digital microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19.7 GHz with a capacity of up to 1,920 voice channels of 3.1 kHz or four television channels of 6 MHz maximum nominal bandwidth and associated sound channels;

(c) Ground communication radio equipment for use with temporarily-fixed services operated by the civilian authorities and designed to be used at fixed frequencies not exceeding 20 GHz;

(d) Radio transmission media simulators/channel estimators designed for the testing of equipment covered by (a) or (b) above;

(e) Power amplifiers not exceeding 10 W and 8/4-GHz transmitters/receivers for communication satellites.

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1521A is amended by revising the heading, by adding a "List of Solid State Amplifiers and Specially Designed Components and Accessories Controlled by

ECCN 1521A" and by revising the Notes and Technical Note, as follows:

1521A Solid-state amplifiers having any of the following characteristics, and specially designed components and accessories therefor.

List of Solid-State Amplifiers and Specially Designed Components and Accessories Controlled by ECCN 1521A

Solid-state amplifiers having any of the following characteristics, and specially designed components and accessories that:

(a) Exceed a maximum output power of 2 kW at operating frequencies between 10 and 35 MHz inclusive;

(b) Exceed a maximum output power of 50 W at operating frequencies between 35 and 400 MHz; or

(c) Have a product of the maximum output power times the maximum operating frequency of more than 2×10^{10} watt-hertz at operating frequencies above 400 MHz.

Notes.—1. This ECCN 1521A does not control solid state amplifiers with any of the following characteristics:

(a) Specially designed for community television distribution systems; or

(b) Having a "bandwidth" of 10 MHz or less.

2. For amplifiers designed to operate at frequencies above 1 GHz, see ECCN 1537A.

3. For amplifiers specially designed for and intended to work with oscilloscopes, see ECCN 1584A.

4. For amplifiers specially designed for transmitters, see ECCN 1517A.

Technical Note: "Bandwidth" is defined as the range of frequencies over which the power amplification does not drop to less than one half of its maximum value.

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1522A is amended by revising the words "Advisory Notes 4 or 6" that appear in the "GFW Eligibility" paragraph to read "Advisory Notes 5 or 6";

By adding a Note after paragraph (b)(iii);

By revising the reference in paragraph (b)(xx)(1) to "ECCN 1565A(h)(2)(v)(K)" to read "ECCN 1565A(h)(2)(iv)(K)" and the reference in paragraph (b)(xx)(2) to "ECCN 1565(h)(2)(v)(H)" to read "ECCN 1565A(h)(2)(iv)(H)";

By revising Note 1;

By inserting "or" between "output power" and "energy capability" in the last sentence of Advisory Note 5; and

By revising the Advisory Note for the People's Republic of China after Advisory Note 7, as follows:

ECCN 1522A "Lasers" and "equipment containing lasers."

List of "Lasers" and "Equipment Containing Lasers" Controlled by ECCN 1522A

(b)(iii) *

Note.—The educational equipment referred to in this paragraph is defined as devices designed for use in teaching basic scientific

principles and demonstrating the operation of those principles in educational institutions.

Technical Note 4—*

Note 1.—Nothing in the following shall be construed as permitting the export of technical data for the following specially designed components for "lasers", except for the minimum technical data for their use (i.e., installation, operation and maintenance):

Paragraph (a) does not control uncooled, unsegmented mirrors with glass or dielectric substrates for use as end reflectors for "laser" resonators. (For segmented mirrors, see ECCN 1556A.)

Advisory Note 8 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:

(a) Tunable pulsed flowing-dye lasers having all of the following characteristics, and specially designed components therefor:

(1) An output wavelength shorter than 0.8 micrometer;

(2) A pulse duration not exceeding 100 ns; and

(3) A peak output power not exceeding 15 MW;

(b) CO₂, CO or CO/CO₂ lasers having an output wavelength in the range from 9 to 11 micrometers and a pulsed output not exceeding 2 joules per pulse and a maximum rated average single or multi-mode output power not exceeding 5 kW or a continuous wave maximum rated single or multi-mode output power not exceeding 10 kW;

(c) Equipment specially designed for medical applications using "lasers" not freed from control by paragraph (a)(vi) above;

(d) "Laser" systems for trimming resistors or thick/thin film electronic circuits;

(e) Equipment incorporating CO₂ "lasers" with average or continuous wave output power not exceeding 5 kW, not exceeding the parameters of ECCN 1091A and specially designed for welding, cutting, bonding or drilling metals for civil applications.

