

For the Nuclear Regulatory Commission.
James M. Taylor,
Executive Director for Operations.
[FR Doc. 89-29867 Filed 12-27-89; 8:45 am]
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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Waiver of Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of waiver of nonmanufacturer rule.

SUMMARY: This notice establishes a waiver to the Small Business Administration's (SBA) "nonmanufacturer rule" for several types of construction equipment. These are: backhoes, cranes, road graders, and scrapers. The basis for this waiver to the nonmanufacturer rule is that no small business manufacturer is supplying these products to the Federal government. The effect of this waiver is to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a contract set-aside for small business or awarded through the 8(a) program. This waiver shall remain in effect until such time a small business manufacturer(s) is determined to be in the Federal market. The public may submit comments on this determination.

DATES: This notice is effective December 21, 1989. Comments may be submitted until January 12, 1990.

ADDRESS COMMENTS TO: Robert J. Moffitt, Chairperson, Size Policy Board, U.S. Small Business Administration, 1441 L Street NW., Room 600, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Director, Size Standards Staff, (202) 652-6373.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of contracts set-aside for small business or 8(a) contracts must provide the product of a small business manufacturer or producer. This requirement is commonly referred to as the "nonmanufacturer rule." The SBA regulations imposing this requirement is found at 13 CFR 121.5(b)(a). (SBA anticipates publishing revised Small Business Size Regulations effective January 1, 1990 which would contain this requirement at 13 CFR 121.906(b) and 121.1106(b).) Section 303(h) of the Act provided for waiver of this requirement by SBA for any "class

of products" for which there are no small business manufacturers or producers in the Federal market. This notice waives the nonmanufacturer rule for the following construction equipment classes of products: backhoes; crane, construction; graders, road construction; and scrapers. Also, this notice denies the request for a waiver for drill rigs, forklifts, loaders and manlifts (or aerial work platforms). SBA has found small business manufacturers of these products which supply the Federal government.

SBA's District Office in Los Angeles, California requested a waiver of the nonmanufacturer rule for eight classes of products of construction and industrial equipments. SBA has conducted a study for these classes of products to determine if a small manufacturer(s) has supplied any of these products to the Federal government.

To be considered in the Federal market, a small manufacturer must have been awarded a contract by the Federal government within recent years. A "class of products" is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognize product line within a PSC.

SBA's review of the Federal market evaluated procurement statistics from the U.S. General Services Administration's Federal Procurement Data Center (FPDC) and SBA's Procurement Automated Source System (PASS), a data base of firms interested in Federal procurement.

The FPDC data show contract awards by Product and Services Codes as well as by Standard Industrial Classification (SIC) codes. The PASS data were also reviewed to assess small business manufacturing capability and Federal experience. Other sources of information such as industry trade associations were also reviewed as needed to assist in discovering and evaluating small manufacturers of each class of products.

The affected classes of products are some of the products included within several PSC codes, but do not comprise any one entire PSC. The request for waiver relates to the following classes of products:

PSC Code	Product
3805.....	Backhoes, Graders, Loaders, Scrapers.
3810.....	Cranes.
3815.....	Manlifts (Aerial Work Platform).
3820.....	Drill Rigs.
3930.....	Forklifts.

A survey of small business manufacturers of the affected classes of products was subsequently conducted to determine small manufacturers capabilities and participation in the Federal market. Small manufacturers of these types of equipment were identified from SBA's PASS data base. Each identified small business manufacturer was contacted to determine the types and range of products it manufactures.

For manlifts (aerial work platforms), drill rigs, forklifts, and loaders SBA identified small manufacturers that have recently supplied the Federal government. Accordingly, SBA denies the request for a waiver of the nonmanufacturer rule for these classes of products.

SBA's review also found that small manufacturers do not provide to the Federal market the following items: backhoes, cranes, construction; graders, road (construction machinery); and scrapers. Accordingly, SBA decided to grant a waiver for these designated classes of products within PSC codes 3805 and 3810.

The public is invited to submit comments on the basis of this waiver action. If evidence is received that a small manufacturer is in fact in the Federal market, as defined by receiving a Federal contract, SBA will reevaluate its decision to waive the nonmanufacturer rule for that class of products and will take steps to terminate the waiver.

This waiver is being granted under statutory authority for the designated classes of products, prior to the promulgation of final regulatory procedures. Proposed procedures will be published for public comment in the **Federal Register** in early 1990. Although the processing and evaluation of this waiver request are intended to be similar to the proposed procedures, final procedures may differ from those followed for this particular request.

A waiver of the nonmanufacturer rule is established for purposes of allowing an otherwise qualified small business regular dealer to supply the product of any domestic manufacturer on a contract set-aside for small business or awarded through the 8(a) program for the following classes of products:

Backhoes (PSC 3805)
Graders, Road (Construction Machinery) (PSC 3805)
Scrapers, Construction (PSC 3805)
Cranes, Construction (PSC 3810)

Dated: December 21, 1989.

Susan S. Engeleiter,
Administrator, U.S. Small Business
Administration.

[FR Doc. 89-30016 Filed 12-27-89; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Central Air Conditioners and Heat Pumps

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for central air conditioners and heat pumps will remain in effect until new ranges are published, and amends its Appliance Labeling Rule by updating the national average cost figure for electricity that must be used in the cost calculation formulas that manufacturers must provide on fact sheets or in directories. These cost calculation formulas are for consumers to use to calculate their own heating and cooling costs.