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1531A is amended by revising the heading to the entry:

By removing the word "Illustrative" that appears in the "Illustrative List of Frequency Synthesizers Controlled by ECCN 1531A";

By revising the reference to "ECCN 1529A(a)" in paragraph (a) to read "ECCN 1529A(a)(1)";

By revising the reference to "1,200 MHz" in the Note after paragraph (b)(2)(iv) to read "1,400 MHz";

By revising paragraph (b)(5);

By revising paragraph (c)(3);

By revising the remaining text to ECCN 1531A that appears after paragraph (d)(2), as follows:

1531A "Frequency synthesizers" (and equipment containing such "frequency synthesizers").**List of Frequency Synthesizers Controlled by ECCN 1531A**

- (b)
 (5) Having a level of spurious components in the output, measured relative to the selected output frequency, better than:
 (i) -60 dB harmonic; or
 (ii) -92 dB nonharmonic;

- (c)
 (3) With a "frequency switching time" of less than 10 milliseconds;

- (d)
 (2)
Notes.—1. This paragraph does not control "frequency synthesizers" specially designed for use in tuners for entertainment type receivers.

2. See also ECCN 1516A.

(e) Radio transmitters incorporating transmitter drive units, exciters and master oscillators using frequency synthesis, as follows, and specially designed components and accessories therefor:

- (1) Having an output frequency of up to 32 MHz with a frequency resolution of better than 10 Hz and with a "frequency switching time" of less than 10 milliseconds;

- (2) Having an output frequency from 32 MHz to 235 MHz with a frequency resolution of better than 250 Hz and with a "frequency switching time" of less than 10 milliseconds;

- (3) Having an output frequency of more than 235 MHz, *except*:

- (i) Television broadcasting transmitters having an output frequency from 476 MHz to 960 MHz with a frequency resolution of not better than 1 kHz and where the manually-operated "frequency synthesizer" incorporated in or driving the transmitter has an output frequency not greater than 120 MHz;

- (ii) FM and AM ground communication equipment for use in the land mobile service and operating in the 420 to 470 MHz band, with a power output of 50 W or less for mobile units and 300 W or less for fixed units, with a frequency resolution of not better than 6.25 kHz and with a "frequency switching time" of more than 50 milliseconds;

- (iii) Portable (personal) or mobile radiotelephones for civil use, *e.g.*, for use with commercial civil cellular radiocommunications systems having all of the following characteristics:

- (A) Operating in the 420 to 960 MHz range;
 (B) A power output of 10 W or less; and
 (C) A "frequency switching time" of 10 ms or more.

Note.—For stored program controlled communications switching equipment used with cellular radio base stations, see ECCN 1567A.

- (4) Having more than three different selected synthesized output frequencies available simultaneously from one or more outputs;

- (5) With facilities for pulse modulation of the output frequency of the transmitter or of the incorporated "frequency synthesizer";

- (6) "Frequency synthesizers" designed for the above equipment, whether supplied separately or with the said equipment, exceeding the parameters specified in paragraph (b) above;

Note.—See also ECCN 1517A.

Technical Notes: 1. "Frequency synthesizer" means any kind of frequency source or signal generator, regardless of the actual technique used, providing a multiplicity of simultaneous or alternative output frequencies, from one or more outputs, controlled by, derived from or disciplined by a lesser number of standard (or master) frequencies.

2. "Frequency switching time" means the maximum time (*i.e.*, delay), when switched from one selected output frequency to another selected output frequency, to reach:

- (a) A frequency within 100 Hz of the final frequency; or

- (b) An output level within 1.0 dB of the final output level.

Note 1.—This ECCN does not control equipment in which the output frequency is produced by the addition or subtraction of two or more crystal oscillator frequencies, which may be followed by multiplication of the result.

Advisory Note 2: Licenses are likely to be approved for export to satisfactory civil end-users in Country Groups QWY of equipment controlled by paragraph (b)(3) above, with a "frequency switching time" not less than 5 milliseconds.

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following, and specially designed components and accessories therefor:

- (a) "Frequency synthesizers" controlled only by paragraph (a) and not incorporating cesium beam standards;

- (b) Instrument "frequency synthesizers" and synthesized signal generators controlled only by paragraphs (b)(1) and (b)(3) and having a maximum output frequency of 18 GHz, provided the "frequency switching time" is 2.0 ms or more;

- (c) Instrument "frequency synthesizers" and synthesized signal generators not controlled by paragraph (b)(4) and having a maximum output frequency of 2.6 GHz, provided the "frequency switching time" is 0.3 ms or more;

- (d) Conventional synthesizer based, digitally controlled, civil land or marine mobile radio receivers and transmitters, provided that:

- (1) They operate at frequencies not exceeding 960 MHz;

- (2) The power output and frequency resolution parameters specified in paragraph (e)(3)(ii) above remain in force;

- (3) The equipment has a "frequency switching time" of 5 ms or more;

- (4) The equipment does not employ either frequency agility or other spread spectrum techniques; and

- (5) The synthesizers must be embedded in the radio receivers or transmitters;

- (e) Radio receivers controlled by paragraph (d)(1) above that have 1000 selective channels or fewer.

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended by removing the word "or" that appears at the end of paragraph (c)(2);

By replacing the colon that ends paragraph (c)(2) with a semicolon;

By revising paragraph (g);

By removing the Note that appears after paragraph (g);

By removing the word "and" that appears at the end of paragraph (1) and by replacing the semicolon that ends the paragraph with a period.

By revising the reference to "(d)(1)" that appears in Advisory Note 1 to read "(d)";

By redesignating Advisory Note 5 as Advisory Note 6 and by adding a new Note 5;

By adding a Note to appear after paragraph (a) and before paragraph (b) of newly redesignated Advisory 6;

By designating the "Note" that appears at the end of 1537A as "Note 7" to appear after newly redesignated Advisory Note 6;

By redesignating the "Advisory Note for the People's Republic of China" that appears after paragraph (1) as "Advisory Note 8 for the People's Republic of China" and by moving it to the end of the text, as follows:

1537A Microwave, including millimetric wave, equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment controlled for export by ECCNs 1501A, 1517A, 1520A, or 1529A).

List of Equipment Controlled by ECCN 1537A

- (g) Phased array antennae and sub-assemblies, designed to permit electronic control of beam shaping and pointing (see Supp. No. 2 to Part 370 of the Export Administration Regulations), and specially designed components therefor (including but not limited to duplexers, phase shifters and associated high-speed diode switches);

Advisory Notes:

Note 5.—Paragraph (g) above is not intended to cover duplexers and phase shifters specifically designed for use in civil television systems or in other civil radar or communication systems not covered by other ECCNs on the Commodity Control List identified by the code letter "A," nor covered by the International Traffic in Arms Regulations, by 10 CFR Part 110 or by 10 CFR Part 810;

ADVISORY NOTES 6.

- (a)

Note.—Simple educational devices are defined as devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

(b) * * *

Note 7.—Nothing in the following shall be construed * * *

Advisory Note 8 for the People's Republic of China: * * *

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1541A is amended by revising paragraph (c), by adding a Note to appear after paragraph (c), and by removing paragraph (d), as follows:

1541 Cathode-ray tubes.

* * * * *

List of Cathode-Ray Tubes Controlled by ECCN 1541A

* * * * *

(c) Incorporating microchannel-plate electron multipliers, except cathode-ray tubes, having all of the following characteristics:

(1) The microchannel-plate electron multipliers have a hole pitch of 25 micrometers or more;

(2) The tubes are not ruggedized for military use;

(3) The tubes have a horizontal sweep slower than 200 ns/cm; and

(4) The electron gun is mounted parallel to the screen surface.