EFFECTIVE DATE: March 28, 1990.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) ¹ requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Central air conditioners (including heat pumps) are included as one of the categories. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final Rule covering seven of the thirteen appliance

categories that were then covered by DOE test procedures: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.²

On December 10, 1987 (52 FR 46888), the Federal Trade Commission amended the Appliance Labeling Rule by extending its coverage to central air conditioners and heat pumps. For these products, the Commission adopted a disclosure scheme that consists of labels showing simple energy efficiency and range information, together with a requirement to disclose further efficiency and cost information by means of either fact sheets or a listing in a general directory containing such information.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.³ These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual cost or energy efficiency rating for the appliances derived from tests performed pursuant to the DOE test procedures. The reports also contain the model number, the number of tests performed on each model, and the capacity of each. Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for central air conditioners (including heat pumps) have been received and analyzed and the Commission has determined that neither the upper nor lower limits of the ranges for this product category have changed by 15% or more since the original publication of the ranges on May 27, 1988.⁴ In consideration of the

foregoing, the present ranges for central air conditioners (including heat pumps) will remain in effect until the Commission publishes new ranges for these products.

In addition, this Notice provides an updated figure for the annual national average cost of electricity. This figure, along with national average cost figures for natural gas, propane, heating oil and kerosene, is published annually by the Department of Energy for the industry's use in calculating the cost figures required by the Commission's Rule. The cost figure for electricity must be used in the cost calculation formulas that appear in Appendices H and I. These formulas must be provided on fact sheets and in directories so consumers can calculate their own costs of operation for the central air conditioners and heat pumps that they are considering purchasing. The updated figure, which DOE published on December 7, 1988 (53 FR 49349), is 7.70 cents per kilowatt-hour. The formulas (and calculations) in both Appendices have been changed to reflect this.

In consideration of the foregoing, the Commission revises Appendices H(2) and I(2) of its Appliance Labeling Rule by publishing the following cost figures for use in the labeling and advertising of central air conditioners and heat pumps beginning March 28, 1990.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR Part 305 is revised as follows:

1. The authority citation for Part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95-619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100-12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100-357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Appendices H and I [Amended]

2. In Appendices H and I of part 305, remove the figure "8.04¢" and add, in its place, the figure "7.70¢". In addition, remove the figure "12.06¢" and add, in its place, the figure "11.55¢".

* * * * *

² 44 FR 66468, 16 CFR part 305 (Nov. 19, 1979). The Statement of Basis and Purpose for the final Rule describes the reasons the Commission declined to cover the other categories of covered products. *Id.* at 66467-69.

³ Reports for central air conditioners (including heat pumps) are due by July 1.

⁴ 53 FR 19728.

¹ Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-30080 Filed 12-27-89; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Maduramicin Ammonium; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the animal drug regulations to reflect approval for American Cyanamid's maduramicin ammonium Type A article to make a Type C broiler feed (54 FR 5229; February 2, 1989). The agency failed to correctly state the maximum Type B feed level, whose use did not require approval of a Form FDA-1900 to make a Type C broiler feed, was 545 grams per ton (g/ton). This document corrects that error.

EFFECTIVE DATE: February 2, 1989.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, 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 February 2, 1989 (54 FR 5229), FDA published a document amending the animal drug regulations to reflect approval of new animal drug application (NADA) 139-075 filed by American Cyanamid Co. The application provides for use of maduramicin ammonium 1 percent Type A medicated articles to make Type C medicated feed for broiler chickens. In publishing the regulation concerning medicated feed applications (21 CFR 558.4), the maximum Type B entry level was stated as 54.5 g/ton (.006 percent). The correct Type B level is 545 g/ton (.06 percent). This document amends the regulations in 21 CFR 558.4(d) accordingly.

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, 21 CFR 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: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in the Category II table in paragraph (d), in the entry "Maduramicin ammonium", under the heading "Type B maximum (100x)" by removing "54.5 g/ton (.006%)" and inserting in its place "545 g/ton (.06%)".

Dated: December 21, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-30063 Filed 12-27-89; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Parts 500 and 501

RIN 1885-AA17

Bilingual Education; General Provisions and Basic Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR parts 500 and 501 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective December 28, 1989.

FOR FURTHER INFORMATION CONTACT:

Mary Mahoney, Office of Bilingual Education and Minority Languages Affairs (OBEMLA), U.S. Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 5078), Washington DC 20202-6570, Telephone (202) 732-5063.

SUPPLEMENTARY INFORMATION: On October 5, 1988 final regulations incorporating miscellaneous statutory amendments of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 were published as amendments to 34 CFR parts 500 and 501 (53 FR 39218).

The effective date of certain sections of these regulations was delayed until

information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and these sections of the regulations are now effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

List of Subjects in 34 CFR Parts 500 and 501

Adult education, Bilingual education, Colleges and universities, Dissemination, Education, Elementary and secondary education, Grant programs-education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance No. 84.003 Bilingual Education: Basic Programs)

Dated: December 20, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends parts 500 and 501 of title 34 of the Code of Federal Regulations as follows:

PART 500—BILINGUAL EDUCATION: GENERAL PROVISIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 20 U.S.C. 3281-3341, unless otherwise noted.

§ 500.51 [Amended]

2. Section 500.51 is amended by adding "(Approved by the Office of Management and Budget under control number 1885-0003)" after the section.

PART 501—BILINGUAL EDUCATION: BASIC PROGRAMS

1. The authority citation for part 501 continues to read as follows:

Authority: 20 U.S.C. 3281-3341, unless otherwise noted.