Note.—Technology for the design or production of cathode-ray tubes incorporating microchannel-plate electron multipliers is not released under this paragraph (c).

* * * * *

Dated: June 22, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-14753 Filed 7-1-88; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Optional State Supplementary Payments Calculation; Spousal Deeming

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations provide nationwide implementation of

the Court of Appeals decision in *Livermore v. Heckler*, 743 F.2d 1396 (9th Cir. 1984). The issue in this case involves the method of calculating optional State supplementary payments in the Supplemental Security Income (SSI) program where spousal deeming is involved. The rules set out a new method of calculating such payments which conforms to the decision of the circuit court.

EFFECTIVE DATE: These rules are effective October 1, 1988.

FOR FURTHER INFORMATION CONTACT:

Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301-965-1758.

SUPPLEMENTARY INFORMATION: These regulations were published as a Notice of Proposed Rulemaking in the *Federal Register* on August 13, 1987 (52 FR 30169). No comments were received.

Section 1614(f)(1) of the Social Security Act (the Act) provides that, for purposes of determining eligibility for and the amount of Federal SSI benefits for an individual whose spouse is living with him or her in the same household but is not eligible for SSI benefits, the individual's income and resources shall be deemed to include the income and resources of the spouse. This is referred to as "spousal deeming". Current regulations (20 CFR 416.1163) provide that when calculating the Federal SSI benefit of an eligible individual living with an ineligible spouse, the eligible individual's income will be combined with that of the ineligible spouse (if the ineligible spouse's income is above a certain amount after allocations for any ineligible children) and subtracted from the Federal benefit rate for a couple.

When calculating the State supplementary payment, however, under current regulations (20 CFR 416.2025(b)) we subtract countable income in excess of the Federal benefit rate from one of the existing variations in optional State supplementary payment rates for an eligible individual. Our policy was the subject of litigation in *Livermore v. Heckler*, 743 F.2d 1396 (9th Cir. 1984), and *Bouchard v. Secretary*, C.A. No. 78-0632-F (D. Mass. 1984). In these cases, it was held that our method of calculating optional State supplementary payments involving spousal deeming was inconsistent with the Act. The courts in this litigation held that the Secretary should calculate those payments by subtracting the excess countable income of these couples from an optional State supplementary payment rate for an eligible couple. We believe that the *Livermore* and

Bouchard courts' interpretation of the Act, as requiring the application of the same type of rate (couple or individual) in Federal SSI determinations and federally administered optional State supplement determinations, is a reasonable one. Moreover, considering that 74 percent of the cases affected by this regulation (State-supplement-only cases) are California and Massachusetts cases already subject to the *Livermore* and *Bouchard* decisions, we believe it is reasonable to extend the courts' interpretation to all those affected. Therefore, we are applying this policy nationally, except when the State has an individual rate that is higher than the comparable couple rate. In these situations we will continue to use the individual rate. The Notice of Proposed Rulemaking (NPRM) referenced the situation where a State has, or in the future elects, a special individual rate for an eligible individual living with an ineligible spouse and indicated that such a rate will be treated as the couple rate where it is higher than the otherwise applicable eligible couple rate. The NPRM did not cover the anomalous situation where a State has a higher rate for an individual than the comparable couple rate. Section 416.2025(b)(3) has been revised to cover both situations.

Unlike Federal SSI benefits, most States have more than one supplementary payment rate for couples. State payment rates may vary by geographic area, living arrangement, and category, i.e., aged, blind, or disabled (20 CFR 416.2020 through 416.2030). Only four States, Massachusetts, California, Nevada, and Iowa, vary their supplementary payment rates by category. In Massachusetts, under the *Bouchard* ruling, the ineligible spouse is considered to be in the category that yields the lowest couple rate. In California, under the *Livermore* ruling, the ineligible spouse is considered to be in the same category as the eligible individual; i.e., if the eligible individual is disabled, the ineligible spouse will be considered disabled, and the rate for a disabled couple will be used. We have chosen this policy to be implemented in these regulations, because California cases comprise 88 percent of the State-supplement-only cases in the four States that vary their supplement by category. That is, 88 percent of those affected by a choice of which couple rate to apply are covered by the *Livermore* decision. In order to assure a uniform policy, we are effectuating the *Livermore* policy nationwide.

Regulatory Procedures**Executive Order No. 12291**

The Secretary has determined that this is not a major rule under Executive Order 12291 because no Federal SSI program costs are involved and administrative costs would be negligible and resulting State costs are also negligible. In addition, Medicaid costs would be negligible. Therefore a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no new reporting or recordkeeping requirements necessitating Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities since they affect primarily individuals receiving or applying for SSI benefits. Therefore, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: March 9, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: April 19, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154; sec. 2639 of Pub. L. 98-369, 98 Stat. 1144.

2. Paragraph (d)(2)(iii) of § 416.1163 is revised to read as follows:

§ 416.1163 How we deem income to you from your ineligible spouse.

(d) Determining your eligibility for SSI.

(2) * * *

(iii) Subtracting the couple's countable income from the Federal benefit rate for

an eligible couple. (See § 416.2025(b) for determination of the State supplementary payment amount.)

3. The authority citation of Subpart T of Part 416 continues to read as follows:

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; sec. 212 of Pub. L. 93-66, 87 Stat. 155; sec. 401 Pub. L. 92-603, 86 Stat. 1485; sec. 8 of Pub. L. 93-233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93-335, 88 Stat. 291.

4. Paragraphs (b) (1) and (3) of § 416.2025 are revised to read as follows:

§ 416.2025 Optional supplementation; Countable income.

(b) * * *

(1) As provided in § 416.420, countable income will first be deducted from the Federal benefit rate applicable to an eligible individual or eligible couple. In the case of an eligible individual living with an ineligible spouse with income (the deeming provisions of § 416.1163 apply), the Federal benefit rate from which countable income will be deducted is the Federal benefit rate applicable to an eligible couple, except that an eligible individual's payment amount may not exceed the amount he or she would have received if he or she were not subject to the deeming provisions (§ 416.1163(e)(2)).

(3) If countable income exceeds the amount of the Federal benefit rate, the State supplementary benefit will be reduced by the amount of such excess. In the case of an eligible individual living with an ineligible spouse with income (the deeming methodology of § 416.1163 applies), the State supplementary payment rate from which the excess income will be deducted is the higher of the State supplementary rates for an eligible couple or an eligible individual, except that an eligible individual's payment amount may not exceed the amount he or she would have received if he or she were not subject to the deeming provisions (see § 416.1163(e)(2)). For purposes of determining the State supplementary couple rate, the ineligible spouse is considered to be in the same category as the eligible individual.

[FR Doc. 88-14976 Filed 7-1-88; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration**21 CFR Part 510****Animal Drugs, Feeds, and Related Products; Change of Sponsor Address**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Purina Mills, Inc.

EFFECTIVE DATE: July 5, 1988.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Purina Mills, Inc., has informed FDA of a change of address from 835 South Eighth Street, St. Louis, MO 63102, to P.O. Box 66812, St. Louis, MO 63166-6812. The agency is amending the regulations in 21 CFR 510.600(c) to reflect the change.

List of Subjects in 21 CFR Part 510

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

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

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600. *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Purina Mills, Inc.," and in paragraph (c)(2) in the entry for "017800" by revising the sponsor address to read "P.O. Box 66812, St. Louis, MO 63166-6812."

Dated: June 27, 1988.

Richard A. Carnevale,

Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 88-15005 Filed 7-1-88; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558**New Animal Drugs for Use in Animal Feeds; Fenbendazole; Technical Amendment**

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

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that reflected approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. (April 26, 1988; 53 FR 14788). The NADA provided for use of Type A medicated articles containing 4 and 20 percent fenbendazole for making Type C medicated cattle feeds. In reflecting this approval in the regulations, the assay limits for Type A medicated articles were incorrectly stated as 95-113 percent. This document corrects that oversight by listing the assay limits for Type A articles to read 93-113 percent.

EFFECTIVE DATE: July 5, 1988.

FOR FURTHER INFORMATION CONTACT: John L. Olsen, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 26, 1988 (53 FR 14788), FDA amended § 558.4 (21 CFR 558.4) to reflect approval of NADA 137-600 filed by Hoechst-Roussel Agri-Vet Co. The NADA provides for use of Safe-Guard™ Type A medicated articles containing 4 and 20 percent fenbendazole for making Type C medicated cattle feeds. A Type C medicated feed requires a 13-day withdrawal period. Because fenbendazole now requires a withdrawal period at the lowest use level in at least one species, it became a Category II drug. Section 558.4(d) was also amended to reflect the change from Category I to Category II. This document amends the table entitled "Category II" in § 558.4(d) by revising the assay limits for Type A articles to read "93-113."

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.
 Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in the table entitled "Category II" in paragraph (d), in the entry "Fenbendazole" by revising the Type A assay limits (second column) to read "93-113."

Dated: June 27, 1988.

Richard A. Carnevale,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 88-15004 Filed 7-1-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Public and Indian Housing****24 CFR Part 990**

[Docket No. R-88-1400; FR-2437]

Revision to the Performance Funding System: Insurance Costs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: Section 9(a)(3)(A) of the United States Housing Act of 1937, as added by section 118(a)(2) of the Housing and Community Development Act of 1987, requires the Secretary to revise the Performance Funding System (PFS) by June 15, 1988, "to accurately reflect the increase in insurance costs incurred by public housing agencies." This rule will increase the amount included in a public housing agency's/Indian housing authority's (PHA's/IHA's) per unit month allowable expense level for insurance in its next fiscal year by \$8.45. This increase in the allowable expense level (AEL) used to compute operating subsidy eligibility for the next fiscal year will result in higher amounts for insurance in following years as well, since each year's AEL is based on the previous year's AEL, adjusted for intervening changes in the PHA's/IHA's housing stock and for inflation. This rule is being issued as an interim rule so that it may take effect before the first round of funding to PHAs in Fiscal Year 1989, but public comments are invited and a final rule will be issued following evaluation of the comments.

DATES: Comment due date: September 6, 1988.

Effective date: January 1, 1989.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Room 10276,

Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Theodore R. Daniels, Director, Project Financial Management and Occupancy Division, Office of Public Housing, Room 4208, 451 Seventh Street SW., Washington, DC 20410-5000, telephone (202) 755-8145. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:**Background**

The Annual Contributions Contract (ACC) and the Mutual Help Annual Contributions Contract (MHACC) between PHAs/IHAs and the U.S. Department of Housing and Urban Development (HUD), require (in section 305 of the ACC and Article IX of the MHACC) that PHAs/IHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs/IHAs. When the current system of determining the level of operating subsidy to be provided PHAs/IHAs was developed in 1974 and 1975, the AEL for each PHA/IHA was based on the PHA/IHA operating budget of the immediately preceding fiscal year. In the initial year of the PFS, AELs nationally reflected the inclusion of an average of \$1.34 per unit month (PUM) for insurance. Since 1975, the amount for insurance in the AELs has been increased by local inflation factors, bringing the average amount for insurance for fiscal year 1989 to \$3.38 PUM.

During recent years, insurance premiums for the required liability, fire and extended coverage increased for many PHAs/IHAs, with a particularly notable increase affecting PHAs/IHAs in the spring of 1985. Many insurance companies withdrew from the marketplace and coverage was either not available or not affordable for a large number of PHAs/IHAs. Some housing agencies used operating reserve funds as well as operating subsidies to pay insurance premiums during that period, jeopardizing their financial solvency.

Congress took several actions in response to this change of circumstances. It passed the Liability Risk Retention Act of 1986 (Pub. L. No. 99-563, 100 Stat. 3170, 15 U.S.C. 3901